tions 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89–554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees. Section 5102 of Title 5 now 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.

Section was formerly classified to section 18a of Title 29, Labor.

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. 96–88 which is classified to section 3508(b) of Title 20, Education.

''Federal Security Administrator'' substituted for ''said department'' and for ''Secretary of Labor'' pursuant to Reorg. Plan No. 2 of 1946. See note set out under section 191 of this title.

''Secretary of Labor'' substituted for ''Secretary of Commerce and Labor'' pursuant to act Mar. 4, 1913. See note set out under section 191 of this title.

§ 193. Assistant chief

There shall be in the Children's Bureau, until otherwise provided for by law, an assistant chief, to be appointed by the Secretary of Health and Human Services.

(Apr. 9, 1912, ch. 73, § 3, 37 Stat. 80; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CODIFICATION

Section 3 of act Apr. 9, 1912, also provided for compensation of assistant chief and for appointment and compensation of other employees of the bureau.

Section was formerly classified to section 18b of Title 29, Labor.

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 in 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.

''Federal Security Administrator'' substituted for ''Secretary of Labor'' pursuant to Reorg. Plan No. 2 of 1946. See note set out under section 191 of this title.

''Secretary of Labor'' substituted for ''Secretary of Commerce and Labor'' pursuant to act Mar. 4, 1913. See note set out under section 191 of this title.

§ 194. Quarters for bureau

The Secretary of Health and Human Services is directed to furnish sufficient quarters for the work of this bureau at an annual rental not to exceed $2,000.

(Apr. 9, 1912, ch. 73, § 4, 37 Stat. 80; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CODIFICATION

Section was formerly classified to section 18c of Title 29, Labor.

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. 96–88 which is classified to section 3508(b) of Title 20, Education.

''Federal Security Administrator'' substituted for ''Secretary of Labor'' pursuant to Reorg. Plan No. 2 of 1946. See note set out under section 191 of this title.

''Secretary of Labor'' substituted for ''Secretary of Commerce and Labor'' pursuant to act Mar. 4, 1913. See note set out under section 191 of this title.

CHAPTER 6A—PUBLIC HEALTH SERVICE

SUBCHAPTER I—ADMINISTRATION AND MISCELLANEOUS PROVISIONS

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(b) Additional sites authorized.
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248. Control and management of hospitals; furnishing prosthetic and orthopedic devices; transfer of patients; disposal of articles produced by patients; disposal of money and effects of deceased patients; payment of burial expenses.

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

248b. Transfer or financial self-sufficiency of public health service hospitals and clinics.
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(b) Proposals for transfer or financial self-sufficiency.
(c) Evaluation of proposals.
(d) Rejection or approval of proposal.
(e) Establishment of identifiable administrative unit.
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249. Medical care and treatment of quarantined and detained persons.
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(b) Temporary treatment in emergency cases.
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250. Medical care and treatment of Federal prisoners.

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251. Medical examination and treatment of Federal employees; medical care at remote stations.

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253. Medical services to Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.
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254c–2. Special diabetes programs for type I diabetes.

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(d) Monthly pay adjustments of members directly engaged in delivery of health services in health professional shortage area; ''monthly pay'' defined; monthly pay adjustment of member with service obligation incurred under Scholarship Program or Loan Repayment Program; personnel system applicable.

(e) Employment ceiling of Department not affected by Corps members.

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(g) Conversion from Corps member to commissioned officer; retirement credits.

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254e. Health professional shortage areas.

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(b) Criteria for designation of health professional shortage areas; promulgation of regulations.

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(b) Corps member income assurances; grants respecting sufficiency of financial resources.

(c) Assignment of members without regard to ability of area to pay for services.

(d) Entities entitled to aid; forms of assistance; coordination of efforts; agreements for assignment of Corps members; qualified entity.

(e) Practice within State by Corps member.

254f–1. Priorities in assignment of Corps personnel.

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(c) Establishment of criteria for determining priorities.

(d) Notifications regarding priorities.

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(b) Waiver of payment; use of funds.

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254h. Provision of health services by Corps members.

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(b) Utilization of existing health facilities; lease, acquisition, and use of equipment and supplies; permanent and temporary professional services.

(c) Loan; purposes; limitations.

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(e) Admitting privileges denied to Corps member by hospital; notice and hearing; denial of Federal funds for violation; ''hospital'' defined.

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254i. Annual report to Congress; contents.
254j. National Advisory Council on National Health Service Corps.
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(b) Eligibility; application; written contract.
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(d) Factors considered in providing contracts; priorities.
(e) Commencement of participation in Scholarship Program; notice.
(f) Written contract; contents.
(g) Scholarship provisions; contract with educational institution; increase in monthly stipend.
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254*l*–1. National Health Service Corps Loan Repayment Program.
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(b) Eligibility.
(c) Information to be included with application and contract forms; understandability; availability.
(d) Factors considered in providing contracts; priorities.
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(c) Duties.
(d) Coordination of information.
(e) Facilities.
(f) Period of support.
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285g–6. Program regarding obstetrics and gynecology.
285g–7. Child health research centers.
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(a) In general.
(b) Design of study.
(c) Coordination with Women's Health Initiative.

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285h. Purpose of Institute.

SUBPART 9—NATIONAL EYE INSTITUTE

285i. Purpose of Institute.
285i–1. Clinical research on eye care and diabetes.
(a) Program of grants.
(b) Use of funds.
(c) Authorized expenditures.

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285j. Purpose of Institute.
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285j–2. Bioengineering research.
285j–3. Research on multiple sclerosis.

SUBPART 11—NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

285k. Purpose of Institute.

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285*l*. Purpose of Institute.
285*l*–1. Applied Toxicological Research and Testing Program.

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285m. Purpose of Institute.
285m–1. National Deafness and Other Communication Disorders Program.
285m–2. Data System and Information Clearinghouse.
285m–3. Multipurpose deafness and other communication disorders center.
(a) Development, modernization and operation; ''modernization'' defined.

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(b) Use of facilities; qualifications.
(c) Requisite programs.
(d) Stipends.
(e) Discretionary programs.
(f) Equitable geographical distribution; needs of elderly and children.
(g) Period of support; recommended extensions of peer review group.
285m–4. National Institute on Deafness and Other Communication Disorders Advisory Board.
(a) Establishment.
(b) Composition; qualifications; appointed and ex officio members.
(c) Compensation.
(d) Term of office; vacancies.
(e) Chairman.
(f) Personnel; executive director; professional and clerical staff members; consultants; information and administrative support services and facilities.
(g) Meetings.
(h) Functions.
(i) Subcommittee activities; workshops and conferences; collection of data.
(j) Annual report.
(k) Commencement of existence.
285m–5. Interagency Coordinating Committee.
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285m–6. Limitation on administrative expenses.

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285n. Purpose of Institute.
(a) In general.
(b) Research program.
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285n–1. Associate Director for Prevention.
(a) In general.
(b) Biennial report.
285n–2. National Alcohol Research Centers; mandatory grant for research of effects of alcohol on elderly.
(a) Designation; procedures applicable for approval of applications.
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285*o*. Purpose of Institute.
(a) In general.
(b) Research program.
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285*o*–1. Associate Director for Prevention.
(a) In general.
(b) Report.
285*o*–2. Drug Abuse Research Centers.
(a) Authority.
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285*o*–3. Office on AIDS.
285*o*–4. Medication Development Program.

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(a) Establishment.
(b) Duties.
(c) Report.
(d) ''Pharmacotherapeutics'' defined.
(e) Authorization of appropriations.

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285p. Purpose of Institute.
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(c) Collaboration.
(d) Information with respect to suicide.
(e) Associate Director for Special Populations.
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285p–1. Associate Director for Prevention.
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285q–2. Advisory council.
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(e) Regional medical libraries; establishment.
(f) Acceptance and administration of gifts; memorials.
(g) ''Medicine'' and ''medical'' defined.
286a. Board of Regents.
(a) Membership; ex officio members.
(b) Recommendations on matters of policy; recommendations included in annual report; use of services of members by Secretary.

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(c) Term of office; vacancy; reappointment.
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286b–3. Grants for training in medical library sciences.
286b–4. Assistance for projects in sciences related to health, for research and development in medical library science, and for development of education technologies.
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(e) Representation of women among researchers.
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287d–2. Biennial report.
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(b) Prerequisites for Award; review and approval by appropriate advisory councils; Award period; uses for Award; payments to non-Federal public or nonprofit private institutions.
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288–3. Loan repayment program for research generally.
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288–4. Undergraduate scholarship program regarding professions needed by National Research Institutes.
(a) Establishment of program.
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288–5. Loan repayment program regarding clinical researchers from disadvantaged backgrounds.
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288a. Visiting Scientist Awards.

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289a–1. Certain provisions regarding review and approval of proposals for research.
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289b–1. Protection against financial conflicts of interest in certain projects of research.
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(b) Animal care committees; establishment; membership; functions.
(c) Assurances required in application or contract proposal; reasons for use of animals; notice and comment requirements for promulgation of regulations.

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(d) Failure to meet guidelines; suspension or revocation of grant or contract.
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289e. Use of appropriations.
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(a) Conduct or support by Secretary; restrictions.
(b) Risk standard for fetuses intended to be aborted and fetuses intended to be carried to term to be same.
289g–1. Research on transplantation of fetal tissue.
(a) Establishment of program.
(b) Informed consent of donor.
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(i) Powers.
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(c) Administrator and Deputy Administrator.
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(k) Report concerning activities and progress.
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(b) Membership.
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(a) In general.
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290aa–4. Data collection.
(a) Requirement of annual collection of data on mental illness and substance abuse.
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(b) Availability of services for each participant.
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(b) Limitation on age of children provided access to system.
(c) Required mental health services of system.
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(a) Persons liable.
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291j–2. Allocation among States.
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300gg–6. Required coverage for reconstructive surgery following mastectomies.

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(a) State enforcement.
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PART C—DEFINITIONS; MISCELLANEOUS PROVISIONS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 217a–1, 300a–7, 300a–29, 701, 1320a–1, 1320a–7b, 1396r–4, 3013, 14402 of this title; title 7 section 136a–1; title 8 section 1255a; title 18 section 42; title 20 section 1092a; title 21 section 397; title 35 sections 156, 287; title 38 section 8126.

SUBCHAPTER I—ADMINISTRATION AND MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 5 section 5948.

§ 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),[1] 247c(c)(1),[1] 254d(h)(3),[1] 263(5), 264(d), 292a(9),[1] 300a(c), 300f(13), and 300n(1)[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;

(h) Repealed. Pub. L. 97–35, title IX, § 986(a), Aug. 13, 1981, 95 Stat. 603.

(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, or 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 title 26);

(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;

[1] See References in Text note below.

(*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; and

(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.

(July 1, 1944, ch. 373, title I, §2, 58 Stat. 682; July 3, 1946, ch. 538, §3, 60 Stat. 421; Feb. 28, 1948, ch. 83, §1, 62 Stat. 38; June 16, 1948, ch. 481, §6(a), 62 Stat. 469; June 24, 1948, ch. 621, §6(a), 62 Stat. 601; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 86–70, §31(a), June 25, 1959, 73 Stat. 148; Pub. L. 86–415, §5(a), Apr. 8, 1960, 74 Stat. 34; Pub. L. 86–624, §29(a), July 12, 1960, 74 Stat. 419; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Pub. L. 91–212, §11, Mar. 13, 1970, 84 Stat. 67; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 91–513, title I, §2(b), Oct. 27, 1970, 84 Stat. 1240; Pub. L. 93–523, §2(b), Dec. 16, 1974, 88 Stat. 1693; Pub. L. 94–317, title III, §301(a), June 23, 1976, 90 Stat. 707; Pub. L. 94–484, title IX, §905(a), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–83, title I, §107, Aug. 1, 1977, 91 Stat. 386; Pub. L. 96–79, title II, §203(e)(2), Oct. 4, 1979, 93 Stat. 635; Pub. L. 97–35, title IX, §§902(d)(5), 986(a), Aug. 13, 1981, 95 Stat. 560, 603; Pub. L. 103–43, title XX, §2008(e), June 10, 1993, 107 Stat. 212.)

REFERENCES IN TEXT

Section 246(g) of this title, referred to in subsec. (f), was repealed by Pub. L. 96–398, title I, §107(d), Oct. 7, 1980, 94 Stat. 1571.

Section 247c(c)(1) of this title, referred to in subsec. (f), was repealed by Pub. L. 94–317, title II, §203(f)(1), June 23, 1976, 90 Stat. 704.

Section 254d(h)(3) of this title, referred to in subsec. (f), was redesignated section 254d(i)(4) of this title by Pub. L. 100–177, title II, §202(b)(5), title III, §301(1), Dec. 1, 1987, 101 Stat. 996, 1003.

Section 292a of this title, referred to in subsec. (f), contained definitions for purposes of subchapter V of this chapter prior to the general revision of subchapter V by Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. See sections 292*o* and 295p of this title.

Section 300n of this title, referred to in subsec. (f), was repealed by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

Section 4731(g) of title 26, referred to in subsec. (j), was repealed by Pub. L. 91–513, title III, §1101(b)(3)(A), Oct. 27, 1970, 84 Stat. 1292. A definition of ''opiate'' is contained in section 102 of Pub. L. 91–513, which is classified to section 802 of Title 21, Food and Drugs. Reference to section 4731(g) of title 26 was substituted for ''section 3228(f) of title 26'' on authority of section 7852(b) of Title 26, Internal Revenue Code, which provides that a reference in other laws to the Internal Revenue Code of 1939 is deemed a reference to the corresponding provision of the Internal Revenue Code of 1986.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–43 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1981—Subsec. (f). Pub. L. 97–35, §902(d)(5), struck out reference to section 300d(2) of this title.

Subsec. (h). Pub. L. 97–35, §986(a), struck out subsec. (h) which defined ''seamen''.

1979—Subsec. (f). Pub. L. 96–79 struck out from enumeration of excepted sections reference to section 300s–3(1) of this title.

1977—Subsec. (f). Pub. L. 95–83 expanded definition of ''State'' to include American Samoa and the Trust Territory of the Pacific Islands.

1976—Subsec. (f). Pub. L. 94–484 inserted in list of excepted sections reference to sections 247c(c)(1), 254d(h)(3), 263(5), and 292a(9) of this title, struck out from enumeration reference to section 263c(5) of this title, and defined ''State'' to include the Northern Mariana Islands.

Pub. L. 94–317 substituted provisions defining, with certain specific exceptions, ''State'' to include the several States, the District of Columbia, Guam, Puerto Rico and the Virgin Islands for provisions defining ''State'' to include a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except in section 264(d) of this title such term means a State or the District of Columbia, and in subchapter XII of this chapter such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands.

1974—Subsec. (f). Pub. L. 93–523 designated existing provisions as cl. (1) and added cl. (2).

1970—Subsec. (c). Pub. L. 91–212 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The term 'Administrator' means the Federal Security Administrator;''.

Subsec. (q). Pub. L. 91–513 added subsec. (q).

1960—Subsec. (f). Pub. L. 86–624 struck out ''Hawaii,'' before ''Puerto Rico''.

Subsec. (p). Pub. L. 86–415 added subsec. (p).

1959—Subsec. (f). Pub. L. 86–70 struck out ''Alaska,'' after ''Hawaii,'' and substituted ''or the District of Columbia'' for '', the District of Columbia, or Alaska''.

1948—Subsec. (j). Act Feb. 28, 1948, inserted ''isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 4731(g) of title 26)''.

Subsec. (n). Act June 16, 1948, added subsec. (n).

Subsec. (*o*). Act June 24, 1948, added subsec. (*o*).

1946—Subsecs. (*l*), (m). Act July 3, 1946, added subsecs. (*l*) and (m).

CHANGE OF NAME

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished Environmental Science Services Administration, established National Oceanic and Atmospheric Administration, and redesignated Commissioned Officer Corps of ESSA as Commissioned Officer Corps of NOAA. For further details, see

Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 2101 of Pub. L. 103–43 provided that: ''Subject to section 203(c) [enacting provisions set out as a note under section 283c of this title], this Act [see Short Title of 1993 Amendment note below] and the amendments made by this Act take effect upon the date of the enactment of this Act [June 10, 1993].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 902(d)(5) of Pub. L. 97–35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as a note under section 238*l* of this title.

Amendment by section 986(a) of Pub. L. 97–35 effective Oct. 1, 1981, see section 986(c) of Pub. L. 97–35, set out as a note under section 249 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 12(b) of Pub. L. 91–212 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) of Pub. 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 15i, 15jj, 15ggg, 244, and 645 of Title 20, Education], by section 20(a) [amending section 41 of Title 29, Labor], by section 23(b) [amending section 466j 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 by Pub. L. 86–70 effective Jan. 3, 1959, see section 47(d) of Pub. L. 86–70.

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–392, § 1(a), Nov. 13, 1998, 112 Stat. 3524, provided that: ''This Act [see Tables for classification] may be cited as the 'Health Professions Education Partnerships Act of 1998'.''

Pub. L. 105–392, title I, § 121, Nov. 13, 1998, 112 Stat. 3562, provided that: ''This subtitle [subtitle B (§§ 121–124) of title I of Pub. L. 105–392, enacting sections 296, 296a to 296f, 296j, 296m, 296p, 297q, and 297t of this title, transferring section 298b–2 of this title to section 296g of this title, repealing sections 296k to 296m, 296r, 297, 297–1, 297c, 298, 298a, 298b, 298b–1, 298b–3 to 298b–5, and 298b–7 of this title, and enacting provisions set out as notes under section 296 of this title] may be cited as the 'Nursing Education and Practice Improvement Act of 1998'.''

Pub. L. 105–392, title IV, § 419(a), Nov. 13, 1998, 112 Stat. 3591, provided that: ''This section [enacting sections 280f to 280f–3 of this title and provisions set out as a note under section 280f of this title] may be cited as the 'Fetal Alcohol Syndrome and Fetal Alcohol Effect Prevention and Services Act'.''

Pub. L. 105–340, § 1, Oct. 31, 1998, 112 Stat. 3191, provided that: ''This Act [enacting sections 285b–7a and 300u–9 of this title and amending sections 242k, 280e–4, 283a, 284e, 285a–8, 285e–10, 287d, 300k, 300n–4a, 300n–5, and 300u–5 of this title] may be cited as the 'Women's Health Research and Prevention Amendments of 1998'.''

Pub. L. 105–277, div. A, § 101(f) [title IX, § 901], Oct. 21, 1998, 112 Stat. 2681–337, 2681–436, provided that: ''This title [enacting sections 300gg–6 and 300gg–52 of this title and section 1185b of Title 29, Labor, and provisions set out as notes under sections 300gg–6 and 300gg–52 of this title and section 1185b of Title 29] may be cited as the 'Women's Health and Cancer Rights Act of 1998'.''

Pub. L. 105–248, § 1, Oct. 9, 1998, 112 Stat. 1864, provided that: ''This Act [amending section 263b of this title] may be cited as the 'Mammography Quality Standards Reauthorization Act of 1998'.''

Pub. L. 105–196, § 1, July 16, 1998, 112 Stat. 631, provided that: ''This Act [enacting sections 274*l* and 274m of this title, amending sections 274g and 274k of this title, repealing former section 274*l* of this title, and enacting provisions set out as notes under section 274k of this title] may be cited as the 'National Bone Marrow Registry Reauthorization Act of 1998'.''

Pub. L. 105–168, § 1(a), Apr. 21, 1998, 112 Stat. 43, provided that: ''This Act [amending section 247b–4 of this title and enacting provisions set out as a note under section 247b–4 of this title] may be cited as the 'Birth Defects Prevention Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–78, title VI, § 603(a), Nov. 13, 1997, 111 Stat. 1519, provided that: ''This section [enacting section 284f of this title and provisions set out as a note under section 284f of this title] may be cited as the 'Morris K. Udall Parkinson's Disease Research Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104–299, § 1, Oct. 11, 1996, 110 Stat. 3626, provided that: ''This Act [enacting sections 254b and 254c of this title, amending sections 233, 256c, 1395x, and 1396d of this title, repealing sections 256 and 256a of this title, and enacting provisions set out as notes under sections 233 and 254b of this title] may be cited as the 'Health Centers Consolidation Act of 1996'.''

Pub. L. 104–204, title VI, § 601, Sept. 26, 1996, 110 Stat. 2935, provided that: ''This title [enacting sections 300gg–4 and 300gg–51 of this title and section 1185 of Title 29, Labor, amending sections 300gg–21, 300gg–23, 300gg–44, 300gg–61, and 300gg–62 of this title and sections 1003, 1021, 1022, 1024, 1132, 1136, 1144, 1181, 1191, and 1191a of Title 29, and enacting provisions set out as notes under section 300gg–4 and 300gg–44 of this title and section 1003 of Title 29] may be cited as the 'Newborns' and Mothers' Health Protection Act of 1996'.''

Pub. L. 104–204, title VII, § 701, Sept. 26, 1996, 110 Stat. 2944, provided that: ''This title [enacting section 300gg–5 of this title and section 1185a of Title 29, Labor, and enacting provisions set out as notes under section 300gg–5 of this title and section 1185a of Title 29] may be cited as the 'Mental Health Parity Act of 1996'.''

Pub. L. 104–191, § 1(a), Aug. 21, 1996, 110 Stat. 1936, provided that: ''This Act [see Tables for classification] may be cited as the 'Health Insurance Portability and Accountability Act of 1996'.''

Pub. L. 104–182, § 1(a), Aug. 6, 1996, 110 Stat. 1613, provided that: ''This Act [enacting sections 300g–7 to 300g–9, 300h–8, 300j–3c, and 300j–12 to 300j–18 of this title and section 1263a of Title 33, Navigation and Navigable Waters, amending sections 300f, 300g–1 to 300g–6, 300h, 300h–5 to 300h–7, 300i, 300i–1, 300j to 300j–2, 300j–4 to 300j–8, 300j–11, and 300j–21 to 300j–25 of this title, sections 4701 and 4721 of Title 16, Conservation, and section 349 of Title 21, Food and Drugs, repealing section 13551 of this title, enacting provisions set out as notes under this section, sections 300f, 300g–1, 300j–1, and 300j–12 of this title, section 1281 of Title 33, and section 45 of Title 40, Public Buildings, Property, and Works, and amending provisions set out as a note under this section] may be cited as the 'Safe Drinking Water Act Amendments of 1996'.''

Pub. L. 104–146, § 1, May 20, 1996, 110 Stat. 1346, provided that: ''This Act [enacting sections 300ff–27a, 300ff–31, 300ff–33 to 300ff–37, 300ff–77, 300ff–78, 300ff–101, and 300ff–111 of this title, amending sections 294n, 300d,

300ff–11 to 300ff–17, 300ff–21 to 300ff–23, 300ff–26 to 300ff–29, 300ff–47 to 300ff–49, 300ff–51, 300ff–52, 300ff–54, 300ff–55, 300ff–64, 300ff–71, 300ff–74, 300ff–76, and 300ff–84 of this title, transferring section 294n of this title to section 300ff–111 of this title, repealing sections 300ff–18 and 300ff–30 of this title, and enacting provisions set out as notes under sections 300cc, 300ff–11, and 300ff–33 of this title and section 4103 of Title 5, Government Organization and Employees] may be cited as the 'Ryan White CARE Act Amendments of 1996'.''

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–73, §1(a), Dec. 26, 1995, 109 Stat. 777, provided that: ''This Act [amending section 233 of this title and enacting provisions set out as a note under section 233 of this title] may be cited as the 'Federally Supported Health Centers Assistance Act of 1995'.''

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–183, §1(a), Dec. 14, 1993, 107 Stat. 2226, provided that: ''This Act [enacting sections 247b–6, 247b–7, 256d, 280b–1a, 285f–2, 300n–4a, and 300u–8 of this title, amending sections 233, 238j, 242b, 242k, 242*l*, 242m, 247b, 247b–1, 247b–5, 247c, 247c–1, 254j, 280b, 280b–1, 280b–2, 280b–3, 280e–4, 300d, 300d–2, 300d–3, 300d–12, 300d–13, 300d–16, 300d–22, 300d–31, 300d–32, 300k, 300m, 300n, 300n–1, 300n–4, 300n–5, 300u–5, 300w, and 300aa–26 of this title, repealing sections 300d–1 and 300d–33 of this title, and enacting provisions set out as notes under sections 238j, 263b, 285f–2, and 300m of this title] may be cited as the 'Preventive Health Amendments of 1993'.''

Section 1(a) of Pub. L. 103–43 provided that: ''This Act [see Tables for classification] may be cited as the 'National Institutes of Health Revitalization Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–539, §1, Oct. 27, 1992, 106 Stat. 3547, provided that: ''This Act [enacting section 263b of this title and provisions set out as a note under section 263b of this title] may be cited as the 'Mammography Quality Standards Act of 1992'.''

Pub. L. 102–531, §1(a), Oct. 27, 1992, 106 Stat. 3469, provided that: ''This Act [enacting sections 247b–3 to 247b–5, 247c–1, 256c, 280d–11, 300*l*–1, and 300u–7 of this title, amending sections 236, 242*l*, 247b–1, 247d, 254b, 254c, 256, 256a, 280b to 280b–2, 285c–4, 285d–7, 285m–4, 289c, 290aa–9, 290bb–1, 292y, 293j, 293*l*, 294n, 295j, 295*l*, 295n, 295*o*, 296k, 298b–7, 300u, 300u–1, 300u–5, 300w, 300w–3 to 300w–5, 300aa–2, 300aa–15, 300aa–19, 300aa–26, 300cc, 300cc–2, 300cc–15, 300cc–17, 300cc–20, 300cc–31, 300ee–1, 300ee–2, 300ee–31, 300ee–32, 300ee–34, 300ff–11 to 300ff–13, 300ff–17, 300ff–27, 300ff–28, 300ff–41, 300ff–43, 300ff–49, 300ff–75, 4841, and 9604 of this title, section 1341 of Title 15, Trade and Commerce, and section 2001 of Title 25, Indians, repealing section 297j of this title, enacting provisions set out as notes under sections 236, 292y, 300e, and 300w–4 of this title, amending provisions set out as notes under sections 241, 281, and 295k of this title and section 303 of Title 38, Veterans' Benefits, and repealing provisions set out as notes under section 246 and 300e of this title] may be cited as the 'Preventive Health Amendments of 1992'.''

Pub. L. 102–515, §1, Oct. 24, 1992, 106 Stat. 3372, provided that: ''This Act [enacting sections 280e to 280e–4 of this title and provisions set out as a note under section 280e of this title] may be cited as the 'Cancer Registries Amendment Act'.''

Pub. L. 102–501, §1, Oct. 24, 1992, 106 Stat. 3268, provided that: ''This Act [amending section 233 of this title and enacting provisions set out as notes under section 233 of this title] may be cited as the 'Federally Supported Health Centers Assistance Act of 1992'.''

Pub. L. 102–493, §1, Oct. 24, 1992, 106 Stat. 3146, provided that: ''This Act [enacting sections 263a–1 to 263a–7 of this title and provisions set out as a note under section 263a–1 of this title] may be cited as the 'Fertility Clinic Success Rate and Certification Act of 1992'.''

Pub. L. 102–410, §1(a), Oct. 13, 1992, 106 Stat. 2094, provided that: ''This Act [amending sections 299 to 299a–2, 299b to 299b–3, 299c to 299c–3, 299c–5, and 300w–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 'Agency for Health Care Policy and Research Reauthorization Act of 1992'.''

Pub. L. 102–409, §1, Oct. 13, 1992, 106 Stat. 2092, provided that: ''This Act [enacting section 283a 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. 1992, provided that: ''This Act [enacting subchapter V of this chapter and sections 297n, 298b–7, and 300d–51 of this title, amending sections 242a, 296k to 296m, 296r, 297, 297–1, 297b, 297d, 297e, 298, 298b, and 298b–6 of this title and section 1078–3 of Title 20, Education, repealing sections 295g–10a, 297c–1, and 297n 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 343–1 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. 2069, provided that: ''This title [enacting sections 297n and 298b–7 of this title, amending sections 296k to 296m, 296r, 297, 297–1, 297b, 297d, 297e, 298, 298b, and 298b–6 of this title, repealing sections 297c–1 and 297n of this title, and enacting provisions set out as notes under sections 296k and 297b of this title] may be referred to as the Nurse Education and Practice Improvement Amendments of 1992.''

Pub. L. 102–352, §1, Aug. 26, 1992, 106 Stat. 938, provided that: ''This Act [amending sections 285n, 285n–2, 285*o*, 285*o*–2, 285p, 290aa–1, 290aa–3, 290cc–21, 290cc–28, 290cc–30, 300x–7, 300x–27, 300x–33, 300x–53, and 300y of this title, enacting provisions set out as a note under section 285n of this title, and amending provisions set out as notes under sections 290aa and 300x of this title] may be cited as the 'Public Health Service Act Technical Amendments Act'.''

Pub. L. 102–321, §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 300u, 300u–5, 300aa–11, 300aa–12, 300aa–15, 300aa–16, 300aa–19, and 300aa–21 of this title, enacting provisions set out as a note under section 300aa–11 of this title, and amending provisions set out as a note under section 300aa–1 of this title] may be cited as the 'Health Information, Health Promotion, and Vaccine Injury Compensation Amendments of 1991'.''

Pub. L. 102–96, §1, Aug. 14, 1991, 105 Stat. 481, provided that: ''This Act [amending section 300cc–13 of this title and enacting provisions set out as a note under section 300cc–13 of this title] may be cited as the 'Terry Beirn Community Based AIDS Research Initiative Act of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–639, §1, Nov. 28, 1990, 104 Stat. 4600, provided that: ''This Act [amending sections 290cc–13, 299a, 300x–3, and 300x–10 to 300x–12 of this title] may be cited as the 'Mental Health Amendments of 1990'.''

Pub. L. 101–616, §1, Nov. 16, 1990, 104 Stat. 3279, provided that: ''This Act [enacting sections 274f, 274g, 274k, and 274*l* of this title, amending sections 273 to 274d of this title, enacting provisions set out as notes under sections 273, 274, and 274k of this title, and repealing provisions set out as a note under section 273 of this title] may be cited as the 'Transplant Amendments Act of 1990'.''

Pub. L. 101–613, §1, Nov. 16, 1990, 104 Stat. 3224, provided that: ''This Act [enacting sections 285g–4 and 290b of this title and provisions set out as a note under section 285g–4 of this title] may be cited as the 'National Institutes of Health Amendments of 1990'.''

Pub. L. 101–597, § 1, Nov. 16, 1990, 104 Stat. 3013, provided that: ''This Act [enacting sections 254f–1, 254*o*–1, and 254r of this title, amending sections 242a, 254d to 254i, 254k, 254*l* to 254q–1, 254s, 294h, 294n, 294aa, 295g–1, 296m, 1320c–5, 1395*l*, 1395u, 1395x, 3505d, and 9840 of this title and section 2123 of Title 10, Armed Forces, and enacting provisions set out as notes under sections 242a, 254*l*–1, and 254*o* of this title] may be cited as the 'National Health Service Corps Revitalization Amendments of 1990'.''

Pub. L. 101–590, § 1, Nov. 16, 1990, 104 Stat. 2915, provided that: ''This Act [enacting subchapter X of this chapter, amending sections 300w–4 and 300w–9 of this title, and enacting provisions set out as a note under section 300d of this title] may be cited as the 'Trauma Care Systems Planning and Development Act of 1990'.''

Pub. L. 101–558, § 1, Nov. 15, 1990, 104 Stat. 2772, provided that: ''This Act [amending sections 280b to 280b–3 of this title] may be cited as the 'Injury Control Act of 1990'.''

Pub. L. 101–557, § 1, Nov. 15, 1990, 104 Stat. 2766, provided that: ''This Act [enacting sections 242q to 242q–5 of this title, amending sections 280c, 280c–2, 280c–3, 280c–5, 285e–2, 285e–3, 300u–6, 300ff–17, 300ff–51, and 300ff–52 of this title and section 4512 of Title 20, Education, and enacting provisions set out as a note under section 300u–6 of this title] may be cited as the 'Home Health Care and Alzheimer's Disease Amendments of 1990'.''

Pub. L. 101–527, § 1(a), Nov. 6, 1990, 104 Stat. 2311, provided that: ''This Act [enacting sections 254c–1, 254t, 256a, 294bb, 294cc, and 300u–6 of this title, amending sections 242k, 242m, 254b, 254c, 294m, 294*o*, and 295g–2 of this title, enacting provisions set out as notes under sections 242k and 300u–6 of this title, and repealing provisions set out as a note under section 292h of this title] may be cited as the 'Disadvantaged Minority Health Improvement Act of 1990'.''

Pub. L. 101–502, § 1, Nov. 3, 1990, 104 Stat. 1285, provided that: ''This Act [amending sections 207, 247b, 300aa–6, 300aa–11 to 300aa–13, 300aa–15, 300aa–16, 300aa–21, 300ff–13, 300ff–47, and 300ff–49 of this title, section 331 of Title 21, Food and Drugs, and section 201 of Title 37, Pay and Allowances of the Uniformed Services, enacting provisions set out as notes under sections 300aa–2, 300aa–11, and 300aa–12 of this title and section 201 of Title 37, and amending provisions set out as a note under section 300aa–1 of this title] may be cited as the 'Vaccine and Immunization Amendments of 1990'.''

Pub. L. 101–381, § 1, Aug. 18, 1990, 104 Stat. 576, provided that: ''This Act [enacting subchapter XXIV of this chapter, transferring section 300ee–6 of this title to section 300ff–48 of this title, amending sections 284a, 286, 287a, 287c–2, 289f, 290aa–3a, 299c–5, 300ff–48, and 300aaa to 300aaa–13 of this title, and enacting provisions set out as notes under sections 300x–4, 300ff–11, 300ff–46, and 300ff–80 of this title] may be cited as the 'Ryan White Comprehensive AIDS Resources Emergency Act of 1990'.''

Pub. L. 101–374, § 1, Aug. 15, 1990, 104 Stat. 456, provided that: ''This Act [amending sections 290aa–12, 290cc–2, and 300x–4 of this title, enacting provisions set out as notes under sections 289e, 290aa–12, 290cc–2, and 300x–4 of this title, and amending provisions set out as a note under section 289e of this title] may be cited as the 'Drug Abuse Treatment Waiting Period Reduction Amendments of 1990'.''

Pub. L. 101–368, § 1, Aug. 15, 1990, 104 Stat. 446, provided that: ''This Act [amending section 247b of this title] may be cited as the 'Tuberculosis Prevention Amendments of 1990'.''

Pub. L. 101–354, § 1, Aug. 10, 1990, 104 Stat. 409, provided that: ''This Act [enacting subchapter XIII of this chapter] may be cited as the 'Breast and Cervical Cancer Mortality Prevention Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–93, § 1, Aug. 16, 1989, 103 Stat. 603, provided that: ''This Act [see Tables for classification] may be cited as the 'Drug Abuse Treatment Technical Corrections Act of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–690, § 2011, Nov. 18, 1988, 102 Stat. 4193, provided that: ''This subtitle [subtitle A (§§ 2011–2081) of title II of Pub. L. 100–690, enacting sections 290aa–11 to 290aa–14, 290cc–11 to 290cc–13, 290ff, 300x–1a, 300x–4a, 300x–9a, and 300x–9b of this title, amending sections 242a, 290aa, 290aa–3, 290aa–6, 290aa–8, 290bb–2, 290cc to 290cc–2, 300x, 300x–1a to 300x–4, 300x–5, 300x–9, and 300x–10 to 300x–12 of this title and section 484 of Title 40, Public Buildings, Property, and Works, repealing sections 300y to 300y–2 of this title, enacting provisions set out as notes under this section and sections 290aa, 290cc–11, 300x–9a, and 300x–11 of this title, and amending provisions set out as a note under section 801 of Title 21, Food and Drugs] may be cited as the 'Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988'.''

Pub. L. 100–607, § 1(a), Nov. 4, 1988, 102 Stat. 3048, provided that: ''This Act [see Tables for classification] may be cited as the 'Health Omnibus Programs Extension of 1988'.''

Pub. L. 100–607, title I, § 100(a), Nov. 4, 1988, 102 Stat. 3048, provided that: ''This title [see Tables for classification] may be cited as the 'National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988'.''

Pub. L. 100–607, title II, § 200, Nov. 4, 1988, 102 Stat. 3062, provided that: ''This title [see Tables for classification] may be cited as the 'AIDS Amendments of 1988'.''

Pub. L. 100–607, title IV, § 401(a), Nov. 4, 1988, 102 Stat. 3114, provided that: ''This title [enacting sections 300y–21 to 300y–27 of this title, amending sections 273 to 274e of this title, and enacting provisions set out as notes under sections 273 and 300y–21 of this title] may be cited as the 'Organ Transplant Amendments Act of 1988'.''

Pub. L. 100–607, title VI, § 601(a), Nov. 4, 1988, 102 Stat. 3122, as amended by Pub. L. 100–690, title II, § 2603(a)(1), Nov. 18, 1988, 102 Stat. 4234, provided that: ''This title [see Tables for classification] may be cited as the 'Health Professions Reauthorization Act of 1988'.''

Pub. L. 100–607, title VII, § 700(a), Nov. 4, 1988, 102 Stat. 3153, provided that: ''This title [enacting sections 296r, 297c–1, 297j, 297n, and 298b–6 of this title, amending sections 210, 294a, 296k, 296*l*, 296m, 297, 297–1, 297a, 297b, 297d, 297e, 298, and 298b–3 of this title, and enacting provisions set out as a note under section 297d of this title] may be cited as the 'Nursing Shortage Reduction and Education Extension Act of 1988'.''

Pub. L. 100–578, § 1, Oct. 31, 1988, 102 Stat. 2903, provided that: ''This Act [amending section 263a of this title and enacting provisions set out as notes under section 263a of this title] may be cited as the 'Clinical Laboratory Improvement Amendments of 1988'.''

Pub. L. 100–572, § 1, Oct. 31, 1988, 102 Stat. 2884, provided that: ''This Act [enacting sections 247b–1 and 300j–21 to 300j–26 of this title, and amending section 300j–4 of this title] may be cited as the 'Lead Contamination Control Act of 1988'.''

Pub. L. 100–553, § 1, Oct. 28, 1988, 102 Stat. 2769, provided that: ''This Act [enacting sections 285m to 285m–6 of this title, amending sections 281 and 285j of this title, and enacting provisions set out as a note under section 285m of this title] shall be cited as the 'National Deafness and Other Communication Disorders Act of 1988'.''

Pub. L. 100–517, § 1(a), Oct. 24, 1988, 102 Stat. 2578, provided that: ''This Act [amending sections 300e, 300e–1, 300e–9, and 300e–10 of this title, enacting provisions set out as notes under sections 300e, 300e–9, and 1302 of this title, and repealing provisions set out as notes under section 300e–1 of this title] may be cited as the 'Health Maintenance Organization Amendments of 1988'.''

Pub. L. 100–386, § 1(a), Aug. 10, 1988, 102 Stat. 919, provided that: ''This Act [amending sections 254b and 254c of this title and enacting provisions set out as a note under section 254b of this title] may be cited as the

'Community and Migrant Health Centers Amendments of 1988'.''

SHORT TITLE OF 1987 AMENDMENTS

Pub. L. 100–203, title IV, §4301(a), Dec. 22, 1987, 101 Stat. 1330–221, provided that: ''This subtitle [subtitle D (§§4301–4307) of title IV of Pub. L. 100–203, enacting section 300aa–34 of this title, amending sections 300aa–11 to 300aa–13, 300aa–15 to 300aa–17, 300aa–19, 300aa–21 to 300aa–23, 300aa–25 to 300aa–28, and 300aa–31 of this title, repealing section 300aa–18 of this title, and amending provisions set out as a note under section 300aa–1 of this title] may be cited as the 'Vaccine Compensation Amendments of 1987'.''

Pub. L. 100–177, §1(a), Dec. 1, 1987, 101 Stat. 986, provided that: ''This Act [enacting sections 254*l*–1, 254q, and 254q–1 of this title, amending sections 242a, 242c, 242k, 242m, 242n, 242p, 247b, 254d to 254g, 254h–1, 254k, 254m to 254q, 254r, 295g–8, and 11137 of this title, repealing former section 254q of this title, and enacting provisions set out as notes under sections 242c, 242k, 242m, 254*l*–1, 254*o*, 300aa–2, and 11137 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. 979, provided that: ''This title [enacting part K (§280c et seq.) of subchapter II of this chapter] may be cited as the 'Health Care Services in the Home Act of 1987'.''

Pub. L. 100–97, §1, Aug. 18, 1987, 101 Stat. 713, provided: ''That this Act [enacting section 295g–8a of this title and provisions set out as a note under section 295g–8a of this title] may be cited as the 'Excellence in Minority Health Education and Care Act'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–660, title III, §301, Nov. 14, 1986, 100 Stat. 3755, provided that: ''This title [enacting sections 300aa–1 to 300aa–33 of this title, amending sections 218, 242c, 262, 286, and 289f of this title, redesignating former sections 300aa to 300aa–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 290aa–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 [amending sections 300e–1, 300e–4, 300e–5 to 300e–10, 300e–16, and 300e–17 of this title, repealing sections 300e–2, 300e–3, 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. 99–649, §1, Nov. 10, 1986, 100 Stat. 3633, provided: ''That this Act [enacting sections 280b to 280b–3 of this title and provisions set out as a note under section 280b of this title] may be cited as the 'Injury Prevention Act of 1986'.''

Pub. L. 99–570, title IV, §4001(a), Oct. 27, 1986, 100 Stat. 3207–103, provided that: ''This subtitle [subtitle A (§§4001–4022) of title IV of Pub. L. 99–570, enacting sections 290aa–3a, 290aa–6 to 290aa–10, and 300y to 300y–2 of this title, amending sections 218, 241, 290aa to 290aa–3, 290aa–4, 290aa–5, 290bb–1, 290bb–2, 290cc, and 290cc–2 of this title and sections 331 and 350a of Title 21, Food and Drugs, and enacting provisions set out as notes under sections 290aa–3, 290aa–3a, and 290bb of this title] may be cited as the 'Alcohol and Drug Abuse Amendments of 1986'.''

Pub. L. 99–339, §1, June 19, 1986, 100 Stat. 642, provided that: ''This Act [enacting sections 300g–6, 300h–5 to 300h–7, 300i–1, and 300j–11 of this title, amending sections 300f, 300g–1 to 300g–5, 300h to 300h–2, 300h–4, 300h–6, 300h–7, 300i, 300j to 300j–4, 300j–7, and 6979a of this title and sections 1261 and 1263 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 300j–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 Services Amendments Act of 1986'.''

SHORT TITLE OF 1985 AMENDMENTS

Pub. L. 99–158, §1(a), Nov. 20, 1985, 99 Stat. 820, provided that: ''This Act [enacting sections 275, 281 to 283, 284 to 284c, 285 to 285a–5, 285b to 285b–6, 285c to 285c–7, 285d to 285d–7, 285ed to 285e–2, 285f, 285g to 285g–3, 285h, 285i, 285j to 285j–2, 285k, 285*l*, 286 to 286a–1, 286b to 286b–8, 287 to 287a–1, 287b, 287c to 287c–3, 288 to 288b, and 289 to 289h of this title, amending sections 217a, 218, 241, 290aa–5, and 300c–12 of this title, repealing sections 275 to 280a–1, 280b to 280b–2, 280b–4, 280b–5, and 280b–7 to 280b–11 of this title, omitting sections 286c to 286e, 287d to 287i, 288c, 289, 289c–1 to 289c–3, 289c–4 to 289c–7, 289i to 289k, 289k–2 to 289k–5, and 289*l* to 289*l*–8 of this title, enacting provisions set out as notes under sections 218, 281, 285c, 285e, 285e–2, 285j–1 and 289d of this title, and repealing provisions set out as a note under section 287i of this title] may be cited as the 'Health Research Extension Act of 1985'.''

Pub. L. 99–129, §1, Oct. 22, 1985, 99 Stat. 523, provided: ''That this Act [enacting sections 294q–1 to 294q–3 of this title, amending sections 254*l*, 292a, 292b, 292h, 292j, 293c, 294a, 294b, 294d, 294e, 294g, 294j, 294m to 294p, 294z, 295f to 295f–2, 295g, 295g–1, 295g–3, 295g–4, 295g–6 to 295g–8, 295g–8b, 295h, 295h–1a to 295h–1c, 296k, 296*l*, 296m, 297a, 298b–5, and 300aa–14 of this title, repealing sections 292c, 295 to 295e–5, 295g–2, 295g–5, 295g–8a, and 295g–9 of this title, enacting provisions set out as notes under sections 254*l*, 292h, 293c, 294d, 294n, and 300aa–14 of this title and section 462 of the Appendix to Title 50, War and National Defense, and amending provisions set out as a note under section 298b–5 of this title] may be cited as the 'Health Professions Training Assistance Act of 1985'.''

Pub. L. 99–117, §1(a), Oct. 7, 1985, 99 Stat. 491, provided that: ''this Act [amending sections 207, 210, 213a, 242c, 242n, 243, 246, 247b, 247e, 253, 290aa–3, 300x–4, 300x–5, and 300x–9 of this title and section 1333 of Title 15, Commerce and Trade, repealing sections 247, 254a–1, 299 to 299j, 300d–4, 300d–6, and 300aa–4 of this title, and enacting provisions set out as notes under sections 210, 241, and 242n of this title] may be cited as the 'Health Services Amendments of 1985'.''

Pub. L. 99–92, §1, Aug. 16, 1985, 99 Stat. 393, provided: ''That this Act [enacting section 297i of this title, transferring section 296c to section 298b–5 of this title, amending sections 296k to 296m, 297, 297–1, 297a, 297b, 297d, 297e, 298, 298b, and 298b–5 of this title, sections 1332, 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, 296j, 297h, and 297j of this title, and enacting provisions set out as notes under sections 296k and 298b–5 of this title and section 1333 of Title 15] may be cited as the 'Nurse Education Amendments of 1985'.''

SHORT TITLE OF 1984 AMENDMENTS

Pub. L. 98–555, §1(a), Oct. 30, 1984, 98 Stat. 2854, provided that: ''this Act [enacting sections 300w–9 and 300w–10 of this title and amending sections 247b, 247c, 255, 300, 300w, 300w–4, and 300w–5 of this title] may be cited as the 'Preventive Health Amendments of 1984'.''

Pub. L. 98–551, §1, Oct. 30, 1984, 98 Stat. 2815, provided: ''That this Act [enacting section 300u–5 of this title, amending sections 242b, 242c, 242m, 242n, 254r, 300u, and 300u–3 of this title and sections 360bb and 360ee of Title 21, Food and Drugs, and repealing sections 300u–5 to 300u–9 of this title] may be cited as the 'Health Promotion and Disease Prevention Amendments of 1984'.''

Pub. L. 98–509, § 1(a), Oct. 19, 1984, 98 Stat. 2353, provided that: ''this Act [enacting sections 290bb–1a, 290cc–1, 290cc–2, and 300x–1a of this title, amending sections 218, 290aa, 290aa–1 to 290aa–3, 290bb, 290bb–2, 290cc, 290dd, 290dd–1, 300x, 300x–1, and 300x–2 to 300x–9 of this title and section 802 of Title 21, Food and Drugs, repealing sections 1161 to 1165 of Title 21, and enacting provisions set out as notes under sections 300x and 300x–1a of this title and section 802 of Title 21] may be cited as the 'Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1984'.''

Pub. L. 98–507, § 1, Oct. 19, 1984, 98 Stat. 2339, provided: ''That this Act [enacting sections 273 to 274e of this title and provisions set out as notes under section 273 of this title] may be cited as the 'National Organ Transplant Act'.''

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–194, § 1, Dec. 1, 1983, 97 Stat. 1345, provided: ''That this Act [amending section 254g of this title and enacting provisions set out as notes under section 254g of this title] may be cited as the 'Rural Health Clinics Act of 1983'.''

Pub. L. 98–24, § 1(a), Apr. 26, 1983, 97 Stat. 175, provided that: ''This Act [enacting sections 290aa–4 and 290aa–5 of this title, transferring sections 219 to 224, 225a to 227, 228 to 229d, 289k–1, 3511, 4551, 4585, 4587, 4588, 4571, 4561, 4581, and 4582 of this title to sections 300aa to 300aa–5, 300aa–6 to 300aa–8, 300aa–9 to 300aa–14, 290aa–3, 290aa, 290aa–1, 290bb, 290bb–1, 290bb–2, 290dd, 290dd–1, 290dd–2, and 290dd–3 of this title, respectively, and sections 1173(a), 1174, 1175, 1180, 1191, 1192, and 1193 of Title 21, Food and Drugs, to sections 290aa–2(e), 290ee–2, 290ee–3, 290ee–1, 290aa–2, 290ee, and 290cc of this title, respectively, amending sections 218, 278, 289*l*–4, 290aa to 290aa–2, 290bb to 290bb–2, 290cc, 290dd to 290dd–2, 290ee to 290ee–3, and 4577 of this title and sections 1165, 1173, and 1177 of Title 21, repealing sections 4552, 4553, and 4586 of this title and sections 1117, 1172, and 1194 of Title 21, enacting provisions set out as a note under section 290aa of this title, amending provisions set out as a note under section 4541 of this title, and repealing provisions set out as a note under section 242 of this title] may be cited as the 'Alcohol and Drug Abuse Amendments of 1983'.''

SHORT TITLE OF 1981 AMENDMENT

Section 940(a) of Pub. L. 97–35 provided that: ''This subtitle [subtitle F (§§ 940–949) of title IX of Pub. L. 97–35, amending sections 300e to 300e–4a, 300e–6 to 300e–9, 300e–11, 300e–17, and 300m–6 of this title, repealing sections 300e–13 and 300e–15 of this title, and enacting provisions set out as notes under sections 300e–9 and 300m–6 of this title] may be cited as the 'Health Maintenance Organization Amendments of 1981'.''

SHORT TITLE OF 1980 AMENDMENT

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 286e, 287c, 287i, 289a, 289c–1, 289c–2, 289c–5, 289c–6, 294a, 294d, 294v, 300k–1, 300*l*–5, 300m, 300m–3, 300m–6, 300n, and 300n–1 of this title and section 1182 of Title 8, Aliens and Nationality, repealing sections 289c–3a and 289c–8 and former sections 289c–3, 289c–4, and 289c–7 of this title, and enacting provisions set out as notes under sections 289, 300*l*–5, and 300m–6 of this title] may be cited as the 'Health Programs Extension Act 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 295g–9, 300d–1, 300d–3, 300d–5, 300d–6, 300d–8, 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'.''

Pub. L. 96–142, title II, § 201, Dec. 12, 1979, 93 Stat. 1070, provided that: ''This title [enacting section 300c–12 and amending section 300c–11 of this title] may be cited as the 'Sudden Infant Death Syndrome Amendments of 1979'.''

Section 1(a) of Pub. L. 96–79 provided that: ''This Act [enacting sections 300m–6, 300s, 300s–1, 300s–6, and 300t–11 to 300t–14 of this title, amending this section and sections 246, 300k–1 to 300k–3, 300*l* to 300*l*–5, 300m to 300m–5, 300n, 300n–1, 300n–3, 300n–5, 300q, 300q–2, 300r, 300s–3, 300s–5, 300t, 1396b, 2689t, and 4573 of this title and section 1176 of Title 21, Food and Drugs, repealing sections 300*o* to 300*o*–3, 300p to 300p–3, 300q–1, and former section 300s of this title, redesignating former section 300s–1 as 300s–1a of this title, and enacting provisions set out as notes under sections 300k–1, 300*l*, 300*l*–1, 300*l*–4, 300*l*–5, 300m, 300m–6, 300n, 300q, and 300t–11 of this title] may be cited as the 'Health Planning and Resources Development Amendments of 1979'.''

Pub. L. 96–76, title I, § 101(a), Sept. 29, 1979, 93 Stat. 579, provided that: ''This title [enacting section 297–1 of this title, amending sections 296, 296d, 296e, 296k to 296m, 297 to 297c, 297e, and 297j of this title, and enacting provisions set out as notes under sections 296 and 297j of this title] may be cited as the 'Nurse Training Amendments of 1979'.''

Pub. L. 96–76, title III, § 301, Sept. 29, 1979, 93 Stat. 584, provided that: ''This title [amending sections 204, 206, 207, 209, 210–1, 210b, 211, 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 'Public Health Service Administrative Amendments of 1979'.''

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95–626, § 1(a), Nov. 10, 1978, 92 Stat. 3551, provided that: ''This Act [enacting sections 242p, 247, 247a, 247b–1, 254a–1, 255, 256, 256a, 300a–21 to 300a–29, 300a–41, 300b–6, and 300u–6 to 300u–9 of this title, amending sections 218, 246, 247b, 247c, 247e, 254a, 254b, 254c, 254k, 294t, 294u, 295h–1, 300b, 300b–3, 300c–21, 300c–22, 300d–2, 300d–3, 300d–5, 300d–6, 300e–12, 300e–14a, 300u–5, 1396b, and 4846 of this title, repealing sections 256, 4801, 4811, 4844, and 4845 of this title, enacting provisions set out as notes under this section and sections 246, 247a, 247c, 254a–1, 254b to 254d, 256, 256a, 289b, 289d, 300a–21, 300d–2, and 300d–3 of this title, and amending provisions set out as notes under sections 300b and 1395x of this title] may be cited as the 'Health Services and Centers Amendments of 1978'.''

Pub. L. 95–626, title I, § 101, Nov. 10, 1978, 92 Stat. 3551, provided that: ''This part [part A (§§ 101–107) of title I of Pub. L. 95–626, enacting section 256a of this title, amending sections 218, 247e, 254b, 254c, 255, 300e–12, 300e–14a, and 1396b of this title, repealing section 256 of this title, and enacting provisions set out as notes under sections 254b, 254c, and 256a of this title] may be cited as the 'Migrant and Community Health Centers Amendments of 1978'.''

Pub. L. 95–626, title I, § 111, Nov. 10, 1978, 92 Stat. 3562, provided that: ''This part [part B (§§ 111–116) of title I of Pub. L. 95–626, enacting sections 254a–1 and 256 of this title, amending sections 294t and 294u of this title, and enacting provisions set out as notes under sections 254a–1, 254d, and 256 of this title] may be cited as the 'Primary Health Care Act of 1978'.''

Pub. L. 95–626, title II, § 200, Nov. 10, 1978, 92 Stat. 3570, provided that: ''This title [enacting sections 247, 247a, 255, and 300b–6 of this title, amending sections 246, 247b, 247c, 300b, 300b–3, 300c–21, 300c–22, 300d–2, 300d–3, 300d–5, 300d–6, and 4846 of this title, repealing sections 4801, 4811, 4844, and 4845 of this title, enacting provisions set out as notes under sections 246, 247a, 247c, 289d, 300d–2, and 300d–3 of this title, and amending provisions set out as notes under sections 300b and 1395x of this title] may be cited as the 'Health Services Extension Act of 1978'.''

Pub. L. 95–623, § 1(a), Nov. 9, 1978, 92 Stat. 3443, provided that: ''This Act [enacting sections 229c, 242n, and 4362a of this title, amending sections 210, 242b, 242c, 242k, 242m, 242*o*, 289k, 289*l*–1, 292e, 292h, 292i, 294t, 295f–1, 295f–2, 295g–2, 295g–8, 295h–2, 7411, 7412, 7417, and 7617 of this title, repealing section 280c of this title, enacting

provisions set out as a note under section 242m of this title, and amending provisions set out as notes under sections 292h, 295h–4, and 296 of this title] may be cited as the 'Health Services Research, Health Statistics, and Health Care Technology Act of 1978'.''

Pub. L. 95–622, title II, §201(a), Nov. 9, 1978, 92 Stat. 3420, provided that: ''This title [enacting sections 289*l*–6 to 289*l*–8 of this title, amending sections, 241, 248, 277, 280b, 281 to 286g, 287a to 287d, 287g, 287i, 289c–6, 289*l* to 289*l*–2, 289*l*–4, 4541, 4573, and 4585 of this title, and enacting provisions set out as notes under sections 241, 286b, 286f, 289a, and 289*l*–1 of this title] may be cited as the 'Biomedical Research and Research Training Amendments of 1978'.''

Pub. L. 95–559, §1(a), Nov. 1, 1978, 92 Stat. 2131, provided that: ''This Act [enacting sections 300e–4a, 300e–16, and 300e–17 of this title, amending sections 300e, 300e–1, 300e–3, 300e–4, 300e–5, 300e–7, 300e–8, 300e–9, 300e–11 to 300e–13, 1320a–1, 1396a, and 1396b of this title, and enacting provisions set out as notes under sections 300e–3, 300e–4, 300e–16, and 1396a of this title] may be cited as the ''Health Maintenance Organization Amendments of 1978'.''

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95–190, §1, Nov. 16, 1977, 91 Stat. 1393, provided that: ''This Act [enacting sections 300j–10 and 7625a of this title, amending sections 300f, 300g–1, 300g–3, 300g–5, 300h, 300h–1, 300j to 300j–2, 300j–4, 300j–6, 300j–8, 7410, 7411, 7413, 7414, 7416, 7419, 7420, 7426, 7472 to 7475, 7478, 7479, 7502, 7503, 7506, 7521, 7522, 7525, 7541, 7545, 7549, 7602, 7604, 7607, 7623, and 7626 of this title, enacting provisions set out as notes under section 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 this section and sections 242m, 300e–8, 300k–3, 300*l* to 300*l*–5, 300m, 300m–2, 300m–4, 300m–5, 300n–3, 300n–5, 300*o*–1 to 300*o*–3, 300p, 300p–3, 300q, 300q–2, 300r, 300s–3, 300t, and 1396b of this title, and enacting provisions set out as a note under section 1396b of this title] may be cited as the 'Health Planning and Health Services Research and Statistics Extension Act of 1977'.''

Section 201 of title II of Pub. L. 95–83 provided that: ''This title [amending sections 280b, 286b, 286c, 286d, 286f, 286g, 287c, 287d, 287f, 287h, 287i, and 289*l*–1 of this title] may be cited as the 'Biomedical Research Extension Act of 1977'.''

Section 301 of title III of Pub. L. 95–83 provided that: ''This title [enacting section 294y–1 of this title, amending sections 210, 246, 247d, 254c, 292g, 292h, 293a, 294d, 294e, 294h, 294i, 294j, 294n, 294r, 294s, 294w, 294z, 295f–1, 295g–1, 295g–9, 295h–5, 295h–5c, 296e, 296m, 297, 300, 300a–1, 300a–2, 300a–3, 300c–11, 300c–21, 300c–22, 701, 2689a to 2689e, 2689h, 2689p, 2689q, 4572, 4573, and 4577 of this title, sections 1101 and 1182 of Title 8, Aliens and Nationality, sections 1112 and 1176 of Title 21, Food and Drugs, and section 1614 of Title 25, Indians, enacting provisions set out as notes under sections 242b, 242*l*, 294d, 294i, 294n, 294r, 294t, 294y–1, 294z, 295f–1, 295g–1, 295h–5, and 296m of this title and sections 1101 and 1182 of Title 8, and amending provisions set out as notes under sections 289k–2, 1395x, and 1396b of this title] may be cited as the 'Health Services Extension Act of 1977'.''

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94–573, §1(a), Oct. 21, 1976, 90 Stat. 2710, provided that: ''This Act [enacting section 300d–21 of this title, amending sections 295f–6 and 300d to 300d–9 of this title, enacting provisions set out as notes under sections 242b, 300d, 300d–7, and 300d–9 of this title, and amending provisions set out as notes under sections 218, 289c–1, and 289*l*–1 of this title] may be cited as the 'Emergency Medical Services Amendments of 1976'.''

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–5, and 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'.''

Section 1(a) of Pub. L. 94–484 provided that: ''This Act [enacting sections 254 to 254k, 292, 292e to 292k, 294 to 294*l*, 294r to 294z, 294aa, 295f–1, 295g to 295g–8, 295g–10, 295h to 295h–2, and 295h–4 to 295h–7 of this title; renumbering sections 293d as 292a, 293e as 292b, 295h–8 as 292c, 295h–9 as 292d, 293g to 293i as 293d to 293f, 294 to 294c as 294m to 294p, 294e as 294q, 295f–5 as 295f–2, and 295f–6 as 295g–9 of this title; amending this section and sections 234, 244–1, 245a, 246, 247c, 254b, 263c, 292a to 292c, 293 to 293d, 293f, 294g, 294m to 294p, 295e–1 to 295e–4, 295f to 295f–4, 295g, 295g–11, 295g–23, 295h–1 to 295h–3, 297, 300a, 300d, 300d–7, 300f, 300*l*–1, 300n, and 300s–3 of this title and sections 1101 and 1182 of Title 8, Aliens and Nationality; repealing sections 234, 244–1, 245a, 254b, 292 to 292j, 293f, 294d, 294f, 294g, 295f–1, to 295f–4, 295g, 295g–1, 295g–11, and 295g–21 to 295g–23 of this title; omitting sections 295h to 295h–2, 295h–3a to 295h–3d, 295h–4, 295h–5, and 295h–7 of this title; and enacting provisions set out as notes under sections 254d, 292, 292b, 292h, 293, 293f, 294, 294n, 294*o*, 294q, 294r, 294t, 294z, 295g, 295g–1, 295g–9, 295g–10, 295h, 295h–4, and 300*l*–1 of this title and section 1182 of Title 8] may be cited as the 'Health Professions Educational Assistance Act of 1976'.''

Pub. L. 94–460, §1(a), Oct. 8, 1976, 90 Stat. 1945, provided that: ''This Act [enacting section 300e–15 of this title, amending sections 242c, 289k–2, 300e, 300e–1 to 300e–11, 300e–13, 300n–1, 1395x note, 1395mm, and 1396b of this title, section 8902 of Title 5, Government Organization and Employees, and section 360d of Title 21, Food and Drugs, and enacting provisions set out as notes under sections 300e and 1396b of this title] may be cited as the 'Health Maintenance Organization Amendments of 1976'.''

Pub. L. 94–380, §1, Aug. 12, 1976, 90 Stat. 1113, provided: ''That this Act [amending section 247b of this title and enacting provisions set out as a note under section 247b of this title] may be cited as the 'National Swine Flu Immunization Program of 1976'.''

Section 101 of title I of Pub. L. 94–317 provided that: ''This title [enacting subchapter XV of this chapter] may be cited as the 'National Consumer Health Information and Health Promotion Act of 1976'.''

Section 201 of title II of Pub. L. 94–317 provided that: ''This title [amending sections 243, 247b, 247c, 4801, 4831, and 4841 to 4843 of this title and enacting provisions set out as notes under sections 247b and 247c of this title] may be cited as the 'Disease Control Amendments of 1976'.''

Pub. L. 94–278, §1(a), Apr. 22, 1976, 90 Stat. 401, provided that: ''This Act [enacting sections 217a–1, 289*l*–5, 300b, 300b–1 to 300b–5 of this title and sections 350 and 378 of Title 21, Food and Drugs, and amending sections 213e, 225a, 234, 241, 247d, 254c, 287, 287a to 287d, 287f to 287i, 289a, 289c–1, 289c–5, 289c–6, 289*l*–1, 289*l*–2, 294b, 295g–23, 300c–11, 300*l*, 300p–3, 300s–1, 6062 and 6064 of this title and sections 321, 333, 334 and 343 of Title 21, and enacting provisions set out as notes under sections 218, 287, 289c–1, 289c–2, 289*l*–1, 300b and 6001 of this title and sections 334 and 350 of Title 21] may be cited as the 'Health Research and Health Services Amendment of 1976'.''

Pub. L. 94–278, title IV, §401, Apr. 22, 1976, 90 Stat. 407, provided that: ''This title [enacting part A of subchapter IX of this chapter, omitting former Part B of of subchapter IX of this chapter relating to Cooley's Anemia Programs, redesignating former Parts C and D of subchapter IX of this chapter as Parts B and C of subchapter IX of this chapter, respectively, and amending section 300c–11 of this title] may be cited as the 'National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act'.''

Pub. L. 94–278, title VI, §601, Apr. 22, 1976, 90 Stat. 413, provided that: ''This title [amending sections 289a, 289c–1, 289c–5, and 289c–6 of this title and amending provisions set out as notes under section 289c–1 of this

title] may be cited as the 'National Arthritis Act Technical 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 246 of this title and enacting provisions set out as a note under section 246 of this title] may be cited as the 'Special Health Revenue Sharing Act of 1975'.''

Pub. L. 94–63, title II, § 201, 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 3505c 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 296j to 296m and 298b–3 of this title, amending sections 296 to 296i, 297 to 297e, 297g to 297h, 298 to 298b–2, 298c, 298c–1 and 298c–7 of this title, repealing sections 296g, 296i, 297f, 298c–7, and 298c–8 of this title, and enacting provisions set out as notes under sections 296, 296a, 296d, 296e, 296m, 297, and 297b of this title and former section 297f 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 247a of this title, and enacting provisions set out as notes under sections 217a, 229, 291b, 300*l*–4, and 300m 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 289c–4, 289c–5, and 289c–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 'National Arthritis Act of 1974'.''

Pub. L. 93–523, § 1, Dec. 16, 1974, 88 Stat. 1660, as amended by Pub. L. 104–182, title V, § 501(e), Aug. 6, 1996, 110 Stat. 1691, 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 300f 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 247b 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. 93–353, § 1(a), July 23, 1974, 88 Stat. 362, provided that: ''This Act [enacting sections 242k, 242m to 242*o*, and 253b of this title, renumbering former sections 242i, 242j, 242f, 242d, 242g, and 242h as sections 235, 236, 242*l*, 244–1, 245a, and 247d of this title, amending sections 236, 242b, 242c, 242*l*, 244–1, 245a, 280b, 280b–1, 280b–2, 280b–4, 280b–5, and 280b–7 to 280b–9, and repealing sections 242e, 244, 244a, 245, 247, 280b–3, and 280b–12 of this title, and enacting provisions set out as notes under sections 242m, 253b, and 280b of this title] may be cited as the 'Health Services Research, Health Statistics, and Medical Libraries Act of 1974'.''

Pub. L. 93–353, title I, § 101, July 23, 1974, 88 Stat. 362, provided that: ''This title [enacting sections 242k, 242m to 242*o*, and 253b, renumbering former sections 242i, 242j, 242f, 242d, 242g, and 242h as sections 235, 236, 242*l*, 244–1, 245a, and 247d of this title, amending sections 236, 242b, 242c, 242*l*, 244–1, and 245a, repealing sections 242e, 244, 244a, 245, and 247 of this title, and enacting provisions set out as notes under sections 242m and 253b of this title] may be cited as the 'Health Services Research and Evaluation and Health Statistics Act of 1974'.''

Pub. L. 93–352, title I, § 101, July 23, 1974, 88 Stat. 358, provided that: ''This title [enacting section 289*l*–4 of this title, amending sections 241, 282, 286a, 286b, 286c, 286d, 286g, and 289*l* of this title, enacting provisions set out as notes under sections 289*l* and 289*l*–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*l*–1 to 289*l*–3 of this title, amending sections 218, 241, 242a, 282, 286a, 286b, 287a, 287b, 287d, 288a, 289c, 289c–1, 289g, 289k, and 300a–7 of this title, and enacting provisions set out as notes under sections 218, 241, 289*l*–1, and 289*l*–3 of this title] may be cited as the 'National Research Act'.''

Pub. L. 93–348, title I, § 101, July 12, 1974, 88 Stat. 342, provided that: ''This title [enacting sections 289*l*–1 and 289*l*–2 and amending sections 241, 242a, 282, 286a, 286b, 287a, 287b, 287d, 288a, 289c, 289c–1, 289g, 289k, 295f–3, and 295h–9 of this title] may be cited as the 'National Research Service Award Act of 1974'.''

Pub. L. 93–296, § 1, May 31, 1974, 88 Stat. 184, provided that: ''This Act [enacting Part H of subchapter III of this chapter and provisions set out as notes under section 289k–2 of this title] may be cited as the 'Research on Aging Act of 1974'.''

Pub. L. 93–270, § 1, Apr. 22, 1974, 88 Stat. 90, provided that: ''This Act [enacting part B of subchapter IX of this chapter, amending sections 289d and 289g of this title, and enacting provisions set out as a note under section 289g of this title] may be cited as the 'Sudden Infant Death Syndrome Act of 1974'.''

SHORT TITLE OF 1973 AMENDMENTS

Pub. L. 93–222, § 1, Dec. 29, 1973, 87 Stat. 914, provided in part that Pub. L. 93–222 [enacting subchapter XI of this chapter and section 280c of this title, amending section 2001 of this title and section 172 of Title 12, Bank and Banking, repealing section 763c of Title 33, Navigation and Navigable Waters, enacting provisions set out as notes under sections 300e and 300e–1 of this title, amending provisions set out as notes under this section, and repealing provisions set out as notes under this section and sections 211a, 212a, and 222 of this title] shall be cited as the ''Health Maintenance Organization Act of 1973.''

Pub. L. 93–154, § 1, Nov. 16, 1973, 87 Stat. 594, provided that: ''This Act [enacting subchapter X of this chapter and section 295f–6 of this title, amending sections 295f–2 and 295f–4 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Emergency Medical Services Systems Act of 1973'.''

Pub. L. 93–45, § 1, June 18, 1973, 87 Stat. 91, provided that: ''This Act [enacting section 300a–7 of this title, amending sections 242b, 242c, 244–1, 245a, 246, 280b–4, 280b–5 280b–7, 280b–8, 280b–9, 291a, 291j–1, 291j–5, 295h–1, 295h–2, 295h–3a, 299a, 300, 300a–1, 300a–2, 300a–3, 2661, 2671, 2677, 2681, 2687, 2688a, 2688d, 2688j–1, 2688j–2, 2688*l*, 2688*l*–1, 2688n–1, 2688*o*, and 2688u of this title, and enacting provisions set out as amendment to note provisions under this section] may be cited as the 'Health Programs Extension Act of 1973'.''

SHORT TITLE OF 1972 AMENDMENTS

Pub. L. 92–585, § 1, Oct. 27, 1972, 86 Stat. 1290, provided that: ''This Act [enacting section 234 of this title, amending sections 254b and 294a of this title, and enacting provisions set out as a note under section 246 of this title] may be cited as the 'Emergency Health Personnel Act Amendments of 1972'.''

Pub. L. 92–449, § 1, Sept. 30, 1972, 86 Stat. 748, provided that: ''This Act [enacting section 247c of this title, amending sections 247b and 300 of this title, and enacting provisions set out as notes under section 247c of this title] may be cited as the 'Communicable Disease Control Amendments Act of 1972'.''

Pub. L. 92–449, title II, § 201, Sept. 30, 1972, 86 Stat. 750, provided that: ''This title [enacting section 247c of this title and provisions set out as notes under section 247c of this title] may be cited as the 'National Venereal Disease Prevention and Control Act'.''

Pub. L. 92–423, §1, Sept. 19, 1972, 86 Stat. 679, provided that: ''This Act [enacting sections 287b to 287*f* and 287i of this title, amending sections 218, 241, 287, 287a, 287g, and 287h of this title, and enacting provisions set out as notes under section 287 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. 92–218, §1, Dec. 23, 1971, 85 Stat. 778, provided that: ''This Act [enacting sections 286a to 286g and 289*l* of this title, amending sections 218, 241, 282, 283, and 284 of this title, and enacting provisions set out as notes under sections 281, 286, and 289*l* of this title] may be cited as 'The National Cancer Act of 1971'.''

Pub. L. 92–158, §1(a), Nov. 18, 1971, 85 Stat. 465, provided that: ''This Act [enacting sections 296h, 296i, 297i, 298b–1, and 298b–2 of this title, amending sections 296, 296a, 296b, 296c, 296d, 296e, 296f, 296g, 297, 297a, 297b, 297c, 297e, 297f, 298, 298b, 298c, and 298c–7 of this title and enacting provisions set out as notes under sections 296, 296a, 296d, 296e, 297b, 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. 431, provided that: ''This title [enacting sections 293i, 294g, 295e–1 to 295e–5, 295f–5, 295g–11, 295g–21 to 295g–23, and 3505d of this title, amending sections 210 to 218, 242i, 254, 276, 277, 280, 280a–1, 292b, 292d to 292f, 292h to 292j, 293 to 293e, 293g, 293h, 294 to 294f, 295f to 295f–4, 295g, 295g–1, 295h–3d, 295h–4, 295h–8, 295h–9, 1857c–6, 1857c–8, 1857f–6c, 1857h–5, and 2676 of this title and section 346a of Title 21, Food and Drugs, and enacting provisions set out as notes under section 295h–8 of this title] may be cited as the 'Comprehensive Health Manpower Training Act of 1971'.''

SHORT TITLE OF 1970 AMENDMENTS

Pub. L. 91–623, §1, Dec. 31, 1970, 84 Stat. 1868, provided: ''That this Act [enacting sections 233 and 254b of this title] may be cited as the 'Emergency Health Personnel Act of 1970'.''

Pub. L. 91–572, §1, Dec. 24. 1970, 84 Stat. 1504, provided that: ''This Act [enacting sections 300 to 300a–6 and 3505a to 3505c of this title, amending sections 211a, 212a of this title and section 763c 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–3a to 295h–3d, 295h–8, and 296h–9 of this title, amending sections 295f–1, 295f–2, 295h to 295h–2, 295h–4, and 295h–7 of this title, repealing section 295h–3 of this title, and enacting provisions set out as notes under sections 295f–1, 295–f2, and 295h–4 of this title] may be cited as the 'Health Training Improvement Act of 1970'.''

Pub. L. 91–515, title I, §101, Oct. 30, 1970, 84 Stat. 1297, provided that: ''This title [amending sections 299 to 299g, 299i, and 299j of this title] may be cited as the 'Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970'.''

Pub. L. 91–464, §1, Oct. 16, 1970, 91 Stat. 988, provided: ''That this Act [amending section 247b of this title] may be cited as the 'Communicable Disease Control Amendments of 1970'.''

Pub. L. 91–296, §1(a), June 30, 1970, 84 Stat. 336, provided that: ''This Act [enacting sections 229b, 291j–1 to 291j–10, and 291*o*–1 of this title, amending sections 291a, 242b, 245a, 246, 291 note, 291b, 291c, 291d, 291e, 291f, 291i, 291k to 291m–1, 291*o*, and 299a of this title and section 1717 of Title 12, Banks and Banking, enacting provisions set out as notes under this section and sections 242, 245a, 246, 291a, 291b, 291c, 291e, 291f, 291*o*, 295h–6, and 2688p of this title, and repealing sections 295h–6 and 2688p of this title] may be cited as the 'Medical Facilities Construction and Modernization Amendments of 1970'.''

Section 1 of Pub. L. 91–212 provided that: ''This Act [enacting section 280b–12 of this title and amending this section and sections 276 to 278, 280, 280a–1, 280b, 280b–2 to 280b–9, 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, 295g–1, 295h–6, 295h–7, 296f, 296g, and 297h of this title, amending sections 242d, 242g, 292b to 292e, 293 to 293d, 294 to 294d, 295f to 295f–4, 295g, 295h to 295h–3, 296 to 296b, 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 292b, 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, 263a, and 291m–1 of this title, amending sections 241, 242, 242b, 243, 244, 246, 249, 251, 293e, 295h–4, and 296e of this title, repealing section 291n of this title, and enacting provisions set out as notes under this section and sections 242b, 242c, 246, 263a, and 296e of this title] may be cited as the 'Partnership for Health Amendments of 1967'.''

Pub. L. 90–174, §5(c), Dec. 5, 1967, 81 Stat. 539, provided that: ''This section [enacting section 263a of this title and provisions set out as notes under section 263a of this title] may be cited as the 'Clinical Laboratories Improvement Act of 1967'.''

Pub. L. 90–31, §1, June 24, 1967, 81 Stat. 79, provided: ''That this Act [enacting section 225a of this title and amending sections 2681, 2684, 2687, 2688a, 2688d, and 2691 of this title] may be cited as the 'Mental Health Amendments of 1967'.''

SHORT TITLE OF 1966 AMENDMENTS

Pub. L. 89–751, §1, Nov. 3, 1966, 80 Stat. 1222, provided: ''That this Act [enacting sections 295h to 295h–5 and 298c to 298c–8 of this title, amending sections 292b, 294d, 294n to 294p, 296, 297c to 297f, and 298 of this title and section 1717 of Title 12, Banks and Banking, and enacting provisions set out as notes under sections 294, 294d, 297c, and 297f of this title] may be cited as the 'Allied Health Professions Personnel Training Act of 1966'.''

Pub. L. 89–749, §1, Nov. 3, 1966, 80 Stat. 1180, provided: ''That this Act [amending 243, 245a, and 246 of this title, repealing sections 247a and 247c of this title, and enacting provisions set out as notes under this section and sections 243 and 245a of this title] may be cited as the 'Comprehensive Health Planning and Public Health Services Amendments of 1966'.''

Pub. L. 89–709, §1, Nov. 2, 1966, 80 Stat. 1103, provided: ''That this Act [amending sections 293, 293a, 293d, 293e, 294, 294a, and 294b of this title] may be cited as the 'Veterinary Medical Education Act of 1966'.''

SHORT TITLE OF 1965 AMENDMENTS

Section 1 of Pub. L. 89–291, Oct. 22, 1965, 79 Stat. 1059, provided that: ''This Act [enacting section 280a–1 of this title and Part J of subchapter II of this chapter and amending section 277 of this title] may be cited as the 'Medical Library Assistance Act of 1965'.''

Pub. L. 89–290, §1, Oct. 22, 1965, 79 Stat. 1052, provided that: ''This Act [enacting sections 295f to 295f–4 and 295g of this title and amending sections 293, 293a, 293d, 294 to 294d, 297b, and 298b of this title] may be cited as the 'Health Professions Educational Assistance Amendments of 1965'.''

Pub. L. 89–239, §1, Oct. 6, 1965, 79 Stat. 926, provided: ''That this Act [enacting sections 299 to 299i of this title, amending sections 211a and 212a of this title, sections 757, 790, 800 of former Title 5, Executive Depart-

ments and Government Officers and Employees, and section 763c of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 201, 214, 222, and 249 of this title] may be cited as the 'Heart Disease, Cancer, and Stroke Amendments of 1965'.''

Pub. L. 89–115, § 1, Aug. 9, 1965, 79 Stat. 448, provided: ''That this Act [amending sections 241, 292c, and 292d of this title and section 2211 of former Title 5, Executive Departments and Government Officers and Employees, and enacting section 623h of former Title 5 and provisions set out as a note thereunder] may be cited as the 'Health Research Facilities Amendments of 1965'.''

Pub. L. 89–109, § 1, Aug. 5, 1965, 79 Stat. 435, provided: ''That this Act [amending sections 246, 247a, 247b, and 247d of this title] may be cited as the 'Community Health Services Extension Amendments of 1965'.''

SHORT TITLE OF 1964 AMENDMENTS

Pub. L. 88–581, § 1, Sept. 4, 1964, 78 Stat. 908, provided: ''That this Act [enacting subchapter VI of this chapter, amending sections 291c, 291*o*, 293, 293a, 293e, and 293h of this title, and enacting provisions set out as notes under sections 201, 211a, 212a, 222, 291c, 293, 293e, and 293h of this title, sections 757, 790, and 800 of former Title 5, Executive Departments and Government Officers and Employees, and section 763c of Title 33, Navigation and Navigable Waters] may be cited as the 'Nurse Training Act of 1964'.''

Pub. L. 88–497, § 1, Aug. 27, 1964, 78 Stat. 613, provided that: ''This Act [amending sections 244–1 and 245a of this title] may be cited as the 'Graduate Public Health Training Amendments of 1964'.''

Pub. L. 88–443, § 1, Aug. 18, 1964, 78 Stat. 447, provided that: ''This Act [enacting sections 247c, 291 to 291j, 291k to 291m, 291n, and 291*o* of this title and enacting provisions set out as notes under section 291 of this title] may be cited as the 'Hospital and Medical Facilities Amendments of 1964'.''

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88–129, § 1, Sept. 24, 1963, 77 Stat. 164, provided: ''That this Act [enacting sections 292j, 293 to 293h, and 294 to 294e and amending sections 292 to 292b and 292d to 292i of this title] may be cited as the 'Health Professions Educational Assistance Act of 1963'.''

SHORT TITLE OF 1962 AMENDMENT

Pub. L. 87–868, § 1, Oct. 23, 1962, 76 Stat. 1155, provided that this Act [enacting section 247b of this title] may be cited as the ''Vaccination Assistance Act of 1962.''

SHORT TITLE OF 1961 AMENDMENT

Pub. L. 87–395, § 1, Oct. 5, 1961, 75 Stat. 824, provided: ''That this Act [enacting section 247a of this title, amending sections 246, 289c, 291i, 291n, 291s, 291t, 291w, and 292c to 292g of this title, and enacting provisions set out as a note under section 291s of this title] may be cited as the 'Community Health Services and Facilities Act of 1961'.''

SHORT TITLE OF 1960 AMENDMENT

Section 1 of Pub. L. 86–415, Apr. 8, 1960, 74 Stat. 32, provided: ''That this Act [amending this section and sections 209, 210, 211, 212, 253, and 415 of this title and section 2251 of former Title 5, Executive Departments and Government Officers and Employees, and enacting provisions set out as notes under sections 209 and 212 of this title and section 2253 of former Title 5] may be cited as the 'Public Health Service Commissioned Corps Personnel Act of 1960'.''

SHORT TITLE OF 1956 AMENDMENTS

Section 2 of act Aug. 3, 1956, ch. 907, 70 Stat. 962, provided that: ''This Act [enacting part I of subchapter II of this chapter] may be cited as the 'National Library of Medicine Act'.''

Act July 3, 1956, ch. 510, § 1, 70 Stat. 490, 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 amending this section 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 287 to 287c of this title and 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'.''

SHORT TITLE OF 1946 AMENDMENT

Section 1 of act July 3, 1946, provided: ''That this Act [enacting sections 232 and 242a of this title, amending this section and sections 209, 210, 215, 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 1 of act July 1, 1944, as amended by acts Aug. 13, 1946, ch. 958, § 4, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(a), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88–581, § 4(a), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, § 3(a), 79 Stat. 930; Dec. 24, 1970, Pub. L. 91–572, § 6(a), 84 Stat. 1506; May 16, 1972, Pub. L. 92–294, § 3(a), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93–154, § 2(b)(1), 87 Stat. 604; Dec. 29, 1973, Pub. L. 93–222, § 7(a), 87 Stat. 936, provided that: ''This Act [enacting this chapter] may be cited as the 'Public Health Service Act'.''

Section 329 of act July 1, 1944, formerly § 310, 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

Section 1313, formerly § 611, of act July 1, 1944, renumbered § 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; § 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; § 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; § 913 by Pub. L. 88–581, § 4(b), Sept. 4, 1964, 78 Stat. 919; § 1013 by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931; § 1113 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, § 1213 by Pub. L. 92–294, § 3(b), May 16, 1972, 86 Stat. 137; § 1313 by Pub. L. 93–154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, repealed and amended sections in this title and in Title 8, Aliens and Nationality, Title 14, Coast Guard, Title 21, Food and Drugs, Title 24, Hospitals and Asylums, former Title 31, Money and Finance, Title 33, Navigation and Navigable Waters, former Title 34, Navy, Title 44, Public Printing and Documents, former Title 46, Shipping, Title 48, Territories and Insular Possessions, and former Title 49, Transportation, and was itself repealed by Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

SAVINGS PROVISION

Section 1314, formerly § 612, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88–581, § 4(b),

78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, §3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91–572, §6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92–294, §3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93–154, §2(b)(2), 87 Stat. 604, provided that the repeal of statutes and parts of statutes by sections 1313, formerly §611, of act July 1, 1944, not affect any act done, right accruing or accrued, or suit or proceeding had or commenced in any civil cause before such repeal, and was repealed by Pub. L. 93–222, §7(b), Dec. 29, 1973, 87 Stat. 936.

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.

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 (§§2011–2081) 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

''(6) 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 promoting the coordination of all such researches and activities and the useful application of their results; training personnel in matters relating to mental health; and developing, and assisting 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

Sections 1301 to 1303, formerly §§601 to 603, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, §5, 60 Stat. 1049; July 30, 1956, ch. 779, §3(b), 70 Stat. 720; Sept. 3, 1964, Pub. L. 88–581, §4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, §3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91–572, §6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92–294, §3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93–154, §2(b)(2), 87 Stat. 604, related to the effect of this chapter on existing positions, procedures, regulations, funds, appropriations, and property, and was repealed by Pub. L. 93–222, §7(b), Dec. 29, 1973, 87 Stat. 936.

APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITATION ACTIVITIES

Section 1304, formerly §604, of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, §5, 60 Stat. 1049; July 30, 1956, ch. 779, §3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88–581, §4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, §3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91–572, §6(b), 84 Stat. 1506; May 16, 1972, Pub. L. 92–294, §3(b), 86 Stat. 137; Nov. 16, 1973, Pub. L. 93–154, §2(b)(2), 87 Stat. 604, authorized annual appropriations during World War II and during period of demobilization to conduct health and sanitation activities in military, naval, or industrial areas, and was repealed by Pub. L. 93–222, §7(b), Dec. 29, 1973, 87 Stat. 936. Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of section 1004 of act July 1, 1944, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

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. 360, 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 2689 et seq. and 6001 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 part 96 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 that: ''As used in the amendments made by this Act [enacting sections 229a, 299j, 2688e to 2688q, and 2697a of this title, amending sections 210g, 242h, 291a, 291b, 299a to 299e, 2693, and 3259 of this title, repealing section 3442 of this title, and enacting provisions set out as notes under sections 291a, 2688e, 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 that: ''As used in the amendments made by this Act [enacting sections 217b, 243(c), 251(b), 254a, 263a, and 291m–1 and amending sections 242b, 242g(c), 246(d)(1), (e), and 296e(c)(1) of this title] the term 'Secretary' means the Secretary of Health and Human Services.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 3672.

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.

(July 1, 1944, ch. 373, title II, § 201, 58 Stat. 683; 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(f), June 10, 1993, 107 Stat. 212.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' and ''Assistant Secretary for Health'' for ''Surgeon General''.

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. 96–88 which is classified to section 3508(b) of Title 20, Education.

INTERNATIONAL HEALTH ADMINISTRATION

Ex. Ord. No. 10399, Sept. 27, 1952, 17 F.R. 8648, designated Surgeon General to perform certain duties under International Sanitary Regulations of World Health Organization.

REORGANIZATION PLAN NO. 3 OF 1966

Eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 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.

SEC. 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.

SEC. 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. 206(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 transmit herewith Reorganization Plan No. 3 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of health functions of the Department of Health, Education, and Welfare.

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 economic 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 outmoded 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.

V

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. 10506, Dec. 10, 1953, 18 F.R. 8219, which delegated certain functions of the President relating to the Public Health Service, was superseded by Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out below.

EX. ORD. NO. 11140. DELEGATION OF FUNCTIONS

Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

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 following-described functions vested in the President under the Public Health Service Act (58 Stat. 682), as amended [this chapter]:

(a) The authority under Section 203 (42 U.S.C. 204): to appoint commissioned officers of the Reserve Corps.

(b) The authority under Section 206(b) (42 U.S.C. 207(b)) to prescribe titles, appropriate to the several grades, for commissioned officers of the Public Health Service other than medical officers.

(c) The authority under Section 207(a)(2) (42 U.S.C. 209(a)(2)) to terminate commissions of officers of the Reserve Corps without the consent of the officers concerned.

(d) The authority under Section 210(a), (k), and (*l*) (42 U.S.C. 211(a), (k), and (*l*)) to make or terminate temporary promotions of commissioned officers of the Regular Corps and Reserve Corps.

(e) The authority under Section 211(a)(5) (42 U.S.C. 212(a)(5)) to approve voluntary retirements under that section.

(f) The authority to prescribe regulations under the following-designated Sections: 207(a), 207(b), 208(e), 210(a), 210(b), 210(d)(1), 210(h), 210(i), 210(j)(1), 210(k), 215(a), 218(a), 219(a), and 510 (42 U.S.C. 209(a), 209(b), 210(e), 211(a), 211(b), 211(d)(1), 211(h), 211(i), 211(j)(1), 211(k), 216(a), 218a(a), 210–1(a), and 228).

(g) The authority under Sections 321(a) and 364(a) (42 U.S.C. 248(a) and 267(a)) to approve the selection of suitable sites for and the establishment of additional institutions, hospitals, stations, grounds, and anchorages; subject, however, to the approval of the Director of the 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[1] (4) the Bureau of State Services, and[2] the Agency for Health Care Policy and Research. The Secretary is authorized and directed to assign to the Office of the Surgeon General,[3] 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 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.

(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.)

AMENDMENTS

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 re-

[1] So in original. The ''and'' probably should not appear.

[2] So in original. Probably should be followed by ''(5)''.

[3] See 1993 Amendment note below.

search 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 238e of this title.

§204. Commissioned corps; composition; appointment of Regular and Reserve officers; appointment and status of warrant officers

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.

(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.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

''Chapter 51 and subchapter III of chapter 53 of title 5'' substituted in text for ''the Classification Act of 1949, as amended'' 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

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.

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 and Surgeon General, 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.

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.

CROSS REFERENCES

Pay and allowances of commissioned officers, see section 210 of this title.

§205. Appointment and tenure of office of Surgeon General; reversion in rank

The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. The Surgeon General shall be appointed from individuals who (1) are members of the Regular Corps, and (2) have specialized training or significant experience in public health programs. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular or Reserve Corps that he would have occupied had he not served as Surgeon General.

(July 1, 1944, ch. 373, title II, §204, 58 Stat. 684; Pub. L. 97–25, title III, §303(a), July 27, 1981, 95 Stat. 145; Pub. L. 97–35, title XXVII, §2765(b), Aug. 13, 1981, 95 Stat. 932.)

AMENDMENTS

1981—Pub. L. 97–35 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.

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 209 of this title.

§ 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, the Chief Pharmacist 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.

(July 1, 1944, ch. 373, title II, § 205, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 3, 62 Stat. 39; 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. 96–76, title III, §§ 302(b), 303, Sept. 29, 1979, 93 Stat. 584.)

AMENDMENTS

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 303, 304, 305, 306, 307, 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

Office of Surgeon General, together with office held by Deputy Surgeon General, Bureau of Medical Services, including office of Chief of Bureau of Medical Services, Bureau of State Services, including office of Chief of Bureau of State Services, and National Institutes of Health, including office of Director of National Institutes of Health, 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 210b of this title.

§ 207. Grades, ranks, and titles of commissioned corps

(a) Grades of commissioned officers

The Surgeon General, during the period of his appointment as such, shall be of the same grade as the Surgeon General of the Army; the Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with

the grade 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 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. 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 senior grade—lieutenant colonel;

(3) Officers of the full grade—major;

(4) Officers of the senior assistant grade—captain;

(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.

(July 1, 1944, ch. 373, title II, §206, 58 Stat. 684; Feb. 28, 1948, ch. 83, §4, 62 Stat. 39; Oct. 31, 1951, ch. 653, 65 Stat. 700; July 17, 1952, ch. 931, 66 Stat. 758; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 87–649, §11(1), Sept. 7, 1962, 76 Stat. 497; Pub. L. 95–215, §8(b), Dec. 19, 1977, 91 Stat. 1507; Pub. L. 96–76, title III, §304, Sept. 29, 1979, 93 Stat. 584; Pub. L. 99–117, §9, Oct. 7, 1985, 99 Stat. 494; Pub. L. 101–93, §5(p), Aug. 16, 1989, 103 Stat. 614; Pub. L. 101–502, §5(k)(1), Nov. 3, 1990, 104 Stat. 1289; Pub. L. 104–201, div. A, title V, §582, Sept. 23, 1996, 110 Stat. 2538.)

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–201 added subsec. (f).

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.

1985—Subsec. (e). Pub. L. 99–117 added subsec. (e).

1979—Subsec. (a). Pub. L. 96–76, §304(a), added pars. (7) to (10).

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''.

1977—Subsec. (b)(6). Pub. L. 95–215 substituted ''junior assistant'' for ''senior assistant''.

1962—Subsec. (a). Pub. L. 87–649 struck out provisions which related to pay and allowances.

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.

1951—Subsec. (a). Act Oct. 31, 1951, provided equality of grade, pay, and allowances between the Chief Dental Officer and the comparable officer in the Army.

1948—Subsec. (a). Act Feb. 28, 1948, increased grade of Deputy Surgeon General from brigadier general to major general and increased grade of certain Assistant Surgeons General from brigadier general to major general as the Federal Security Administrator might determine.

Subsecs. (c), (d). Act Feb. 28, 1948, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–502 effective Dec. 1, 1990, see section 5(k)(3) of Pub. L. 101–502, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of this title.

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 101 of Title 37, Pay and Allowances of the Uniformed Services.

TRANSFER OF FUNCTIONS

Office of Surgeon General, together with office held by Deputy 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.

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210b of this title.

§ 208. Repealed. Feb. 28, 1948, ch. 83, § 5(a), 62 Stat. 40

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)(i) 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.

(July 1, 1944, ch. 373, title II, § 207, formerly § 208, 58 Stat. 685; July 3, 1946, ch. 538, § 4, 60 Stat. 421; Aug. 13, 1946, ch. 958, § 3, 60 Stat. 1049; renumbered § 207 and amended Feb. 28, 1948, ch. 83, § 5(a)–(d), 62 Stat. 40; Oct. 12, 1949, ch. 681, title V, § 521(a), 63 Stat. 834; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 3(a)–(c)(1), 70 Stat. 116; Pub. L. 86–415, §§ 2, 3, Apr. 8, 1960, 74 Stat. 32; Pub. L. 96–76, title III, § 305, Sept. 29, 1979, 93 Stat. 585; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97–35, title XXVII, § 2765(c), Aug. 13, 1981, 95 Stat. 933; Pub. L. 97–414, § 8(a), Jan. 4, 1983, 96 Stat. 2060.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (f), (g), and (i), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

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 1204 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 1 revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 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 208 of this title, prior to repeal by act Feb. 28, 1948, ch. 83, § 5(a), 62 Stat. 40.

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97–414 inserted ''psychology,'' after ''pharmacy,''.

1981—Subsec. (b)(1). Pub. L. 97–35 inserted provisions relating to exception for an appointment under section 205 of this title.

1979—Subsec. (a)(1). Pub. L. 96–76 inserted applicability to warrant officers and chief warrant officers.

1960—Subsec. (a)(3). Pub. L. 86–415, § 2, added par. (3).

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.

Subsec. (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.

1949—Subsec. (d). Act Oct. 12, 1949, substituted ''base pay'' for ''pay and pay period'' wherever appearing.

1948—Subsec. (a)(1). Act Feb. 28, 1948, struck out ''surgery'' after ''several branches of medicine''.

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).

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

Subsec. (b)(2). Act Aug. 13, 1946, inserted ''(A)'' before ''to assist'', substituted ''clause'' for ''paragraphs'', and inserted cl. (B).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of this title.

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.

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.

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. 1637, as amended, set out as a note under section 202 of this title.

TERM OF RESERVE COMMISSIONS IN EFFECT ON APRIL 27, 1956

Section 3(c)(2) of act Apr. 27, 1956, provided that: ''The enactment of paragraph (1) of this subsection

[amending subsec. (a)(2) of 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 210b of this title; title 10 section 2130a.

§§ 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.

§ 209c. Repealed. Pub. L. 87–649, § 14b, Sept. 7, 1962, 76 Stat. 499

Section, act July 3, 1945, ch. 263, title II, 59 Stat. 370, provided that 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.

(Feb. 28, 1948, ch. 83, § 5(b), 62 Stat. 40; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

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 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.

§ 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)(A) Except as provided in subparagraph (B), commissioned medical and dental officers in the Regular and Reserve Corps shall while on active duty be paid special pay in the same amounts as, and under the same terms and conditions which apply to, the special pay now or hereafter paid to commissioned medical and dental officers of the Armed Forces under chapter 5 of title 37.

(B) A commissioned medical officer in the Regular or Reserve Corps (other than an officer serving in the Indian Health Service) may not receive additional special pay under section 302(a)(4) of title 37 for any period during which the officer is providing obligated service under (i) section 254m of this title, (ii) section 234(e)[1] of this title (as such section was in effect prior to October 1, 1977), or (iii) section 294u[1] of this title (as such section was in effect between October 1, 1977, and August 13, 1981).

(3) Commissioned nurse officers in the Regular and Reserve Corps shall, while in active duty, be paid incentive 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.

(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

[1] See References in Text note below.

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 209(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 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 18 of the General Schedule, or (2) in the case of two such positions, the rate 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.

(July 1, 1944, ch. 373, title II, § 208, formerly § 209, 58 Stat. 686; July 3, 1946, ch. 538, § 5(a), 60 Stat. 422; renumbered § 208 and amended Feb. 28, 1948, ch. 83, § 5(a), (g), (h), 62 Stat. 40; June 16, 1948, ch. 481, § 4(d), 62 Stat. 467; June 24, 1948, ch. 621, § 4(d), 62 Stat. 601; Oct. 12, 1949, ch. 681, title V, § 521(b), 63 Stat. 834; Aug. 9, 1950, ch. 654, § 1, 64 Stat. 426; Aug. 15, 1950, ch. 714, §§ 3(e), 4(b), 64 Stat. 447; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 407; June 29, 1956, ch. 477, title II, § 201, 70 Stat. 430; July 31, 1956, ch. 804, title I, § 117(b), 70 Stat. 741; Pub. L. 85–462, § 12(e), June 20, 1958, 72 Stat. 214; Pub. L. 85–929, § 9, Sept. 6, 1958, 72 Stat. 1789; Pub. L. 86–415, § 5(b), Apr. 8, 1960, 74 Stat. 34; Pub. L. 86–703, title II, § 201, Sept. 2, 1960, 74 Stat. 764; Pub. L. 87–649, §§ 11(3), 14b, Sept. 7, 1962, 76 Stat. 497, 499; Pub. L. 87–793, § 1001(d), Oct. 11, 1962, 76 Stat. 864; Pub. L. 88–426, title III, § 305(1), Aug. 14, 1964, 78 Stat. 422; Pub. L. 90–574, title V, § 501, Oct. 15, 1968, 82 Stat. 1012; Pub. L. 91–515, title VI, § 601(b)(1), Oct. 30, 1970, 84 Stat. 1310; Pub. L. 92–157, title III, § 301(a), Nov. 18, 1971, 85 Stat. 463; Pub. L. 95–83, title III, § 312, Aug. 1, 1977, 91 Stat. 398; Pub. L. 95–623, § 11(a), Nov. 9, 1978, 92 Stat. 3455; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 96–32, § 7(g), July 10, 1979, 93 Stat. 84; Pub. L. 96–398, title VIII, § 805, Oct. 7, 1980, 94 Stat. 1608; Pub. L. 99–117, § 3(a), Oct. 7, 1985, 99 Stat. 491; Pub. L. 99–272, title XVII, § 17002(a)(1), (b), Apr. 7, 1986, 100 Stat. 359; Pub. L. 100–607, title VII, § 706, Nov. 4, 1988, 102 Stat. 3159.)

REFERENCES IN TEXT

Section 234 of this title, referred to in subsec. (a)(2)(B), was repealed by Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

Section 294u of this title, referred to in subsec. (a)(2)(B), was in the original a reference to section 752 of act July 1, 1944, which was renumbered section 338B by Pub. L. 97–35, title XXVII, § 2709(a), Aug. 13, 1981, 95 Stat. 908, and transferred to section 254m of this title. Section 338B of act July 1, 1944, was renumbered section 338C by Pub. L. 100–177, title II, § 201(2), Dec. 1, 1987, 101 Stat. 992.

Classified civil service, referred to in subsec. (g), as meaning "competitive service", see section 2102(c) of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 208 of act July 1, 1944, was renumbered section 207 and is classified to section 209 of this title.

AMENDMENTS

1988—Subsec. (a)(3). Pub. L. 100–607 added par. (3).

1986—Subsec. (a)(2)(B). Pub. L. 99–272, § 17002(a)(1), inserted "(other than an officer serving in the Indian Health Service)".

Subsec. (e). Pub. L. 99–272, § 17002(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as

follows: ''Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds requires intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.''

1985—Subsec. (a)(2). Pub. L. 99–117 substituted ''(A) Except as provided in subparagraph (B), commissioned'' for ''Commissioned'', and added subpar. (B).

1980—Subsec. (a). Pub. L. 96–398 redesignated existing provisions as par. (1) and added par. (2).

1979—Subsec. (c). Pub. L. 96–32 substituted ''section 5703 of title 5'' for ''section 5703(b) of title 5''.

1978—Subsec. (g). Pub. L. 95–623 increased limitation on establishment of positions to one hundred and seventy-nine from one hundred and fifty-five and required minimum number of positions for certain National Centers: ten, National Center for Health Services Research; twelve, National Center for Health Statistics; and seven, National Center for Health Care Technology.

1977—Subsec. (g). Pub. L. 95–83 increased limitation on establishment of positions to one hundred and fifty-five from one hundred and fifty and required not less than five for the National Institute on Alcohol Abuse and Alcoholism for individuals engaged in research on alcohol abuse and alcoholism.

1971—Subsec. (f). Pub. L. 92–157, which directed that ''subsection (g)'' be substituted for ''section 209(f)'', was executed by substituting ''section 209(g) of this title'' for ''section 209(f) of this title'', to reflect the probable intent of Congress.

1970—Subsec. (c). Pub. L. 91–515 extended coverage to encompass members of other national review councils or national advisory or review 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, authorized service to be at the request of the Secretary in place of the Surgeon General, and revised rates of compensation and travel allowances.

1968—Subsec. (g). Pub. L. 90–574 inserted ''(1)'' after ''nor more than'' and added cl. (2).

1962—Subsec. (b). Pub. L. 87–649 struck out sentence which permitted commissioned officers on active duty to make allotments from their pay, and substituted ''Commissioned officers on active duty and retired officers'' for ''Such officers, and retired officers.'' See section 704 of Title 37, Pay and Allowances of the Uniformed Services.

Subsec. (g). Pub. L. 87–793 substituted provisions requiring the rates of compensation to be not less than the minimum rate of grade 16 nor more than the highest rate of grade 18 of the General Schedule, for provisions which prescribed annual rates of compensation of not less than $12,500 nor more than $19,000.

1960—Subsec. (b). Pub. L. 86–415 authorized retired officers entitled to retired pay pursuant to section 211(g)(3), 212, or 213a(a) of this title, to purchase supplies, and included the purchase of supplies from the Air Force.

Subsec. (g). Pub. L. 86–703 substituted ''one hundred and fifty'' for ''eighty-five'' and ''one hundred and fifteen'' for ''seventy-three''.

1958—Subsec. (g). Pub. L. 85–929 substituted ''in the professional, scientific, and executive service'' for ''in the professional and scientific service'', and substituted ''of specially qualified scientific, professional, and administrative personnel'' for ''of specially qualified scientific or professional personnel''.

Pub. L. 85–462, substituted ''eighty-five positions, of which not less than seventy-three shall be for the 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 Administrator may establish in the professional and scientific service.

1950—Subsec. (b). Act Aug. 9, 1950, struck out ''and may be granted leaves of absence without any deduction 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 councils.

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

1949—Subsec. (a). Act Oct. 12, 1949, made section applicable to Reserve officers.

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

Subsec. (f). Act Oct. 12, 1949, redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsecs. (g), (h). Act Oct. 12, 1949, redesignated subsecs. (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 members from $25 to $50, and made section applicable to the National Advisory Dental Research Council, respectively.

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''.

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, 1985.''

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 agreement 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 Allowances of the Uniformed Services.

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 20, 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 en-

acting 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.

REPEALS

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(1), Aug. 14, 1964, 78 Stat. 422.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec. (g) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

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.

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.

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 of 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:

Pub. L. 100–202, § 101(h) [title II, § 208], Dec. 22, 1987, 101 Stat. 1329–256, 1329–274.

Pub. L. 99–500, § 101(i) [H.R. 5233, title II, § 208], Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, § 101(i) [H.R. 5233, title II, § 208], Oct. 30, 1986, 100 Stat. 3341–287.

Pub. L. 99–178, title II, § 208, Dec. 12, 1985, 99 Stat. 1119.

Pub. L. 98–619, title II, § 208, Nov. 8, 1984, 98 Stat. 3321.

Pub. L. 98–139, title II, § 208, Oct. 31, 1983, 97 Stat. 888.

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.''

CROSS REFERENCES

Allotments by commissioned officers of the Public Health Service, see section 704 of Title 37, Pay and Allowances of the Uniformed Services.

National advisory councils, see section 218 of this title.

Pay and allowances of officers of Public Health Service, see Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 217a, 242k, 286b–2, 289 of this title; title 21 section 360kk.

§ 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.

(b) Repealed. Pub. L. 87–649, § 14b, Sept. 7, 1962, 76 Stat. 499

(c) Repealed. Pub. L. 96–76, title III, § 311, Sept. 29, 1979, 93 Stat. 586

(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. 87–649, § 14b, Sept. 7, 1962, 76 Stat. 499; Pub. L. 96–76, title III, § 311, Sept. 29, 1979, 93 Stat. 586.)

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.

Subsec. (c). Pub. L. 87–649 repealed last sentence which authorized a lump-sum payment for unused accumulated and accrued annual leave on date of separation, retirement, or release from active duty. See section 501 of Title 37, Pay and Allowances of the Uniformed Services.

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 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE

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 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.

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

Section 5 of act Aug. 9, 1950, 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.''

§ 210a. Repealed. Pub. L. 87–649, § 14b, Sept. 7, 1962, 76 Stat. 499

Section, act Feb. 28, 1948, ch. 83, § 5(e), (f), 62 Stat. 41, related to service credit for commissioned officers on active duty Feb. 28, 1948, and to service credit for pay and promotion purposes of certain appointees during period Feb. 28, 1948, to July 1, 1948.

§ 210b. Professional categories

(a) Division of corps; basis of categories

For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 209(a)(1) of this title or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

(b) Assignment of officers

Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a) of this section. Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

(c) Maximum number of officers in each category

Within the limits fixed by the Secretary in regulations under section 207(d) of this title for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps 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.

(d) Vacancies in grade for purposes of promotion

The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including in the case of the director grade, officers holding such grade in accordance with section 207(c) of this title) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 207(c) of this title shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is 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.

(July 1, 1944, ch. 373, title II, § 209, as added Feb. 28, 1948, ch. 83, § 5(i), 62 Stat. 41; amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–76, title III, § 306, Sept. 29, 1979, 93 Stat. 585.)

PRIOR PROVISIONS

A prior section 209 of act July 1, 1944, was renumbered section 208 and is 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

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of this title.

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 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 noncompetitive 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 noncompetitive. 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 (except as provided in regulations under subsection (b) of this section) 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), assistant, senior assistant, or full 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 as 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 2½ 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 210b(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 210b(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.

(July 1, 1944, ch. 373, title II, § 210, 58 Stat. 687; Feb. 28, 1948, ch. 83, § 6(a), 62 Stat. 42; Oct. 12, 1949, ch. 681, title V, § 521(c), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 4(a), 70 Stat. 117; Pub. L. 86–415, § 5(c), Apr. 8, 1960, 74 Stat. 34; Pub. L. 87–649, § 11(2), Sept. 7, 1962, 76 Stat. 497; Pub. L. 96–76, title III, § 307, Sept. 29, 1979, 93 Stat. 585; Pub. L. 96–342, title VIII, § 813(h)(1), Sept. 8, 1980, 94 Stat. 1110; Pub. L. 99–348, title II, § 207(a), July 1, 1986, 100 Stat. 701.)

CODIFICATION

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. 99–348 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 2½ 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, 2½ 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.

1979—Subsec. (d)(1). Pub. L. 96–76, § 307(a), inserted applicability to warrant officers and chief warrant 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''.

1949—Subsec. (g). Act Oct. 12, 1949, struck out ''incurred in line of duty'' wherever appearing.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of this title.

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 101 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.

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 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 212 of this title; title 10 section 1406.

§211a. Repealed. Pub. L. 93–222, §7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, §1311, formerly title VII, §711, as added Feb. 28, 1948, ch. 83, §9(b), 62 Stat. 47; renumbered title VIII, §811, July 30, 1956, ch. 779, §3(b), 70 Stat. 721; renumbered title IX, §911, Sept. 4, 1964, Pub. L. 88–581, §4(b), 78 Stat. 919; renumbered title X, §1011, Oct. 6, 1965, Pub. L. 89–239, §3(b), 79 Stat. 931; renumbered title XI, §1111, Dec. 24, 1970, Pub. L. 91–572, §6(b), 84 Stat. 1506; renumbered title XII, §1211, May 16, 1972, Pub. L. 92–294, §3(b), 86 Stat. 137; renumbered title XIII, §1311, Nov. 16, 1973, Pub. L. 93–154, §2(b)(2), 87 Stat. 604, provided for appointment to higher grades of Public Health Service officers for mental health and hospital construction activities.

§211b. Repealed. Pub. L. 94–412, title V, §501(f), Sept. 14, 1976, 90 Stat. 1258

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 509(b) of Pub. L. 96–88 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 re-

duced 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 times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve 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.

(July 1, 1944, ch. 373, title II, § 211, 58 Stat. 688; Feb. 28, 1948, ch. 83, § 7, 62 Stat. 46; Oct. 12, 1949, ch. 681, title V, § 521(d), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 5(a)–(c), 70 Stat. 117; Aug. 10, 1956, ch. 1041, § 5, 70A Stat. 620; Pub. L. 86–415, § 4, Apr. 8, 1960, 74 Stat. 33; Pub. L. 91–253, § 1, May 14, 1970, 84 Stat. 216; Pub. L. 96–76, title III, § 308, Sept. 29, 1979, 93 Stat. 585; Pub. L. 96–342, title VIII, § 813(h)(2), Sept. 8, 1980, 94 Stat. 1110; Pub. L. 97–25, title III, § 303(b), July 27, 1981, 95 Stat. 145; Pub. L. 97–35, title XXVII, § 2765(a), Aug. 13, 1981, 95 Stat. 932; Pub. L. 98–94, title IX, §§ 922(d), 923(f), Sept. 24, 1983, 97 Stat. 642, 643; Pub. L. 99–348, title II, § 207(b), July 1, 1986, 100 Stat. 702; Pub. L. 101–509, title V, § 529 [title III, § 304(b)], Nov. 5, 1990, 104 Stat. 1427, 1464.)

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. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (d)(4). Pub. L. 101–509 added par. (4).

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.''

1983—Subsec. (a)(7). Pub. L. 98–94, §922(d), added par. (7).

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''.

Subsec. (a)(6). Pub. L. 96–342, §813(h)(2)(C), added par. (6).

1979—Subsec. (e). Pub. L. 96–76 struck out requirement respecting active service for purposes of credit.

1970—Subsec. (a)(4). Pub. L. 91–253 inserted ''plus'' after the semicolon at end of cl. (ii) and added cl. (iii).

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 25 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.

1956—Subsec. (a). Act Apr. 27, 1956, §5(a), authorized crediting of noncommissioned service for purposes of retirement.

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.

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).

1948—Subsec. (b). Act Feb. 28, 1948, inserted length of service for retirement purposes.

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

Senior Biomedical Research Service changed to Silvio O. Conte Senior Biomedical Research Service by Pub. L. 103–43, title XX, §2001, June 10, 1993, 107 Stat. 208. See section 237 of this title.

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 retainer 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.

SAVINGS PROVISION

Section 8(c), (d) of Pub. L. 86–415 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 [subsec. (f) of 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.

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.

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 8332 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 210 of this title; title 10 section 1406.

§ 212a. Repealed. Pub. L. 93–222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, § 1312, formerly title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; renumbered title VIII, § 812, July 30, 1956, ch. 779, § 3(b), 70 Stat. 721; renumbered title IX, § 912, Sept. 4, 1964, Pub. L. 88–581, § 4(b), 78 Stat. 919; renumbered title X, § 1012, Oct. 6, 1965, Pub. L. 89–239, § 3(b), 79 Stat. 931; renumbered title XI, § 1112, Dec. 24, 1970, Pub. L. 91–572, § 6(b), 84 Stat. 1506; renumbered title XII, § 1212, May 16, 1972, Pub. L. 92–294, § 3(b), 86 Stat. 137; renumbered title XIII, § 1312, Nov. 16, 1973, Pub. L. 93–154, § 2(b)(2), 87 Stat. 604, provided for retirement of certain officers of Reserve Corps of the Public Health Service for disability.

§ 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 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 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 Soldiers' and Sailors' Civil Relief Act of 1940

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 Soldiers' and Sailors' Civil Relief Act of 1940 (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,

1956, ch. 837, title V, §501(b)(1), 70 Stat. 881; Pub. L. 94–278, title XI, §1101, Apr. 22, 1976, 90 Stat. 415; Pub. L. 102–54, §13(q)(1)(C), June 13, 1991, 105 Stat. 278; Pub. L. 105–392, title IV, §402(a), Nov. 13, 1998, 112 Stat. 3587.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (d), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, which was classified generally to subchapter II (§851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, §502(9), 70 Stat. 886.

The Soldiers' and Sailors' Civil Relief Act of 1940, 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

1998—Subsec. (f). Pub. L. 105–392 added subsec. (f).

1991—Subsec. (d). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Veterans' Administration''.

1976—Subsec. (e). Pub. L. 94–278 added subsec. (e).

1956—Act Aug. 1, 1956, amended section 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.

1954—Subsec. (a)(1). Act July 15, 1954, struck out ''burial payments in the event of death,'' after ''limited to,''.

EFFECTIVE DATE OF 1956 AMENDMENT; APPLICABILITY

Section 501(b)(2) of act Aug. 1, 1956, 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' Readjustment Assistance Act of 1952 [act July 16, 1952, ch. 875, 66 Stat. 633], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [section 402(i) 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

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.

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

Section 501(b)(3) of act Aug. 1, 1956, provided that: ''In the case of any individual—

''(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 exer-

cise 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213a, 215, 218a of this title; title 26 section 139.

§ 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 that 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, 1374,[1] 1375 and 1376(a).

(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 2634, 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 1052, Reimbursement for adoption expenses.

(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.

(July 1, 1944, ch. 373, title II, § 221, as added Aug. 10, 1956, ch. 1041, § 4, 70A Stat. 619; amended Pub. L. 85–861, § 4, Sept. 2, 1958, 72 Stat. 1547; Pub. L. 86–160, § 3, Aug. 14, 1959, 73 Stat. 359; Pub. L. 87–555, § 2, July 27, 1962, 76 Stat. 244; Pub. L. 88–132, § 5(k), Oct. 2, 1963, 77 Stat. 214; Pub. L. 88–431, § 1(d), Aug. 14, 1964, 78 Stat. 440; Pub. L. 89–538, § 3(b), Aug. 14, 1966, 80 Stat. 348; Pub. L. 92–425, § 5, Sept. 21, 1972, 86 Stat. 713; Pub. L. 96–76, title III, § 312, Sept. 29, 1979, 93 Stat. 586; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96–513, title V, § 507(f)(2), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 99–117, § 4, Oct. 7, 1985, 99 Stat. 492; Pub. L. 105–85, div. A, title VI, § 653(a), Nov. 18, 1997, 111 Stat. 1804.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1374 of title 10, referred to in subsec. (a)(3), was repealed by Pub. L. 103–337, div. A, title XVI, § 1662(k)(2), Oct. 5, 1994, 108 Stat. 3006. See sections 12771 to 12773 of Title 10, Armed Forces.

CODIFICATION

Section was formerly classified to section 316 of title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87–649, § 1, Sept. 7, 1962, 76 Stat. 451.

AMENDMENTS

1997—Subsec. (a)(16). Pub. L. 105–85 added cl. (16).

1985—Subsec. (a)(15). Pub. L. 99–117 added cl. (15).

1980—Subsec. (a)(3). Pub. L. 96–513 inserted reference to section 1370 of title 10.

1979—Subsec. (a)(12) to (14). Pub. L. 96–76 added cls. (12) to (14).

1972—Subsec. (a)(5). Pub. L. 92–425 substituted ''Retired Serviceman's Family Protection Plan; Survivor Benefit Plan'' for ''Annuities Based on Retired or Retainer Pay''.

1966—Subsec. (a)(11). Pub. L. 89–538 added cl. (11).

1964—Subsec. (a)(10). Pub. L. 88–431 added cl. (10).

1963—Subsec. (b). Pub. L. 88–132 inserted reference to Secretary of Defense.

1962—Subsec. (a). Pub. L. 87–555 added cl. (9). Notwithstanding directory language that section be amended by ''adding the following new clause at the end thereof'', the amendment was executed to subsec. (a) to reflect the probable intent of Congress since the ''new'' clause was numbered ''(9)'' and subsec. (a) contained cls. (1) to (8).

1959—Subsec. (a). Pub. L. 86–160 added cl. (1) and renumbered former cls. (1) to (7) as (2) to (8).

1958—Subsec. (a). Pub. L. 85–861 substituted ''provisions'' for ''chapters'' in opening clause, struck out former cl. (1) which related to chapter 55 of title 10, renumbered former cls. (2) to (6) as (1) to (5), amended cl. (1), as renumbered, to make sections 1201 to 1203 of title 10, inapplicable 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, 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

Amendment by Pub. L. 105–85 applicable only to adoptions completed on or after Nov. 18, 1997, see section 653(c) of Pub. L. 105–85, set out as a note under section 857a of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

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.

RULES AND REGULATIONS; SAVINGS DEPOSIT BENEFITS

Regulations prescribed by the Secretary of Health, Education, and Welfare [now Health and Human Services] concerning savings deposit benefits for Public Health Service personnel to be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of Title 10, Armed Forces, see section 3(c) of Pub. L. 89–538, set out as a note under section 1035 of Title 10.

BACK PAYMENTS: VALIDATION; APPLICATION; LIMITATIONS; ACCOUNTABILITY OF DISBURSING OFFICERS; REGULATIONS

Transportation and travel allowances to escorts for dependents of members, see sections 4 to 7 of Pub. L. 86–160, set out as a note under section 1036 of Title 10, Armed Forces.

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. 85–861, which amended this section, see section 31 of Pub. L. 85–861, set out as a note under section 2771 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210 of this title.

§214. Repealed. Pub. L. 87–649, §14b, Sept. 7, 1962, 76 Stat. 499

Section, acts July 1, 1944, ch. 373, title II, §213, 58 Stat. 689; Apr. 27, 1956, ch. 211, §2(a), 70 Stat. 116, authorized allowances for uniforms. See section 415 of Title 37, Pay and Allowances of the Uniformed Services.

§214a. Repealed. Sept. 1, 1954, ch. 1211, §5, 68 Stat. 1130

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 408 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] or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Availability of funds; reimbursement by State; detailed services deemed service for computation of pay, promotion, etc.

Personnel detailed under subsections (b) and (c) of this section shall be paid from applicable appropriations of the Service, except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. In the case of detail of personnel under subsections (b) or (c) of this section to be paid from applicable Service appropriations, the Secretary may condition such detail on an agreement by the State, subdivision, or institution concerned that such State, subdivision, or institution concerned shall reimburse the United States for the amount of such payments made by the Service. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 213 of this title.

(July 1, 1944, ch. 373, title II, §214, 58 Stat. 690; July 3, 1946, ch. 538, §6, 60 Stat. 423; Oct. 12, 1949, ch. 681, title V, §521(e), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–76, title III, §309, Sept. 29, 1979, 93 Stat. 585.)

CODIFICATION

In subsec. (a), Air Force was inserted on the authority of section 207(a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(74)], July 22, 1949, which transferred certain functions, insofar as they pertain to the Air Force, which were not previously transferred to the Department of the Air Force and Secretary of the Air Force. Section 207(a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 8010 to 8013 continued the Department of the Air Force under the administrative supervision of a Secretary of the Air Force.

[1] So in original. Probably should be followed by a comma.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96–76, § 309(a), inserted provisions authorizing detail of personnel to appropriate committees of Congress.

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.

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.

TRANSFERS OF PERSONNEL OCCASIONED BY CREATION OF THE ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 91–604, § 15(b)(1)–(8)(A), Dec. 31, 1970, 84 Stat. 1710–1712, provided that:

''(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 so 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 (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 training 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. 456(b)(3)), before (if it occurs later than the close of such 24th month) 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 as of the day preceding the date of such election:

''(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, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to paragraphs (1) and (2).

''(4)(A) 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 such 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) 240 hours, and (ii) the number 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 211(d) of the Public Health Service Act [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 1956, 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) and who, after 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 83 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 8334(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 assigned to the performance of functions described in paragraph (1)(A), shall, while he remains in active service, as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title], be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 2004b of this title; title 25 section 1616a.

§ 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.

(July 1, 1944, ch. 373, title II, § 215, 58 Stat. 690; Oct. 12, 1949, ch. 681, title V, § 521(f), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

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.

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.

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. 1637, 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

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

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.

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.

EXECUTIVE ORDER NO. 10367

Ex. Ord. No. 10367, eff. June 30, 1952, 17 F.R. 5929, amended Ex. Ord. No. 10362, and extended from June 30, 1952, to July 3, 1952, the period during which the Commissioned Corps of the Public Health Service was subject to the Uniform Code of Military Justice.

CROSS REFERENCES

Personnel of Public Health Service serving with armed forces as subject to Uniform Code of Military Justice, see section 802 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254d of this title.

§ 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.

(July 1, 1944, ch. 373, title II, § 222, as added Pub. L. 87–838, § 3, Oct. 17, 1962, 76 Stat. 1073; amended Pub. L. 91–515, title VI, § 601(a)(3), (c), Oct. 30, 1970, 84 Stat. 1310, 1311; Pub. L. 99–158, § 3(a)(4), Nov. 20, 1985, 99 Stat. 879.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

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

AMENDMENTS

1985—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.

Subsec. (b). Pub. L. 91–515, §601(a)(3), inserted ''council or'' before ''committee'' wherever appearing.

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. 2275, 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.], the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 [42 U.S.C. 2689 et seq., 6000 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.

(Pub. L. 94–278, title X, §1001, Apr. 22, 1976, 90 Stat. 415.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to this chapter (§201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in text, is Pub. L. 88–164, Oct. 31, 1963, 77 Stat. 284, as amended, which is classified principally to chapter 75 (§6000 et seq.) of this title. Title II of that Act, which was also known as the Community Mental Health Centers Act and was classified principally to subchapter III (§2689 et seq.) of chapter 33 of this title, was repealed by Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of this title and Tables.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, referred to in text, is Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classified principally to chapter 60 (§4541 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of this title and Tables.

CODIFICATION

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

§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.

(July 1, 1944, ch. 373, title II, §223, as added Pub. L. 90–174, §6, Dec. 5, 1967, 81 Stat. 539; amended Pub. L. 103–43, title XX, §2008(h), June 10, 1993, 107 Stat. 212.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

§218. National 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[1] 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[1] of this title. Of such twelve members who are members of such governing boards, at least nine shall be chosen 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

[1] See References in Text note below.

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 three 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.

(July 1, 1944, ch. 373, title II, § 217, 58 Stat. 691; July 3, 1946, ch. 538, § 5(b)–(d), 60 Stat. 422; June 16, 1948, ch. 481, §§ 4(a)–(c), 6(b), 62 Stat. 467, 469; June 24, 1948, ch. 621, § 4(a)–(c), 62 Stat. 600; Aug. 15, 1950, ch. 714, § 3(a)–(d), 64 Stat. 446; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 91–515, title VI, § 601(a)(1), Oct. 30, 1970, 84 Stat. 1310; Pub. L. 91–616, title IV, § 401, Dec. 31, 1970, 84 Stat. 1853; Pub. L. 92–157, title III, § 301(b), Nov. 18, 1971, 85 Stat. 463; Pub. L. 92–218, § 6(a)(1), Dec. 23, 1971, 85 Stat. 785; Pub. L. 92–255, title V, § 502(a), Mar. 21, 1972, 86 Stat. 85; Pub. L. 92–423, § 7(a), Sept. 19, 1972, 86 Stat. 687; Pub. L. 93–348, title II, § 211(a), July 12, 1974, 88 Stat. 351; Pub. L. 94–63, title IV, § 401(b), July 29, 1975, 89 Stat. 341; Pub. L. 94–371, § 9, July 26, 1976, 90 Stat. 1040; Pub. L. 95–622, title III, § 302(b), Nov. 9, 1978, 92 Stat. 3442; Pub. L. 95–626, title I, § 102(b)(1), Nov. 10, 1978, 92 Stat. 3551; Pub. L. 96–180, § 13, Jan. 2, 1980, 93 Stat. 1304; Pub. L. 96–181, § 14, Jan. 2, 1980, 93 Stat. 1315; Pub. L. 98–24, § 2(a)(2), Apr. 26, 1983, 97 Stat. 176; Pub. L. 98–509, title III, § 302, Oct. 19, 1984, 98 Stat. 2364; Pub. L. 99–158, § 3(a)(2), (3), Nov. 20, 1985, 99 Stat. 878, 879; Pub. L. 99–570, title IV, § 4004(c), Oct. 27, 1986, 100 Stat. 3207–111; Pub. L. 99–660, title III, § 311(b)(1), Nov. 14, 1986, 100 Stat. 3779.)

REFERENCES IN TEXT

Section 254b of this title, referred to in subsecs. (a) and (b), was in the original a reference 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. Section 2 of Pub. L. 104–299 enacted a new section 330 of act July 1, 1944, which is classified to section 254b of this title.

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (d), is section 14(a) of Pub. L. 92–463, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1986—Pub. L. 99–570 redesignated former subsec. (e)(1) to (4) as subsecs. (a) to (d), respectively, in subsec. (c), further redesignated former cls. (A) and (B) as (1) and (2), respectively, and struck out former subsecs. (a) to (d), which related, respectively, to composition, qualifications, appointment and tenure of the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism; duties of the National Advisory Mental Health Council; duties of the National Advisory Council on Alcohol Abuse and Alcoholism; and the composition, qualifications, and duties of the National Advisory Council on Drug Abuse.

Subsec. (c). Pub. L. 99–660 which directed that ''section 300cc of this title'' be substituted for ''section 300aa of this title'' could not be executed because the reference in question appeared in former subsec. (c) which was repealed by Pub. L. 99–570.

1985—Subsec. (a). Pub. L. 99–158, § 3(a)(2)(A), in first sentence substituted ''National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism'' for ''National Advisory Health Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental 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)(i), 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)(iii), 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.

Subsec. (b). Pub. L. 99–158, § 3(a)(3), redesignated subsec. (c) 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), (d). Pub. L. 98–24 substituted ''section 300aa of this title'' for ''section 219 of this title''.

1980—Subsec. (a). Pub. L. 96–180 authorized appointees to serve after the expiration of their terms until their successors have taken office.

Subsec. (e)(1). Pub. L. 96–181, in provisions relating to the eligibility for selection of members, inserted officers or employees of State and local drug abuse agencies, and inserted provision that appointed members may serve after the expiration of their terms until their successors have taken office.

1978—Subsec. (f). Pub. L. 95–622 struck out subsec. (f) which related to the establishment of a National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research.

Subsec. (g)(1), (2). Pub. L. 95–626 substituted ''section 254b'' for ''section 247d''.

1976—Subsec. (d). Pub. L. 94–371 inserted provision that the Council advise the Secretary regarding poli-

cies and priorities with respect to grants and contracts in the field of alcohol abuse and alcoholism.

1975—Subsec. (g). Pub. L. 94–63 added subsec. (g).

1974—Subsec. (f). Pub. L. 93–348 added subsec. (f).

1972—Subsec. (a). Pub. L. 92–423, §7(a)(1), (2), struck out ''the National Advisory Heart Council,'' after ''the National Advisory Council on Alcohol Abuse and Alcoholism'' in two places and ''heart diseases,'' after ''alcohol abuse and alcoholism,'', respectively.

Subsec. (b). Pub. L. 92–423, §7(a)(2), struck out ''heart,'' after ''alcohol abuse and alcoholism,''.

Subsec. (e). Pub. L. 92–255 added subsec. (e).

1971—Subsec. (a). Pub. L. 92–218, §6(a)(1)(A), (B), struck out reference to National Advisory Cancer Council before National Advisory Mental Health Council in two places and struck out ''cancer,'' before ''psychiatric disorders''.

Pub. L. 92–157 substituted ''National Advisory Council on Alcohol Abuse and Alcoholism'' for ''National Advisory Council on Alcoholic Abuse and Alcoholism'' in second sentence.

Subsec. (b). Pub. L. 92–218, §6(a)(1)(B), struck out ''cancer,'' before ''mental health'' in listing of various diseases.

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''.

Subsec. (d). Pub. L. 91–616, §401(c), added subsec. (d).

1950—Act Aug. 15, 1950, §3(d), amended section catchline to reflect addition of new advisory councils.

Subsec. (a). Act Aug. 15, 1950, §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, 1950, §3(b), made subsection also applicable to new advisory councils.

Subsec. (c). Act Aug. 15, 1950, §3(c), redesignated subsec. (e) as (c) and repealed former subsec. (c).

Subsecs. (d), (f), (g). Act. Aug. 15, 1950, §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. (a). Act June 16, 1948, §6(b), substituted ''National Institutes of Health'' for ''National Institute of Health'' in second sentence.

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(a), 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

Section 211(b) of Pub. L. 93–348, as amended by Pub. L. 94–278, title III, §301(b), Apr. 22, 1976, 90 Stat. 407; Pub. L. 94–573, §18(b), Oct. 21, 1976, 90 Stat. 2720; Pub. L. 95–203, §5(b), Nov. 23, 1977, 91 Stat. 1454, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect November 1, 1978.''

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 and 289*l* of this title, amending this section and sections 241, 282, 283, and 284 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 289*l* of this title] (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 1950 AMENDMENT

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

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.

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 Sec-

retary of Defense Transfer Order No. 40 [App. C(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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, 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 whenever 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 233 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.

(July 1, 1944, ch. 373, title II, § 218, as added Feb. 28, 1948, ch. 83, § 8, 62 Stat. 47; amended Apr. 27, 1956, ch. 211, § 6, 70 Stat. 117; Pub. L. 96–76, title III, § 310, Sept. 29, 1979, 93 Stat. 585; Pub. L. 105–392, title IV, § 402(b), Nov. 13, 1998, 112 Stat. 3588.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–392 added subsec. (c).

1979—Subsec. (b). Pub. L. 96–76 substituted provisions relating to payment by an officer to the Service upon voluntary separation of two times the total amount of tuition, fees, and other necessary expenses received by such officer and two times the total amount of any compensation received by, and any allowance paid to, such officer, for provisions relating to reimbursement by the officer to the Service upon voluntary separation of tuition and fees and in last sentence substituted ''payment'' for ''reimbursement'' wherever appearing.

1956—Subsec. (a). Act Apr. 27, 1956, § 6(a), authorized training of all officers of the Service, and substituted ''any Federal or non-Federal educational institution or training program'' for ''any educational institution''.

Subsec. (b). Act Apr. 27, 1956, § 6(b), required reimbursement of tuition and fees by officers who receive training in excess of 30 days and who voluntarily leave the Service within a period of time which is equal to twice the period of such training, with a minimum period of six months of service, and a maximum period of two years, and permitted the Surgeon General to waive any reimbursement.

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

§§ 219 to 224. Transferred

CODIFICATION

Section 219, acts July 1, 1944, ch. 373, title V, § 501, 58 Stat. 709; July 3, 1946, ch. 538, § 10, 60 Stat. 425; 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; Oct. 15, 1968, Pub. L. 90–574, title V, § 503(b), 82 Stat. 1012; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695, which related to gifts for the benefit of the Service, was

successively renumbered by subsequent acts and transferred, see section 238 of this title.

Section 220, act July 1, 1944, ch. 373, title V, § 502, 58 Stat. 710, which related to use of immigration station hospitals, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

Section 221, act July 1, 1944, ch. 373, title V, § 503, 58 Stat. 710, which related to disposition of money collected for care of patients, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

Section 222, acts July 1, 1944, ch. 373, title V, § 504, 58 Stat. 710, June 25, 1948, ch. 654, § 6, 62 Stat. 1018; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, which related to care of Service patients at Saint Elizabeths Hospital, was renumbered section 2104 of act July 1, 1944, by Pub. L. 98–24 and transferred to section 300aa–3 of this title, renumbered section 2304 of act July 1, 1944, by Pub. L. 99–660 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 223, act July 1, 1944, ch. 373, title V, § 505, 58 Stat. 710; 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 2105 of act July 1, 1944, by Pub. L. 98–24 and transferred to section 300aa–4 of this title, and was repealed by Pub. L. 99–117, § 12(f), Oct. 7, 1985, 99 Stat. 495. See section 300cc–4 of this title.

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 238c 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).

§ 225. Repealed. July 12, 1955, ch. 328, § 5(4), 69 Stat. 296

Section, acts July 1, 1944, ch. 373, title V, § 507, 58 Stat. 711; Feb. 25, 1946, ch. 35, § 2, 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.

§§ 225a to 227. Transferred

CODIFICATION

Section 225a, act July 1, 1944, ch. 373, title V, § 507, as added June 24, 1967, Pub. L. 90–31, § 5, 81 Stat. 79; amended Oct. 27, 1970, Pub. L. 91–513, title I, § 3(c), 84 Stat. 1241; Apr. 22, 1976, Pub. L. 94–278, title XI, § 1102(b), 90 Stat. 415; Oct. 7, 1980, Pub. L. 96–398, title VIII, § 804(b), 94 Stat. 1603; Aug. 13, 1981, Pub. L. 97–35, title IX, § 902(g)(2), 95 Stat. 560, which related to availability of appropriations for grants to Federal institutions, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

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; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, which related to transfer of funds between appropriations, was successively renumbered by subsequent acts and transferred, see section 238e 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. 654, § 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.

§ 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, 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 Department of Health, Education, and Welfare Appropriation Act, 1968, and not as part of the Public Health Service Act which comprises this chapter, and was not repeated in subsequent appropriation acts. See section 300cc–6 of this title. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 89–787, title II, § 204, Nov. 7, 1966, 80 Stat. 1400.
Pub. L. 89–156, title II, § 204, Aug. 31, 1965, 79 Stat. 609.
Pub. L. 88–605, title II, § 204, Sept. 19, 1964, 78 Stat. 979.
Pub. L. 88–136, title II, § 204, Oct. 11, 1963, 77 Stat. 244.
Pub. L. 87–582, title II, § 204, Aug. 14, 1962, 76 Stat. 379.
Pub. L. 87–290, title II, § 206, Sept. 22, 1961, 75 Stat. 608.
Pub. L. 86–703, title II, § 207, Sept. 2, 1960, 74 Stat. 773.
Pub. L. 86–158, title II, § 210, Aug. 14, 1959, 73 Stat. 355.

§§ 228 to 229d. Transferred

CODIFICATION

Section 228, acts July 1, 1944, ch. 373, title V, § 510, 58 Stat. 711; June 25, 1948, ch. 645, § 5, 62 Stat. 859, which related to wearing of uniforms, was successively renumbered by subsequent acts and transferred, see section 238g of this title.

Section 229, act July 1, 1944, ch. 373, title V, § 511, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, 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 229a, act July 1, 1944, ch. 373, title V, § 512, as added Oct. 15, 1968, Pub. L. 90–574, title V, § 503(a), 82 Stat. 1012, which related to memorials and other acknowledgments for contributions to health of the Nation, was successively renumbered by subsequent acts and transferred, see section 238i of this title.

Section 229b, act July 1, 1944, ch. 373, title V, § 513, as added June 30, 1970, Pub. L. 91–296, title IV, § 401(a), 84 Stat. 351; amended Oct. 7, 1980, Pub. L. 96–398, title VIII, § 804(c), 94 Stat. 1608; Aug. 13, 1981, Pub. L. 97–35, title IX, § 902(g)(3), 95 Stat. 560, which related to evaluation of programs, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

Section 229c, act July 1, 1944, ch. 373, title V, § 514, as added Nov. 9, 1978, Pub. L. 95–623, § 11(e), 92 Stat. 3456, which related to contract authority of Secretary, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

Section 229d, act July 1, 1944, ch. 373, 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 and amended Pub. L. 97–35, title IX, § 902(e)(2)(A), Aug. 13, 1981, 95 Stat. 560, which related to recovery of payments, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

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

Section, act July 1, 1944, ch. 373, title VII, § 706, formerly title VI, § 606, 58 Stat. 713; renumbered title VII,

§ 706, Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; amended Feb. 28, 1948, ch. 83, § 9(a), 62 Stat. 47; Oct. 12, 1949, ch. 681, title V, § 521(g), 63 Stat. 835, provided for computation of retired pay. See section 212 of this title.

§ 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 (1) 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, requirements 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.

(July 3, 1945, ch. 263, title II, 59 Stat. 370; 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97–414, § 9(i), Jan. 4, 1983, 96 Stat. 2064.)

CODIFICATION

Section is from the Federal Security Appropriation Act, 1946, act July 3, 1945, and was not enacted as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1983—Pub. L. 97–414 inserted ", or in advance," after "stock furnished".

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.

§ 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, condemnation, donation, 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 facilities, 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.

(July 3, 1946, ch. 538, § 11, 60 Stat. 425; June 30, 1949, ch. 288, title I, § 103(a), 63 Stat. 380.)

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 242a 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. 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 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, which is classified to section 753(a) of Title 40, Public Buildings, Property, and Works. Both Federal Works Agency and office of Federal Works Administrator abolished by section 103(b) of that act.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

§ 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 and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(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.

(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; or

(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, 254c, 256, or 256a of this title.[1]

(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 ([2] 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 a licensed or certified provider of services in the fields of family practice, general internal medicine, general pediatrics, or obstetrics and gynecology.

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[1] See References in Text notes below.

[2] So in original. There is no closing parenthesis.

(h) Qualifications for designation as Public Health Service employee

The Secretary may not approve an application under subsection (g)(1)(D) of this section unless the Secretary determines that the entity—

(1) has implemented appropriate policies and procedures to reduce the risk of malpractice and the risk of lawsuits arising out of any health or health-related functions performed by the entity;

(2) has reviewed and verified the professional credentials, references, claims history, fitness, professional review organization findings, and license status of its physicians and other licensed or certified health care practitioners, and, where necessary, has obtained the permission from these individuals to gain access to this information;

(3) has no history of claims having been filed against the United States as a result of the application of this section to the entity or its officers, employees, or contractors as provided for under this section, or, if such a history exists, has fully cooperated with the Attorney General in defending against any such claims and either has taken, or will take, any necessary corrective steps to assure against such claims in the future; and

(4) will fully 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 Secretary, 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 health care provider who is an officer, employee, or contractor of an entity described 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)(A) 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, 254c, 256, and 256a of this title.[1]

(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, or 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 determined by the Secretary, to receive and to be eligible to receive any Federal funds under titles XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

(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 risk exposure 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, 254c, 256, or 256a of this title.[4]

(D) A comparison of the costs and the benefits to taxpayers of maintaining medical malpractice liability 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 coverage 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—

[3] So in original. Probably should be ''members,''.

[4] See References in Text notes below.

(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 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 condition:

(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.

(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 (*l*) 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.

(July 1, 1944, ch. 373, title II, § 224, formerly § 223, as added Pub. L. 91–623, § 4, Dec. 31, 1970, 84 Stat. 1870; renumbered § 224, Pub. L. 92–157, title III, § 301(c), Nov. 18, 1971, 85 Stat. 463; amended Pub. L. 102–501, §§ 2–4, Oct. 24, 1992, 106 Stat. 3268–3270; Pub. L. 103–183, title VII, § 706(a), Dec. 14, 1993, 107 Stat. 2241; Pub. L. 104–73, §§ 2–5(b), 6–11, Dec. 26, 1995, 109 Stat. 777–781; Pub. L. 104–191, title I, § 194, Aug. 21, 1996, 110 Stat. 1988; Pub. L. 104–299, § 4(a)(1), Oct. 11, 1996, 110 Stat. 3644.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsecs. (g)(1)(G), (k)(2), and (n)(1)(C), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in subsecs. (g)(1)(G), (k)(2), and (n)(1)(C), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

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. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1996—Subsec. (g)(4). Pub. L. 104–299 substituted ''under section 254b of this title.'' for ''under any of the following grant programs:'' and struck out subpars. (A) to (D) which read as follows:

''(A) Section 254b of this title (relating to grants for migrant health centers).

''(B) Section 254c of this title (relating to grants for community health centers).

''(C) Section 256 of this title (relating to grants for health services for the homeless).

''(D) Section 256a of this title (relating to grants for health services for residents of public housing).''

Subsec. (*o*). Pub. L. 104–191 added subsec. (*o*).

1995—Subsec. (g)(1). Pub. L. 104–73, §§3(1), 4, 5(a), designated existing provisions as subpar. (A), inserted ''and subject to the approval by the Secretary of an application under subparagraph (D)'' after ''For purposes of this section'', substituted ''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'' for '', an entity described in paragraph (4) and any officer, employee, or contractor (subject to paragraph (5)) of such an entity who is a physician or other licensed or certified health care practitioner 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 of the full amount estimated under subsection (k)(1)(A) of this section 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, employee, or contractor'', and added subpars. (B) to (H).

Subsec. (g)(3). Pub. L. 104–73, §2(a), struck out at end ''This subsection shall not apply with respect to a cause of action arising from an act or omission which occurs on or after January 1, 1996.''

Subsec. (g)(5)(B). Pub. L. 104–73, §8, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''in the case of an individual who normally performs on average less than 32½ hours of services per week for the entity for the period of the contract and is a licensed or certified provider of obstetrical services—

''(i) the individual's medical malpractice liability insurance coverage does not extend to services performed by the individual for the entity under the contract, or

''(ii) the Secretary finds that patients to whom the entity furnishes services will be deprived of obstetrical services if such individual is not considered a contractor of the entity for purposes of paragraph (1).''

Subsec. (h). Pub. L. 104–73, §5(b)(1), in introductory provisions substituted ''The Secretary may not approve an application under subsection (g)(1)(D) of this section unless the Secretary determines that the entity—'' for ''Notwithstanding subsection (g)(1) of this section, the Secretary, in consultation with the Attorney General, may not deem an entity described in subsection (g)(4) of this section to be an employee of the Public Health Service Act for purposes of this section unless the entity—''.

Subsec. (h)(4). Pub. L. 104–73, §5(b)(2), substituted ''will fully cooperate'' for ''has fully cooperated''.

Subsec. (i)(1). Pub. L. 104–73, §9, substituted ''may on the record determine, after notice and opportunity for a full and fair hearing'' for ''may determine, after notice and opportunity for a hearing''.

Subsec. (k)(1)(A). Pub. L. 104–73, §2(b)(1), substituted ''For each fiscal year'' for ''For each of the fiscal years 1993, 1994, and 1995'' and struck out ''(except that an estimate shall be made for fiscal year 1993 by December 31, 1992, subject to an adjustment within 90 days thereafter)'' after ''beginning of the year''.

Subsec. (k)(2). Pub. L. 104–73, §§2(b)(2), 10, substituted ''for each fiscal year'' for ''for each of the fiscal years 1993, 1994, and 1995'' and ''$10,000,000'' for ''$30,000,000''.

Subsec. (k)(3). Pub. L. 104–73, §3(2), which directed amendment of subsec. (k)(3) by inserting ''governing board member,'' after ''officer,'', was executed by inserting such language after ''officers,'' to reflect the probable intent of Congress.

Subsec. (*l*). Pub. L. 104–73, §6, added subsec. (*l*).

Subsec. (m). Pub. L. 104–73, §7, added subsec. (m).

Subsec. (n). Pub. L. 104–73, §11, added subsec. (n).

1993—Subsec. (k)(2). Pub. L. 103–183 inserted at end ''Appropriations for purposes of this paragraph shall be made separate from appropriations made for purposes of sections 254b, 254c, 256, and 256a of this title.''

1992—Subsecs. (g) to (k). Pub. L. 102–501 added subsecs. (g) to (k).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 5 of Pub. L. 104–299, as amended by Pub. L. 104–208, div. A, title I, §101(e) [title V, §521], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275, provided that: ''This Act [enacting sections 254b and 254c of this title, amending this section and sections 256c, 1395x, 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. 104–208 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

Section 5 of Pub. L. 102–501 provided that:

''(a) IN GENERAL.—Not later than April 1, 1995, the Attorney General, in consultation with the Secretary of Health and Human Services (hereafter referred to as 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 [42 U.S.C. 233(g)] (as added by section 2(a)) and the risk exposure associated with such entities.

''(b) EFFECT OF LIABILITY PROTECTIONS ON COSTS INCURRED BY COVERED ENTITIES.—The Attorney General's report under subsection (a) shall include an analysis by the Secretary comparing—

''(1) the Secretary's estimate of the aggregate amounts that such entities (together with the officers, employees, and contractors of such entities who are subject to section 224(g) of such Act) would have directly or indirectly paid to obtain medical malpractice liability insurance coverage had section 224(g) of the Public Health Service Act not been enacted into law, with

''(2) the aggregate amounts by which the grants received by such entities under the Public Health Service Act [this chapter] were reduced as a result of the enactment of section 224(k)(2) of such Act [42 U.S.C. 233(k)(2)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 218a, 254h–1 of this title; title 25 section 450f.

§ 234. Repealed. Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, eff. Oct. 1, 1977

Section, act July 1, 1944, ch. 373, title II, § 225, as added Oct. 27, 1972, Pub. L. 92–585, § 5, 86 Stat. 1293; amended Aug. 23, 1974, Pub. L. 93–385, § 1, 88 Stat. 741; Apr. 22, 1976, Pub. L. 94–278, title IX, § 901, 90 Stat. 415; Sept. 30, 1976, Pub. L. 94–437, title I, § 104, 90 Stat. 1403; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(t), 90 Stat. 2246, related to Public Health and National Health Service Corps Scholarship Training program.

§ 235. Administration of grants in multigrant projects; promulgation of regulations

For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by subchapters V, VI, and VII[1] of this chapter, and sections 242b, 246(a), 246(b), 246(c), 246(d),[1] and 246(e)[1] of this title in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

(July 1, 1944, ch. 373, title II, § 226, formerly title III, § 310A, as added Pub. L. 91–515, title II, § 270, Oct. 30, 1970, 84 Stat. 1306; amended Pub. L. 92–157, title II, § 201, Nov. 18, 1971, 85 Stat. 461; renumbered § 226, Pub. L. 93–353, title I, § 102(e), July 23, 1974, 88 Stat. 362.)

REFERENCES IN TEXT

Subchapters 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. 495.

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.

[1] See References in Text note below.

CODIFICATION

Section was formerly classified to section 242i of this title.

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(i) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(i)] or regulations issued under such section, inform physicians

[1] So in original. The semicolon probably should be a comma.

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 526 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 44H[2] 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.

(July 1, 1944, ch. 373, title II, §227, as added Pub. L. 97–414, §3, Jan. 4, 1983, 96 Stat. 2051; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–321, title I, §163(b)(1), July 10, 1992, 106 Stat. 375; Pub. L. 102–531, title III, §312(d)(1), Oct. 27, 1992, 106 Stat. 3504.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(1)(A), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended. Subchapter B of the Federal Food, Drug, and Cosmetic Act probably means subchapter B of chapter V of the Federal Food, Drug, and Cosmetic Act which is classified generally to part B (section 360aa et seq.) of subchapter V of chapter 9 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

Section 44H of title 26, referred to in subsec. (e), was renumbered section 28 of title 26, by Pub. L. 98–369, div. A, title IV, §471(c)(1), July 18, 1984, 98 Stat. 826, and subsequently renumbered section 45C of title 26 by Pub. L. 104–188, title I, §1205(a)(1), Aug. 20, 1996, 110 Stat. 1775.

PRIOR PROVISIONS

A prior section 236, act July 1, 1944, ch. 373, title II, §227, formerly title III, §310B, as added Oct. 30, 1970, Pub. L. 91–515, title II, §280, 84 Stat. 1307; renumbered §227 and amended July 23, 1974, Pub. L. 93–353, title I, §102(f), 88 Stat. 362, related to an annual report by Secretary on activities related to health facilities and services and expenditure of funds, prior to repeal by Pub. L. 97–35, title XXI, §2193(b)(4), Aug. 13, 1981, 95 Stat. 827.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

Subsec. (c)(2). Pub. L. 102–321, §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. 102–321, §163(b)(1)(B), struck out '', the Alcohol, Drug Abuse, and Mental Health Administration,'' after ''National Institutes of Health''.

Subsec. (e). Pub. L. 102–321, §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.

1986—Subsec. (e). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 801 of Pub. L. 102–321 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 1993 AND SUBSEQUENT YEARS.—In the case of any program making awards of grants, cooperative 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,

[2] See References in Text note below.

cooperative agreements, or contracts, if the program began operation 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.''

USE OF ''CDC'' AS ACRONYM FOR CENTERS FOR DISEASE CONTROL AND PREVENTION

Section 312(i) of Pub. L. 102–531 provided that: ''The amendments made by this section [amending this section, sections 247d, 280b to 280b–2, 285c–4, 285d–7, 285m–4, 289c, 290aa–9, 290bb–1, 300u–5, 300aa–2, 300aa–19, 300aa–26, 300cc, 300cc–2, 300cc–15, 300cc–17, 300cc–20, 300cc–31, 300ee–1, 300ee–2, 300ee–31, 300ee–32, 300ee–34, 300ff–11 to 300ff–13, 300ff–17, 300ff–27, 300ff–28, 300ff–41, 300ff–43, 300ff–49, 300ff–75, 4841, and 9604 of this title, section 1341 of Title 15, Commerce and Trade, section 2001 of Title 25, Indians, and provisions set out as notes under sections 241 and 281 of this title and section 303 of Title 38, 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

Pub. L. 99–91, § 4, Aug. 15, 1985, 99 Stat. 388, as amended by Pub. L. 100–290, § 4, Apr. 18, 1988, 102 Stat. 92; Pub. L. 102–321, title I, § 163(c)(1), July 10, 1992, 106 Stat. 376, provided that:

''(a) ESTABLISHMENT.—There is established the National Commission on Orphan Diseases (hereinafter referred to as the 'Commission').

''(b) DUTY.—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.

''(c) REVIEW REQUIREMENTS.—In assessing the activities of the National Institutes of Health, and the Food and Drug Administration in connection with research on rare diseases, the Commission shall review—

''(1) the appropriateness of the priorities currently placed on research on rare diseases;

''(2) the relative effectiveness of grants and contracts when used to fund research on rare diseases;

''(3) the appropriateness of specific requirements applicable to applications for funds for research on rare diseases taking into consideration the reasonable capacity of applicants to meet such requirements;

''(4) the adequacy of the scientific basis for such research, including the adequacy of the research facilities and research resources used in such research and the appropriateness of the scientific training of the personnel engaged in such research;

''(5) the effectiveness of activities undertaken to encourage such research;

''(6) the organization of the peer review process applicable to applications for funds for such research to determine if the organization of the peer review process could be revised to improve the effectiveness of the review provided to proposals for research on rare diseases;

''(7) the effectiveness of the coordination between the national research institutes of the National Institutes of Health, the Food and Drug Administration, and private entities in supporting such research; and

''(8) the effectiveness of activities undertaken to assure that knowledge developed in research on nonrare diseases is, when appropriate, used in research on rare diseases.

''(d) COMPOSITION.—The Commission shall be composed of twenty members appointed by the Secretary of Health and Human Services as follows:

''(1) Ten members shall be appointed from individuals who are not officers or employees of the Government and who by virtue of their training or experience in research on rare diseases or in the treatment of rare diseases are qualified to serve on the Commission.

''(2) Five members shall be appointed from individuals who are not officers or employees of the Government and who have a rare disease or are employed to represent or are members of an organization concerned about rare disease.

''(3) Four nonvoting members shall be appointed for the directors of the national research institutes of the National Institutes of Health which the Secretary determines are involved with rare diseases.

''(4) One nonvoting member shall be appointed from officers or employees of the Food and Drug Administration who the Secretary determines are involved with rare diseases.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. If any member of the Commission who was appointed to the Commission as a director of a national research institute or as an officer or employee of the Food and Drug Administration leaves that office or position, or if any member of the Commission who was appointed from persons who are not officers or employees of the Government becomes an officer or employee of the Government, such member may continue as a member of the Commission for not longer than the ninety-day period beginning on the date such member leaves that office or position or becomes such an officer or employee, as the case may be.

''(e) TERM.—Members shall be appointed for the life of the Commission.

''(f) COMPENSATION.—

''(1) Except as provided in paragraph (2), members of the Commission shall each be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties as members of the Commission.

''(2) Members of the Commission who are full-time officers or employees of the Government shall receive no additional pay by reason of their service on the Commission.

''(g) CHAIRMAN.—The Chairman of the Commission shall be designated by the members of the Commission.

''(h) STAFF.—Subject to such rules as may be prescribed by the Commission, the Commission may appoint and fix the pay of such personnel as it determines are necessary to enable the Commission to carry out its functions. Personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

''(i) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the basic pay payable for grade GS–15 of the General Schedule.

''(j) DETAIL OF PERSONNEL.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its functions.

''(k) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(*l*) GENERAL AUTHORITY.—The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

''(m) INFORMATION.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

''(n) REPORT.—The Commission shall transmit to the Secretary and to each House of the Congress a report not later than February 1, 1989, on the activities of the Commission. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for—

''(1) a long range plan for the use of public and private resources to improve research into rare diseases and to assist in the prevention, diagnosis, and treatment of rare diseases; and

''(2) such legislation or administrative actions as it considers appropriate.

''(*o*) TERMINATION.—The Commission shall terminate 90 days after the date of the submittal of its report under subsection (n).

''(p) FUNDS.—The Director of the National Institutes of Health shall make available $1,000,000 to the Commission from appropriations for fiscal year 1986 for the National Institutes of Health.''

§ 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'').

(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. A member who requests that such contribution be 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 6303(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.

(July 1, 1944, ch. 373, title II, § 228, as added Pub. L. 101–509, title V, § 529 [title III, § 304(a)], Nov. 5, 1990, 104 Stat. 1427, 1463; amended Pub. L. 103–43, title XX, § 2001, June 10, 1993, 107 Stat. 208.)

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 subsecs. (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

1993—Pub. L. 103–43, § 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 212 of this title.

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. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by 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.

(July 1, 1944, ch. 373, title II, § 231, formerly title V, § 501, 58 Stat. 709; July 3, 1946, ch. 538, § 10, 60 Stat. 425; 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. 90–574, title V, § 503(b), Oct. 15, 1968, 82 Stat. 1012; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; renumbered title XXI, § 2101, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2301, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2501, Pub. L. 100–607, title II, § 201(1), (2), Nov. 4, 1988, 102 Stat. 3062; renumbered title XXVI, § 2601, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2701, Pub. L. 101–381, title I, § 101(1), (2),

Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 231, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

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''.

1946—Subsec. (e). Act July 3, 1946, inserted reference to National Institute of Mental 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.

CROSS REFERENCES

National Institutes of Health gift fund and conditional gift fund to be classified on books of Treasury as trust funds, see section 1321 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 284a, 285q–2, 286, 287a, 289f of this title.

§ 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)[1] of this title.

(July 1, 1944, ch. 373, title II, § 232, formerly title V, § 502, 58 Stat. 710, renumbered title XXI, § 2102, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2302, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2502, Pub. L. 100–607, title II, § 201(1), (2), Nov. 4, 1988, 102 Stat. 3062; renumbered title XXVI, § 2602, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2702, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 232, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

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, 1981, 95 Stat. 603.

CODIFICATION

Section was formerly classified to section 300aaa–1 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–1 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–1 of this title prior to renumbering by Pub. L. 99–660, and to section 220 of this title prior to renumbering by Pub. L. 98–24.

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 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 all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by sections 1 and 2 of Reorg. Plan No. 2 of 1950, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, which were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662. Immigration and Naturalization Service, referred to in this section, is a bureau in Department of Justice.

§ 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.

(July 1, 1944, ch. 373, title II, § 233, formerly title V, § 503, 58 Stat. 710, renumbered title XXI, § 2103,

[1] See References in Text note below.

Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2303, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2503, Pub. L. 100–607, title II, § 201(1), (2), Nov. 4, 1988, 102 Stat. 3062; renumbered title XXVI, § 2603, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2703, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 233, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

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), 68 Stat. 481; renumbered title XXI, § 2106, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2306, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2504, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2604, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2704, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 234, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

CODIFICATION

Section was formerly classified to section 300aaa–3 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–5 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–5 of this title prior to renumbering by Pub. L. 99–660, and to section 224 of this title prior to renumbering by Pub. L. 98–24.

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. 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.

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.

(July 1, 1944, ch. 373, title II, § 235, formerly title V, § 507, as added Pub. L. 90–31, § 5, June 24, 1967, 81 Stat. 79; amended Pub. L. 91–513, title I, § 3(c), Oct. 27, 1970, 84 Stat. 1241; Pub. L. 94–278, title XI, § 1102(b), Apr. 22, 1976, 90 Stat. 415; Pub. L. 96–398, title VIII, § 804(b), Oct. 7, 1980, 94 Stat. 1608; Pub. L. 97–35, title IX, § 902(g)(2), Aug. 13, 1981, 95 Stat. 560; renumbered title XXI, § 2107, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2307, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2505, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2605, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2705, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 235, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

REFERENCES IN TEXT

The Mental Health Systems Act, referred to in text, is Pub. L. 96–398, Oct. 7, 1980, 94 Stat. 1564, as amended. Title VI of the Mental Health Systems Act is classified generally to subchapter V (§ 9511 et seq.) of chapter 102 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9401 of this title and Tables.

CODIFICATION

Section was formerly classified to section 300aaa–4 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–6 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 225a of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS

1981—Pub. L. 97–35 struck out provisions relating to appropriations available under Community Mental Health Centers Act for construction, etc.

1980—Pub. L. 96–398 struck out ''and'' after ''drug dependence,'' and inserted reference to title VI of the Mental Health Systems Act.

1976—Pub. L. 94–278 substituted ''Federal institutions, except that grants to'' for ''hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, except grants to such''.

1970—Pub. L. 91–513 inserted references to appropriations available for grants to expand existing treatment

and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities, and inserted provision that grants to specified Federal institutions may be funded at 100 per centum of the costs.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as a note under section 238*l* of this title.

EFFECTIVE DATE

Section 5 of Pub. L. 90–31 provided that this section is effective July 1, 1968.

§ 238e. Transfer of funds

For the purpose of any reorganization under section 203 of this title, the Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions.

(July 1, 1944, ch. 373, title II, § 236, formerly title V, § 508, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; renumbered title XXI, § 2108, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2308, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2506, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2606, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2706, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 236, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

CODIFICATION

Section was formerly classified to section 300aaa–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 vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget.

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.

§ 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, children of personnel who have 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.

(July 1, 1944, ch. 373, title II, § 237, formerly title V, § 509, 58 Stat. 711; June 16, 1948, ch. 481, § 6(b), 62 Stat. 469; June 25, 1948, ch. 654, § 7, 62 Stat. 1018; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered title XXI, § 2109, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2309, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2507, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2607, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2707, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 237, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

CODIFICATION

Section was formerly classified to section 300aaa–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–8 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.

BUY AMERICAN PROVISIONS

Section 2004 of Pub. L. 103–43, as amended by Pub. L. 105–392, title IV, § 416(a), (b), Nov. 13, 1998, 112 Stat. 3590, provided that:

''(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.''

[Pub. L. 105–392, title IV, § 416(c), Nov. 13, 1998, 112 Stat. 3591, provided that: ''This section [amending section 2004 of Pub. L. 103–43, set out above] is deemed to have taken effect immediately after the enactment of Public Law 103–43 [June 10, 1993].'']

AVAILABILITY OF APPROPRIATIONS FOR ACTIVE COMMISSIONED OFFICERS AND OTHER EXPENSES

Pub. L. 102–394, title II, § 202, Oct. 6, 1992, 106 Stat. 1810, 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 not to exceed 2,800 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 schooling 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. 209(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. 5376.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–170, title II, § 202, Nov. 26, 1991, 105 Stat. 1126.

Pub. L. 101–517, title II, § 202, Nov. 5, 1990, 104 Stat. 2208.

Pub. L. 101–166, title II, § 203, Nov. 21, 1989, 103 Stat. 1176.

Pub. L. 100–202, § 101(h) [title II, § 203], Dec. 22, 1987, 101 Stat. 1329–256, 1329–273.

Pub. L. 99–500, § 101(i) [H.R. 5233, title II, § 203], Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, § 101(i) [H.R. 5233, title II, § 203], Oct. 30, 1986, 100 Stat. 3341–287.

Pub. L. 99–178, title II, § 203, Dec. 12, 1985, 99 Stat. 1118.

Pub. L. 98–619, title II, § 203, Nov. 8, 1984, 98 Stat. 3320.

Pub. L. 98–139, title II, § 203, Oct. 31, 1983, 97 Stat. 887.

Pub. L. 97–377, title I, § 101(e)(1) [title II, § 203], Dec. 21, 1982, 96 Stat. 1878, 1893.

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:

Pub. L. 102–170, title II, § 206, Nov. 26, 1991, 105 Stat. 1126.

Pub. L. 101–517, title II, § 206, Nov. 5, 1990, 104 Stat. 2209.

Pub. L. 101–166, title II, § 207, Nov. 21, 1989, 103 Stat. 1177.

§ 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.

(July 1, 1944, ch. 373, title II, § 238, formerly title V, § 510, 58 Stat. 711; June 25, 1948, ch. 645, § 5, 62 Stat. 859; renumbered title XXI, § 2110, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2310, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2508, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2608, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2708, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 238, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

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. 100–607, 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

1948—Act June 25, 1948, struck out penal provisions. See section 702 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment effective Sept. 1, 1948, see section 20 of act June 25, 1948.

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

§ 238h. Biennial report

The Surgeon General shall transmit to the Secretary, for submission to the Congress, on January 1, 1995, and on January 1, every 2 years thereafter, a full report of the administration of the functions of the Service under this chapter, including a detailed statement of receipts and disbursements.

(July 1, 1944, ch. 373, title II, § 239, formerly title V, § 511, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered title XXI, § 2111, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2311, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2509, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2609, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2709, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 239, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213; Pub. L. 104–66, title I, § 1062(a), Dec. 21, 1995, 109 Stat. 720.)

CODIFICATION

Section was formerly classified to section 300aaa–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. 100–607, 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. 98–24.

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 the 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.''

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.

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 202 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.

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.

§ 238i. Memorials and other acknowledgments for contributions to health of Nation

The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health.

(July 1, 1944, ch. 373, title II, § 240, formerly title V, § 512, as added Pub. L. 90–574, title V, § 503(a), Oct. 15, 1968, 82 Stat. 1012; renumbered title XXI, § 2112, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2312, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2510, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2610, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2710, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 240, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

CODIFICATION

Section was formerly classified to section 300aaa–9 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–11 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–11 of this title prior to renumbering by Pub. L. 99–660, and to section 229a of this title prior to renumbering by Pub. L. 98–24.

§ 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 Committee 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.

(July 1, 1944, ch. 373, title II, § 241, formerly title V, § 513, as added Pub. L. 91–296, title IV, § 401(a), June 30, 1970, 84 Stat. 351; amended Pub. L. 96–398, title VIII, § 804(c), Oct. 7, 1980, 94 Stat. 1608; Pub. L. 97–35, title IX, § 902(g)(3), Aug. 13, 1981, 95 Stat. 560; renumbered title XXI, § 2113, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2313, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2511, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2611, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2711, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 241, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213; Pub. L. 103–183, title VII, § 701, Dec. 14, 1993, 107 Stat. 2239.)

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. 100–607, to section 300aa–12 of this title prior to renumbering by Pub. L. 99–660, and 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, 1954 (Public Law 568, Eighty–third Congress), or the Act of August 16, 1957 (Public Law 85–151), for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this chapter or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly.''

1981—Pub. L. 97–35 struck out references to Mental Retardation Facilities Construction Act and Community Mental Health Centers Act.

1980—Pub. L. 96–398 inserted reference to Mental Health Systems Act.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 701 of Pub. L. 103–183 provided that the amendment made by that section is effective Oct. 1, 1994.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as a note under section 238*l* of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299c–5, 300ff–74 of this title.

§ 238k. Contract authority

The authority of the Secretary to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(July 1, 1944, ch. 373, title II, § 242, formerly title V, § 514, as added Pub. L. 95–623, § 11(e), Nov. 9, 1978, 92 Stat. 3456; renumbered title XXI, § 2114, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, § 2314, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2512, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2612, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2712, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 242, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

CODIFICATION

Section was formerly classified to section 300aaa–11 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–13 of this title prior to renumbering by Pub. L. 100–607, to section 300aa–13 of this title prior to renumbering by Pub. L. 99–660, and to section 229c of this title prior to renumbering by Pub. L. 98–24.

OBLIGATIONS RELATED TO AGREEMENT WITH PRIVATE ENTITIES

Pub. L. 105–277, div. A, § 101(f) [title II], Oct. 21, 1998, 112 Stat. 2681–337, 2681–349, provided in part: ''That hereinafter obligations may be incurred related to agreement with private entities without receipt of advance payment.''

§ 238*l*. Recovery

(a) Right of United States to recover base amount plus interest

If any facility with respect to which funds have been paid under the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.] (as such Act was in effect prior to October 1, 1981) is, at any time within twenty years after the completion of remodeling, construction, or expansion or after the date of its acquisition—

(1) sold or transferred to any entity (A) which would not have been qualified to file an application under section 222 of such Act [42 U.S.C. 2689j] (as such section was in effect prior to October 1, 1981) or (B) which is disapproved as a transferee by the State mental health agency or by another entity designated by the chief executive officer of the State, or

(2) ceases to be used by a community mental health center in the provision of comprehensive mental health services,

the United States shall be entitled to recover from the transferor, transferee, or owner of the facility, the base amount prescribed by subsection (c)(1) of this section plus the interest (if any) prescribed by subsection (c)(2) of this section.

(b) Notice of sale, transfer, or change

The transferor and transferee of a facility that is sold or transferred as described in subsection

(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 of the parties or in an 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.

(2)(A) The interest that the United States is entitled to recover under subsection (a) of this section is the interest for the period (if any) 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) 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.

(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; renumbered title XXI, § 2115, Pub. L. 98–24, § 2(a)(1), Apr. 26, 1983, 97 Stat. 176; Pub. L. 99–129, title II, § 226(a), Oct. 22, 1985, 99 Stat. 546; renumbered title XXIII, § 2315, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2513, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2613, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2713, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; Pub. L. 102–229, title II, § 208, Dec. 12, 1991, 105 Stat. 1716; Pub. L. 102–239, § 1, Dec. 17, 1991, 105 Stat. 1912; renumbered title II, § 243, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in subsec. (a), is title II of Pub. L. 88–164, as added by Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309, and amended, which was classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title prior to its repeal by Pub. L. 97–35, title IX, § 902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560. Section 222 of the Community Mental Health Centers Act was classified to section 2689j of this title prior to its repeal.

CODIFICATION

Section was classified to section 300aaa–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 300aa–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

1991—Subsec. (d). Pub. L. 102–229 and Pub. L. 102–239 amended subsec. (d) identically, substituting ''subsection (a)'' for ''subsection (a)(2)''.

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 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 transferor 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 United States district court for 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 acquisition, remodeling, construction, or expansion cost of such project or 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 2689j of this title''.

1978—Pub. L. 95–622 substituted ''this subchapter'' for ''this part''.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 226(b) of Pub. L. 99–129 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), as the case may be, of section 2115(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, 300*l*–2, 300m, 300m–3, 9412, and 9511 of this title, repealing sections 247b–1, 247b–2, 255, 300d to 300d–3, 300d–5, 300d–7 to 300d–9, 300d–21, 2689 to 2689*l*, 2689n to 2689p, 2689r to 2689aa, 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 238*l*] 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 that section is effective July 29, 1975.

EFFECTIVE DATE

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

OTHER LEGAL RIGHTS OF UNITED STATES NOT ADVERSELY AFFECTED BY 1985 AMENDMENT

Section 226(c) of Pub. L. 99–129 provided that: ''The amendments made by subsection (a) of this section [amending this section] shall not adversely affect other 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 5 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) "Fiscal 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.].

(July 1, 1944, ch. 373, title II, § 244, formerly title XXI, § 2116, as added Pub. L. 99–272, title XVII, § 17003, Apr. 7, 1986, 100 Stat. 359; renumbered title XXIII, § 2316, Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, § 2514, Pub. L. 100–607, title II, § 201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, § 2614, Pub. L. 100–690, title II, § 2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, § 2714, Pub. L. 101–381, title I, § 101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, § 244, Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (e), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

CODIFICATION

Section was classified to section 300aaa–13 of this title prior to renumbering by Pub. L. 103–43, to section 300cc–15 of this title prior to renumbering by Pub. L. 100–607, and to section 300aa–15 of this title prior to renumbering by Pub. L. 99–660.

§ 238n. Abortion-related discrimination in governmental activities regarding training and licensing of physicians

(a) In general

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, to require or 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

(3) the entity attends (or attended) a postgraduate physician training program, or any other 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 standards[1] 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.

(July 1, 1944, ch. 373, title II, § 245, as added Pub. L. 104–134, title I, § 101(d) [title V, § 515], Apr. 26, 1996, 110 Stat. 1321–211, 1321–245; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

[1] So in original. Probably should be ''standard''.

§ 238*o*. 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.].

(July 1, 1944, ch. 373, title II, § 246, as added Pub. L. 105–12, § 9(e), Apr. 30, 1997, 111 Stat. 27.)

REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in text, is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§ 14401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of this title and Tables.

EFFECTIVE DATE

Section effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as a note under section 14401 of this title.

SUBCHAPTER II—GENERAL POWERS AND DUTIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 8 section 1613.

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 for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects.

(2)(A) The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts.

(B) The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

(3) The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of information respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health and Human Services and 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 and support such activities for such entity.

(4) The Secretary shall publish a biennial report which contains—

(A) a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed;

(B) information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

(C) a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and (ii) for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

(D) a description of (i) each request received during the year involved—

(I) from a Federal agency outside the Department of Health and Human Services for the Secretary, or

(II) from an entity within the Department of Health and Human Services to any other entity within the Department,

to conduct research into, or testing for, the carcinogenicity of substances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

(5) The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or review, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Diseases not significantly occurring in United States

The Secretary may conduct biomedical research, directly or through grants or contracts, for the identification, control, treatment, and prevention of diseases (including tropical diseases) which do not occur to a significant extent in the United States.

(d) Protection of privacy of individuals who are research subjects

The Secretary may authorize persons engaged in biomedical, behavioral, clinical, or other research (including research on mental health, including research on the use and effect of alcohol and other psychoactive drugs) to protect the pri-

vacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

(July 1, 1944, ch. 373, title III, §301, 58 Stat. 691; July 3, 1946, ch. 538, §7(a), (b), 60 Stat. 423; June 16, 1948, ch. 481, §4(e), (f), 62 Stat. 467; June 24, 1948, ch. 621, §4(e), (f), 62 Stat. 601; June 25, 1948, ch. 654, §1, 62 Stat. 1017; July 3, 1956, ch. 510, §4, 70 Stat. 490; Pub. L. 86–798, Sept. 15, 1960, 74 Stat. 1053; Pub. L. 87–838, §2, Oct. 17, 1962, 76 Stat. 1073; Pub. L. 89–115, §3, Aug. 9, 1965, 79 Stat. 448; Pub. L. 90–174, §9, Dec. 5, 1967, 81 Stat. 540; Pub. L. 91–513, title I, §3(a), Oct. 27, 1970, 84 Stat. 1241; Pub. L. 91–515, title II, §292, Oct. 30, 1970, 84 Stat. 1308; Pub. L. 92–218, §6(a)(2), Dec. 23, 1971, 85 Stat. 785; Pub. L. 92–423, §7(b), Sept. 19, 1972, 86 Stat. 687; Pub. L. 93–282, title I, §122(b), May 14, 1974, 88 Stat. 132; Pub. L. 93–348, title I, §104(a)(1), July 12, 1974, 88 Stat. 346; Pub. L. 93–352, title I, §111, July 23, 1974, 88 Stat. 360; Pub. L. 94–278, title I, §111, Apr. 22, 1976, 90 Stat. 405; Pub. L. 95–622, title II, §§261, 262, Nov. 9, 1978, 92 Stat. 3434; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 99–158, §3(a)(5), Nov. 20, 1985, 99 Stat. 879; Pub. L. 99–570, title IV, §4021(b)(2), Oct. 27, 1986, 100 Stat. 3207–124; Pub. L. 99–660, title I, §104, Nov. 14, 1986, 100 Stat. 3751; Pub. L. 100–607, title I, §163(1), (2), Nov. 4, 1988, 102 Stat. 3062; Pub. L. 103–43, title XX, §2009, June 10, 1993, 107 Stat. 213.)

AMENDMENTS

1993—Subsec. (b)(4). Pub. L. 103–43 substituted ''a biennial report'' for ''an annual report'' in introductory provisions.

1988—Subsec. (d). Pub. L. 100–607 redesignated concluding provisions of subsec. (a) of section 242a of this title as subsec. (d) of this section, substituted ''biomedical, behavioral, clinical, or other research (including research on mental health, including'' for ''research on mental health, including'', and substituted ''drugs)'' for ''drugs,''.

1986—Subsec. (a)(3). Pub. L. 99–570 struck out ''or, in the case of mental health projects, by the National Advisory Mental Health Council;'' after ''Department supporting such projects'' and struck out ''or the National Advisory Mental Health Council'' after ''appropriate entity of the Department''.

Subsec. (c). Pub. L. 99–660 added subsec. (c).

1985—Subsec. (a)(3). Pub. L. 99–158, §3(a)(5)(A), substituted ''as are recommended by the advisory council to the entity of the Department supporting such projects or, in the case of mental health projects, by the National Advisory Mental Health Council; and make, upon recommendation of the advisory council to the appropriate entity of the Department or the National Advisory Mental Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research'' for ''as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Cancer Advisory Board, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or with respect to heart, blood vessel, lung, and blood diseases and blood resources, recommended by the National Heart, Lung, and Blood Advisory Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research: *Provided*, That such uniform percentage, not to exceed 15 per centum, as the Secretary may determine, of the amounts provided for grants for research projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research grants-in-aid for such fiscal year''.

Subsec. (a)(8). Pub. L. 99–158, §3(a)(5)(B), substituted ''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'' for ''recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Cancer Advisory Board, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart, blood vessel, lung, and blood diseases and blood resources, upon recommendation of the National Heart, Lung and Blood Advisory Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems''.

1978—Pub. L. 95–622 designated existing provisions as subsec. (a), redesignated former pars. (a) to (h) as (1) to (8), respectively, substituted ''Secretary'' for ''Surgeon General'' wherever appearing, and inserted following par. (8) provisions relating to authority of Secretary to make available to individuals and entities substances and living organisms, and added subsec. (b).

1976—Subsecs. (c), (h). Pub. L. 94–278 substituted ''heart, blood vessel, lung, and blood diseases and blood resources'' for ''heart diseases'' and ''National Heart, Lung and Blood Advisory Council'' for ''National Heart and Lung Advisory Council''.

1974—Subsec. (c). Pub. L. 93–348, §104(a)(1), redesignated subsec. (d) as (c) and substituted ''research projects'' for ''research or research training projects'' in two places, ''general support of their research'' for ''general support of their research and research training programs'' and ''research grants-in-aid'' for ''research and research training program grants-in-aid''. Former subsec. (c), authorizing Surgeon General to establish and maintain research fellowships in the Public Health Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad, was struck out.

Subsec. (d). Pub. L. 93–348, §104(a)(1)(C), redesignated subsec. (e) as (d).

Pub. L. 93–282 substituted ''mental health, including research on the use and effect of alcohol and other psychoactive drugs'' for ''the use and effect of drugs'' in former concluding provisions of section 242a(a) of this title. See 1988 Amendment note above.

Subsecs. (e), (f). Pub. L. 93–348, §104(a)(1)(C), redesignated subsecs. (f) and (g) as (e) and (f), respectively. Former subsec. (e) redesignated (d).

Subsec. (g). Pub. L. 93–352 struck out ''during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years'' after ''Enter into contracts''. Notwithstanding directory language that amendment be made to subsec. (h), the amendment was executed to subsec. (g) to reflect the probable intent of Congress and the intervening redesignation of subsec. (h) as (g) by Pub. L. 93–348.

Pub. L. 93–348, §104(a)(1)(C), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 93–348, §104(a)(1)(C), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

1972—Subsecs. (d), (i). Pub. L. 92–423 substituted ''National Heart and Lung Advisory Council'' for ''National Advisory Heart Council''.

1971—Subsecs. (d), (i). Pub. L. 92–218 substituted ''National Cancer Advisory Board'' for ''National Advisory Cancer Council''.

1970—Subsec. (d). Pub. L. 91–513 added subsec. (d). See 1988 Amendment note above.

Subsec. (h). Pub. L. 91–515 substituted ''eight'' for ''five'' succeeding fiscal years.

1967—Subsec. (h). Pub. L. 90–174 substituted ''five'' for ''two'' succeeding fiscal years.

1965—Subsecs. (h), (i). Pub. L. 89–115 added subsec. (h) and redesignated former subsec. (h) as (i).

1962—Subsec. (d). Pub. L. 87–838 inserted ''or research training'' in two places.

1960—Subsec. (d). Pub. L. 86–798 authorized the Surgeon General, upon recommendation of the National Advisory Health Council, to make grants to public or non-profit universities, hospitals, laboratories, and other institutions to support research and research training programs, and to make available for such research and research training programs, up to 15 per centum of amounts provided for research grants through the appropriations for the National Institutes of Health.

1956—Subsecs. (g), (h). Act July 3, 1956, added subsec. (g) and redesignated former subsec. (g) as (h).

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

Subsec. (d). Act June 25, 1948, continued in basic legislation the authority to purchase penicillin and other antibiotic compounds for use in research projects.

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

1946—Subsec. (d). Act July 3, 1946, made the National Advisory Mental Health Council the body to make recommendations to the Surgeon General on awarding of grants-in-aid for research projects with respect to mental health.

Subsec. (g). Act July 3, 1946, gave National Advisory Health Council the right to make recommendations to carry out purposes of this section.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a)(7), and ''Department of Health and Human Services'' substituted for ''Department of Health, Education, and Welfare'' in subsec. (b)(1), (3), and (4)(D)(I), (II), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1978 AMENDMENT

Sections 261 and 262 of Pub. L. 95–622 provided that the amendments made by those sections are effective Oct. 1, 1978.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 104(b) of Pub. L. 93–348 provided that: ''The amendments made by subsection (a) [amending this section and sections 242a, 282, 286a, 286b, 287a, 287b, 287d, 288a, 289c, 289c–1, 289g, 289k, and heading preceding section 289*l* of this title] shall not apply with respect to commitments made before the date of the enactment of this Act [July 12, 1974] by the Secretary of Health, Education, and Welfare for research training under the provisions of the Public Health Service Act amended or repealed by subsection (a).''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–423 effective 60 days after Sept. 19, 1972, or on such prior date after Sept. 19, 1972, as the President shall prescribe and publish in the Federal Register, see section 9 of Pub. L. 92–423, set out as a note under section 218 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–218 effective 60 days after Dec. 23, 1971, or on such prior date after Dec. 23, 1971, as the President shall prescribe and publish in the Federal Register, see section 7 of Pub. L. 92–218, set out as a note under section 218 of this title.

FEMALE GENITAL MUTILATION

Pub. L. 104–134, title I, § 101(d) [title V, § 520], Apr. 26, 1996, 110 Stat. 1321–211, 1321–250; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided that:

''(a) Congress finds that—

''(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States; and

''(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved.

''(b) The Secretary of Health and Human Services shall do the following:

''(1) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

''(2) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

''(3) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

''(c) For purposes of this section the term 'female genital mutilation' means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

''(d) The Secretary of Health and Human Services shall commence carrying out this section not later than 90 days after the date of enactment of this Act [Apr. 26, 1996].''

SENTINEL DISEASE CONCEPT STUDY

Section 1910 of Pub. L. 103–43 directed Secretary of Health and Human Services, in cooperation with Agency for Toxic Substances and Disease Registry and Centers for Disease Control and Prevention, to design and implement a pilot sentinel disease surveillance system for identifying relationship between occupation of household members and incidence of subsequent conditions or diseases in other members of household, and required Director of the National Institutes of Health to prepare and submit to Congress, not later than 4 years after June 10, 1993, a report concerning this project.

STUDY OF THYROID MORBIDITY FOR HANFORD, WASHINGTON

Section 161 of Pub. L. 100–607, as amended by Pub. L. 102–531, title III, § 312(e)(1), Oct. 27, 1992, 106 Stat. 3506, directed Secretary of Health and Human Services, acting through Director of Centers for Disease Control and Prevention, to conduct a study of thyroid morbidity of the population, including Indian tribes and tribal organizations, in vicinity of Hanford, in State of Washington, authorized Director to contract out portions of study, and required Director, not later than 42 months after Nov. 4, 1988, to transmit a report, including such study, to Congress, chief executive officers of States of Oregon and Washington, and governing officials of Indian tribes in vicinity of Hanford, Washington.

NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH

Section 162 of Pub. L. 100–607 directed Secretary of Health and Human Services, after consultation with

Director of National Institutes of Health, to establish a National Commission on Sleep Disorders Research to conduct a comprehensive study of present state of knowledge of incidence, prevalence, morbidity, and mortality resulting from sleep disorders, and of social and economic impact of such disorders, evaluate public and private facilities and resources (including trained personnel and research activities) available for diagnosis, prevention, and treatment of, and research into, such disorders, and identify programs (including biological, physiological, behavioral, environmental, and social programs) by which improvement in management and research into sleep disorders could be accomplished and, not later than 18 months after initial meeting of Commission, to submit to appropriate Committees of Congress a final report, and provided for termination of the Commission 30 days after submission of final report.

RESEARCH WITH RESPECT TO HEALTH RESOURCES AND SERVICES ADMINISTRATION

Section 632 of Pub. L. 100–607 provided that with respect to any program of research pursuant to this chapter, any such program carried out in fiscal year 1987 by an agency other than Health Resources and Services Administration (or appropriate to be carried out by such an agency) could not, for each of fiscal years 1989 through 1991, be carried out by such Administration.

CONTINUING CARE FOR PSYCHIATRIC PATIENTS IN FORMER CLINICAL RESEARCH CENTER AT NATIONAL INSTITUTE ON DRUG ABUSE

Pub. L. 99–117, § 10, Oct. 7, 1985, 99 Stat. 494, provided that: ''In any fiscal year beginning after September 30, 1981, from funds appropriated for carrying out section 301 of the Public Health Service Act [this section] with respect to mental health, the Secretary of Health and Human Services may provide, by contract or otherwise, for the continuing care of psychiatric patients who were under active and continuous treatment at the National Institute on Drug Abuse Clinical Research Center on the date such Clinical Research Center ceased operations.''

ANALYSIS OF THYROID CANCER; CREATION AND PUBLICATION OF RADIOEPIDEMIOLOGICAL TABLES

Pub. L. 97–414, § 7, Jan. 4, 1983, 96 Stat. 2059, provided that:

''(a) In carrying out section 301 of the Public Health Service Act [this section], the Secretary of Health and Human Services shall—

''(1) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the risks of thyroid cancer that are associated with thyroid doses of Iodine 131;

''(2) conduct scientific research and prepare analyses necessary to develop valid and credible methods to estimate the thyroid doses of Iodine 131 that are received by individuals from nuclear bomb fallout;

''(3) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the exposure to Iodine 131 that the American people received from the Nevada atmospheric nuclear bomb tests; and

''(4) prepare and transmit to the Congress within one year after the date of enactment of this Act [Jan. 4, 1983] a report with respect to the activities conducted in carrying out paragraphs (1), (2), and (3).

''(b)(1) Within one year after the date of enactment of this Act [Jan. 4, 1983], the Secretary of Health and Human Services shall devise and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radiation related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of these doses. These tables shall show a probability of causation of developing each radiation related cancer associated with receipt of doses ranging from 1 millirad to 1,000 rads in terms of sex, age at time of exposure, time from exposure to the onset of the cancer in question, and such other categories as the Secretary, after consulting with appropriate scientific experts, determines to be relevant. Each probability of causation shall be calculated and displayed as a single percentage figure.

''(2) At the time the Secretary of Health and Human Services publishes the tables pursuant to paragraph (1), such Secretary shall also publish—

''(A) for the tables of each radiation related cancer, an evaluation which will assess the credibility, validity, and degree of certainty associated with such tables; and

''(B) a compilation of the formulas that yielded the probabilities of causation listed in such tables. Such formulas shall be published in such a manner and together with information necessary to determine the probability of causation of any individual who has or has had a radiation related cancer and has received any given dose.

''(3) The tables specified in paragraph (1) and the formulas specified in paragraph (2) shall be devised from the best available data that are most applicable to the United States, and shall be devised in accordance with the best available scientific procedures and expertise. The Secretary of Health and Human Services shall update these tables and formulas every four years, or whenever he deems it necessary to insure that they continue to represent the best available scientific data and expertise.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 242a, 254c, 263, 282, 284, 284f, 7610 of this title.

§ 242. Studies and investigations on use and misuse of narcotic drugs and other drugs; annual report to Attorney General; cooperation with States

(a) In carrying out the purposes of section 241 of this title with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act [21 U.S.C. 801 et seq.] and Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.], together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve

their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

(July 1, 1944, ch. 373, title III, § 302, 58 Stat. 692; Pub. L. 91–513, title II, § 701(j), Oct. 27, 1970, 84 Stat. 1282.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (a), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§ 951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513 inserted references to drug dependency, drugs other than narcotic drugs, and substances subject to control under the Controlled Substances Act and the Controlled Substances Import and Export Act, substituted the first day of April of each year for the first day of September of each year as the date by which the study results must be submitted, substituted the Attorney General for the Secretary of the Treasury as the officer to whom the report is to be submitted, and struck out references to the Narcotic Drugs Import and Export Act.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as an Effective Date note under section 801 of Title 21, Food and Drugs.

SAVINGS PROVISION

Amendment by Pub. L. 91–513 not to affect or abate any prosecutions for violation of law or any civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of such amendment, and all administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on Oct. 27, 1970, to be continued and brought to final determination in accord with laws and regulations in effect prior to Oct. 27, 1970, see section 702 of Pub. L. 91–513, set out as a note under section 321 of Title 21, Food and Drugs.

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.

MARIHUANA AND HEALTH REPORTING

Pub. L. 91–296, title V, June 30, 1970, 84 Stat. 352, as amended by Pub. L. 95–461, § 3(a), Oct. 14, 1978, 92 Stat. 1268; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, known as the Marihuana and Health Reporting Act, which required the Secretary of Health and Human Services, after consultation with the Surgeon General and other appropriate individuals, to transmit a report to the Congress on or before January 31, 1971, and biennially thereafter (1) containing current information on the health consequences of using marihuana, and (2) containing such recommendations for legislative and administrative action as he may deem appropriate, was repealed by Pub. L. 98–24, § 2(d), Apr. 26, 1983, 97 Stat. 182.

§ 242a. Mental health

(a) Clinical training and instruction and clinical traineeships; stipends and allowances; research projects

In carrying out the purposes of section 241 of this title with respect to mental health—

(1) the Secretary, acting through the Director of the Center for Mental Health Services, is authorized to provide clinical training and instruction and to establish and maintain clinical traineeships (with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary);

(2) the Surgeon General is authorized to make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operation and administration of such institutions.

(b) Effect of treaties and other international agreements on confidentiality

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.

(c) Grants to public and other nonprofit institutions

The Secretary may provide for training, instruction, and traineeships under subsection (a)(1) of this section through grants to public and other nonprofit institutions. Grants under paragraph (2) of subsection (a) of this section may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary.

(d) Obligatory service for traineeships

(1) Any individual who has received a clinical traineeship, in psychology, psychiatry, nursing, marital and family therapy, counseling, or social work, under subsection (a)(1) of this section that was not of a limited duration or experimental nature (as determined by the Secretary)

is obligated to serve, in service determined by the Secretary to be appropriate in the light of the individual's training and experience, at the rate of one year for each year (or academic year, whichever the Secretary determines to be appropriate) of the traineeship.

(2) The service required under paragraph (1) shall be performed—

(A) for a public inpatient mental institution providing inpatient care or any entity receiving a grant under the Mental Health Systems Act [42 U.S.C. 9401 et seq.],

(B) in a health professional shortage area (as determined under subpart II of part D of this subchapter),

(C) in any other area or for any other entity designated by the Secretary, or

(D) in a Federal or State correctional facility,

and shall begin within such period after the termination of the traineeship as the Secretary may determine. In developing criteria for determining for which institutions or entities or in which areas, referred to in the preceding sentence, individuals must perform service under paragraph (1), the Secretary shall give preference to institutions, entities, or areas which in his judgment have the greatest need for personnel to perform that service. The Secretary may permit service for or in other institutions, entities, or areas if the Secretary determines that the request for such service is supported by good cause.

(3) Any individual who fails to perform the service required under this subsection within the period prescribed by the Secretary is obligated to repay to the United States an amount equal to three times the cost of the traineeship (including stipends and allowances) plus interest at the maximum legal rate at the time of payment of the traineeship, multiplied, in any case in which the service so required has been performed in part, by the percentage which the length of the service not so performed is of the length of the service so required to be performed.

(4)(A) In the case of any individual any part of whose obligation to perform service under this subsection exists at the same time as any part of the individual's obligation to perform service under section 254m or 254n of this title (because of receipt of a scholarship under subpart II of part D of this subchapter) or the individual's obligation to perform service under section 288[1] of this title (because of receipt of a National Research Service Award), or both, the same service may not be used to any extent to meet more than one of those obligations.

(B) In any case to which subparagraph (A) is applicable and in which one of the obligations is to perform service under section 254m or 254n of this title, the obligation to perform service under that section must be met (by performance of the required service or payment of damages) before the obligation to perform service under this subsection or under section 288[1] of this title.

(C) In any case to which subparagraph (A) is applicable, if any part of the obligation to perform service under section 288[1] of this title exists at the same time as any part of the obligation to perform service under this subsection, the manner and time of meeting each obligation shall be prescribed by the Secretary.

(5) In disseminating application forms to individuals desiring traineeships, the Secretary shall include with such forms a fair summary of the liabilities under this subsection of an individual who receives a traineeship.

(July 1, 1944, ch. 373, title III, § 303, as added July 3, 1946, ch. 538, § 7(c), 60 Stat. 423; amended Aug. 2, 1956, ch. 871, title V, § 501, 70 Stat. 929; Pub. L. 91–513, title I, § 3(a), Oct. 27, 1970, 84 Stat. 1241; Pub. L. 93–282, title I, § 122(b), May 14, 1974, 88 Stat. 132; Pub. L. 93–348, title I, § 104(a)(2), July 12, 1974, 88 Stat. 346; Pub. L. 95–633, title I, § 108(b), Nov. 10, 1978, 92 Stat. 3773; Pub. L. 96–398, title VIII, § 803(a), Oct. 7, 1980, 94 Stat. 1607; Pub. L. 100–177, title II, § 202(a), Dec. 1, 1987, 101 Stat. 996; Pub. L. 100–607, title I, § 163(1)(A), Nov. 4, 1988, 102 Stat. 3062; Pub. L. 100–690, title II, § 2058(b), Nov. 18, 1988, 102 Stat. 4214; Pub. L. 101–597, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035; Pub. L. 102–321, title I, § 115(b), July 10, 1992, 106 Stat. 348; Pub. L. 102–408, title III, § 305, Oct. 13, 1992, 106 Stat. 2084; Pub. L. 105–392, title IV, § 403, Nov. 13, 1998, 112 Stat. 3588.)

REFERENCES IN TEXT

The Mental Health Systems Act, referred to in subsec. (d)(2)(A), is Pub. L. 96–398, Oct. 7, 1980, 96 Stat. 1564, as amended, which is classified principally to chapter 102 (§ 9401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9401 of this title and Tables.

CODIFICATION

Section 288 of this title, referred to in subsec. (d)(4), in the original referred to section 472, meaning section 472 of the Public Health Service Act, which was classified to section 289*l*–1 of this title. Title IV of the Public Health Service Act was amended generally by section 2 of Pub. L. 99–158, Nov. 20, 1985, 99 Stat. 822, and provisions formerly contained in section 472 were restated in section 487 of the Public Health Service Act, which is classified to section 288 of this title.

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105–392 inserted "counseling," after "family therapy,".

1992—Subsec. (a). Pub. L. 102–321, § 115(b)(1), struck out ", the Surgeon General is authorized" after "health" in introductory provisions.

Subsec. (a)(1). Pub. L. 102–321, § 115(b)(2), inserted "the Secretary, acting through the Director of the Center for Mental Health Services, is authorized" after "(1)".

Subsec. (a)(2). Pub. L. 102–321, § 115(b)(3), inserted "the Surgeon General is authorized" after "(2)".

Subsec. (d)(2)(D). Pub. L. 102–408 added subpar. (D).

1990—Subsec. (d)(2)(B). Pub. L. 101–597 substituted "health professional shortage area" for "health manpower shortage area".

1988—Subsec. (a). Pub. L. 100–607 redesignated concluding provisions which permitted Secretary to authorize persons engaged in research on mental health to protect privacy of individuals who are subject of such research by withholding names of such individuals, and which prohibited compulsion of persons so authorized to identify such individuals in any court or other proceedings, as subsec. (d) of section 241 of this title.

Subsec. (d)(1). Pub. L. 100–690 inserted "marital and family therapy," after "nursing,".

1987—Subsec. (d)(4). Pub. L. 100–177 made technical amendment to references to "section 254m or 254n of

[1] See Codification note below.

this title'' in two places and substituted ''subpart II of Part D of this subchapter'' for ''subpart IV of Part C of subchapter V of this chapter'' to reflect renumbering of corresponding provisions of original act.

1980—Subsec. (d). Pub. L. 96–398 added subsec. (d).

1978—Subsecs. (b), (c). Pub. L. 95–633 added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (a). Pub. L. 93–282 substituted ''mental health, including research on the use and effect of alcohol and other psychoactive drugs'' for ''the use and effect of drugs''.

Subsec. (a)(1). Pub. L. 93–348, § 104(a)(2)(A), inserted ''clinical'' before ''training and instruction'' and ''traineeships'' and substituted ''(with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary)'' for '', in accordance with the provisions of section 289c(a) of this title''.

Subsec. (b). Pub. L. 93–348, § 104(a)(2)(B), authorized Secretary to provide for training, instruction, and traineeships under subsection (a)(1) of this section through grants to public and other nonprofit institutions.

1970—Subsec. (a). Pub. L. 91–513 inserted provisions authorizing withholding of information concerning identity of persons who are subjects of research on use and effect of drugs.

1956—Subsec. (a). Act Aug. 2, 1956, substituted provisions of par. (1) relating to traineeships in accordance with section 289c(a) of this title and par. (2) relating to grants for research and improved operation of mental institutions for provisions relating to admission of study patients, including patients from St. Elizabeths Hospital, to the National Institute of Mental Health.

Subsec. (b). Act Aug. 2, 1956, substituted provisions relating to recommendation of grants by Council and payment by Surgeon General for provisions relating to mental health training.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 501 of Pub. L. 101–597 provided that: ''This Act and the amendments made by this Act [enacting sections 254f–1, 254*o*–1, and 254r of this title, amending this section, sections 254d to 254i, 254k, 254*l* to 254q–1, 254s, 294h, 294n, 294aa, 295g–1, 296m, 1320c–5, 1395*l*, 1395u, 1395x, 3505d, and 9840 of this title, and section 2123 of Title 10, Armed Forces, and enacting provisions set out as notes under sections 201, 254*l*–1, and 254*o* of this title] shall take effect October 1, 1990, or upon the date of the enactment of this Act [Nov. 16, 1990], whichever occurs later.''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 803(b) of Pub. L. 96–398 provided that: ''The amendment made by subsection (a) [amending this section] applies in the case of any academic year (of any traineeship awarded under section 303(a)(1) of the Public Health Service Act [subsec. (a)(1) of this section]) beginning after the date of the enactment of this Act [Oct. 7, 1980] if the award for such academic year is made after such date.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date Convention on Psychotropic Substances enters into force in the United States, see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of Title 21, Food and Drugs. Convention on Psychotropic Substances entered into force for the United States on July 15, 1980.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–348 not applicable with respect to commitments made before July 12, 1974, by the Secretary of Health, Education, and Welfare for research training, see section 104(b) of Pub. L. 93–348, set out as a note under section 241 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 2, 1956, effective July 1, 1956, see section 503 of act Aug. 2, 1956.

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290bb–31 of this title; title 21 section 850.

§ 242b. General authority respecting research, evaluations, and demonstrations in health statistics, health services, and health care technology

(a) Scope of activities

The Secretary may, through the Agency for Health Care Policy and Research or the National Center for Health Statistics, or using National Research Service Awards or other appropriate authorities, undertake and support training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects set forth in section 242k of this title and in subchapter VII of this chapter.

(b) Additional authority; scope of activities

To implement subsection (a) of this section and section 242k of this title, the Secretary may, in addition to any other authority which under other provisions of this chapter or any other law may be used by him to implement such subsection, do the following:

(1) Utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, provide technical assistance and advice, make grants to public and nonprofit private entities and individuals, and, when appropriate, enter into contracts with public and private entities and individuals.

(2) Admit and treat at hospitals and other facilities of the Service persons not otherwise eligible for admission and treatment at such facilities.

(3) Secure, from time to time and for such periods as the Secretary deems advisable but in accordance with section 3109 of title 5, the assistance and advice of consultants from the

United States or abroad. The Secretary may for the purpose of carrying out the functions set forth in sections 242c,[1] 242k, and 242n[1] of this title, obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the number of days or the period of service) for each of the centers the services of not more than fifteen experts who have appropriate scientific or professional qualifications.

(4) Acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to section 34 of title 40, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

(c) Coordination of activities through units of Department

(1) The Secretary shall coordinate all health services research, evaluations, and demonstrations, all health statistical and epidemiological activities, and all research, evaluations, and demonstrations respecting the assessment of health care technology undertaken and supported through units of the Department of Health and Human Services. To the maximum extent feasible such coordination shall be carried out through the Agency for Health Care Policy and Research and the National Center for Health Statistics.

(2) The Secretary shall coordinate the health services research, evaluations, and demonstrations, the health statistical and (where appropriate) epidemiological activities, and the research, evaluations, and demonstrations respecting the assessment of health care technology authorized by this chapter through the Agency for Health Care Policy and Research and the National Center for Health Statistics.

(July 1, 1944, ch. 373, title III, § 304, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382; amended Aug. 2, 1956, ch. 871, title V, § 502, 70 Stat. 930; Pub. L. 90–174, § 3(a), Dec. 5, 1967, 81 Stat. 534; Pub. L. 91–296, title IV, § 401(b)(1)(A), June 30, 1970, 84 Stat. 352; Pub. L. 91–515, title II, §§ 201(a)–(c), 202, 203, Oct. 30, 1970, 84 Stat. 1301–1303; Pub. L. 93–45, title I, § 102, June 18, 1973, 87 Stat. 91; Pub. L. 93–353, title I, § 103, July 23, 1974, 88 Stat. 362; Pub. L. 95–623, §§ 3, 7, Nov. 9, 1978, 92 Stat. 3443, 3451; Pub. L. 96–32, § 5(a)–(c), July 10, 1979, 93 Stat. 82; Pub. L. 97–35, title IX, § 918, Aug. 13, 1981, 95 Stat. 565; Pub. L. 98–551, § 5(c), Oct. 30, 1984, 98 Stat. 2819; Pub. L. 101–239, title VI, § 6103(e)(1), Dec. 19, 1989, 103 Stat. 2205; Pub. L. 103–183, title V, § 501(b), Dec. 14, 1993, 107 Stat. 2237.)

REFERENCES IN TEXT

Sections 242c and 242n of this title, referred to in subsec. (b)(3), were repealed by Pub. L. 101–239, title VI, § 6103(d)(1), Dec. 19, 1989, 103 Stat. 2205.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–183 struck out subsec. (d) which directed Secretary to conduct an ongoing study of present and projected future health costs of pollution and other environmental conditions resulting from human activity and to submit to Congress reports on the study.

1989—Subsec. (a). Pub. L. 101–239, § 6103(e)(1)(B), substituted ''the Agency for Health Care Policy and Research'' for ''the National Center for Health Services Research and Health Care Technology Assessment'' and ''in section 242k of this title and in subchapter VII of this chapter'' for ''in sections 242c, 242k, and 242n of this title''.

Pub. L. 101–239, § 6103(e)(1)(A), redesignated par. (3) as entire subsec. (a) and struck out pars. (1) and (2) which required Secretary to conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for purpose of improving health services in the United States, and which specified types of activities Secretary was to emphasize in carrying out par. (1).

Subsec. (b). Pub. L. 101–239, § 6103(e)(1)(C), substituted ''subsection (a) of this section and section 242k of this title'' for ''subsection (a) of this section''.

Subsec. (c)(1), (2). Pub. L. 101–239, § 6103(e)(1)(D), substituted ''the Agency for Health Care Policy and Research'' for ''the National Center for Health Services Research and Health Care Technology Assessment''.

1984—Subsec. (a)(1). Pub. L. 98–551, § 5(c)(1), (2), substituted ''the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics'' for ''the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology''.

Subsec. (a)(3). Pub. L. 98–551, § 5(c)(1), (3), substituted ''the National Center for Health Services Research and Health Care Technology Assessment or the National Center for Health Statistics'' for ''the National Center for Health Services Research, the National Center for Health Statistics, or the National Center for Health Care Technology''.

Subsec. (c)(1), (2). Pub. L. 98–551, § 5(c)(1), (2), substituted ''the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics'' for ''the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology''.

1981—Subsec. (a)(3). Pub. L. 97–35, § 918(a), substituted ''may'' for ''shall'', ''or the'' for ''and the'', ''or using'' for ''and using'', and ''or other'' for ''and other''.

Subsecs. (b)(1), (c)(1). Pub. L. 97–35, § 918(d)(1), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (d)(1). Pub. L. 97–35, § 918(b)(1), (2), substituted provisions relating to advice and assistance of the National Academy of Sciences, for provisions relating to joint authority of the National Academy of Sciences, and struck out definition of ''Academy'' as meaning the National Academy of Sciences.

Subsec. (d)(3). Pub. L. 97–35, § 918(b)(3), (c), (d)(2), substituted ''every three years'' for ''every two years'', and ''Energy and'' for ''Interstate and Foreign'', and struck out references to the Academy.

1979—Subsec. (b)(1), (3). Pub. L. 96–32, § 5(a), (b), amended directory language of Pub. L. 95–623, § 3(b), (d), and required no change in text. See 1978 Amendment note below.

Subsec. (d). Pub. L. 96–32, § 5(c), substituted ''(d)'' for ''(e)'' as designation of subsection added by Pub. L. 95–623, § 7, thereby correcting the subsection designation.

1978—Subsec. (a)(1). Pub. L. 95–623, § 3(a), substituted provision for the Secretary acting through the National Center for Health Care Technology for such action through other units of the Department of Health, Education, and Welfare and ''conduct'' for ''undertake'', included epidemiological activities, and declared as an objective the improvement of the effectiveness, efficiency, and quality of Federal health services.

Subsec. (a)(2). Pub. L. 95–623, § 3(a), provided for emphasis to demonstrations, evaluations, and epidemio-

[1] See References in Text note below.

logical activities; redesignated as subpar. (A) former subpar. (C); struck out ''technology'' and ''quality'' after ''organization,'' and ''utilization,'', respectively, and end clause ''including systems for the delivery of preventive, personal, and mental health care'' and former subpar. (A) activities respecting ''the determination of an individual's health''; added subpars. (B) through (D); struck out former subpar. (D) activities respecting ''individual and community knowledge of individual health and the systems for the delivery of health care''; added subpars. (E) through (I); and redesignated as subpar. (J) former subpar. (B).

Subsec. (a)(3). Pub. L. 95–623, § 3(a), added par. (3).

Subsec. (b)(1). Pub. L. 95–623, § 3(b), as amended by Pub. L. 96–32, § 5(a), substituted '', when appropriate, enter into contracts with public and private entities and individuals'' for ''enter into contracts with public and private entities and individuals, for (A) health services research, evaluation, and demonstrations, and (B) health services research and health statistics training, and (C) health statistical activities''.

Subsec. (b)(3). Pub. L. 95–623, § 3(d), as amended by Pub. L. 96–32, § 5(b), substituted ''advisable but in accordance with section 3109 of title 5'' for ''advisable'', struck out ''experts and'' before ''consultants'', and authorized the Secretary to obtain for the centers the services of experts with appropriate scientific or professional qualifications.

Subsec. (c). Pub. L. 95–623, § 3(c), designated existing text as par. (1), substituted ''evaluations, and demonstrations, all health statistical and epidemiological activities, and all research, evaluations, and demonstrations respecting the assessment of health care technology'' for ''evaluation, demonstration, and health statistical activities'' before ''undertaken and supported'', required coordination of activities to also be carried out through the National Center for Health Care Technology, and added par. (2).

Subsec. (d). Pub. L. 95–623, § 7, as amended by Pub. L. 96–32, § 5(c), added subsec. (d).

1974—Pub. L. 93–353, in revising generally provisions of subsecs. (a) to (c), provided for general authority respecting health statistics and health services research, evaluation, and demonstrations, subsec. (a) relating to scope of activities, subsec. (b) relating to additional authority and scope of activities, and subsec. (c) relating to coordination of activities through units of the Department. Former provisions related to research and demonstrations relating to health facilities and services, subsec. (a) relating to grants and contracts for projects for research, experiments, or demonstrations and related training, cost limitation, wage rates, labor standards, and other conditions, and payments (former subsec. (a)(2) and (3) now being covered by section 242m(h) and (e), respectively), subsec. (b) relating to systems analysis of national health care plans, and cost and coverage report on existing legislative proposals, and subsec. (c) relating to authorization of appropriations.

1973—Subsec. (c)(1). Pub. L. 93–45 authorized appropriations of $42,617,000 for fiscal year ending June 30, 1974.

1970—Subsec. (a)(1). Pub. L. 91–515, §§ 201(a)(1), 203, redesignated subsec. (a) as (a)(1), substituted ''(A)'' and ''(B)'' for ''(1)'' and ''(2)'', and ''(i) to (iii)'' for ''(A) to (C)'', and added cls. (iv) and (v).

Subsec. (a)(2). Pub. L. 91–515, § 201(a)(2), redesignated subsec. (b) as (a)(2), and substituted ''subsection'' for ''section'' wherever appearing.

Subsec. (a)(3). Pub. L. 91–515, §§ 201(a)(3), 202, redesignated subsec. (c) as (a)(3)(A), substituted ''subsection'' for ''section'' wherever appearing, and added subsec. (a)(3)(B).

Subsec. (b). Pub. L. 91–515, § 201(a)(2)(A), (b), added subsec. (b). Former subsec. (b) redesignated (a)(2).

Subsecs. (c), (d). Pub. L. 91–515, §§ 201(a)(3)(A), (c), 202(1), redesignated subsec. (d) as (c), and substituted provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, and authorizing to be appropriated such additional sums for each fiscal year as may be necessary to carry out the provisions of subsec. (b), for provisions authorizing appropriations of $20,000,000 for the fiscal year ending June 30, 1968, $40,000,000 for the fiscal year ending June 30, 1969, and $60,000,000 for the fiscal year ending June 30, 1970. Former subsec. (c) redesignated (a)(3)(A).

Pub. L. 91–296 struck out provisions authorizing use of appropriated funds for evaluation of program authorized by this section. See section 229b of this title.

1967—Pub. L. 90–174 substituted provisions of subsecs. (a) to (d) for research and demonstrations relating to health facilities (incorporated from former section 291n of this title) for provisions of former subsecs. (a) to (d) for mental health study including grants for special projects, conditions thereof, and definition of ''organization'', authorization of appropriations, terms of grant, availability of amounts otherwise appropriated and noninterference with research and study programs of the National Institute of Mental Health, and acceptance of additional financial support.

1956—Act Aug. 2, 1956, changed heading of section 304 of act July 1, 1944 from ''Grants for special projects in mental health'' to ''Mental health study grants''. Section heading has been changed for purposes of codification.

Effective Date of 1970 Amendments

Section 201(d) of Pub. L. 91–515 provided that: ''The amendments made by subsection (c) of this section [amending this section] shall be effective only with respect to fiscal years ending after June 30, 1970.''

Section 401(b)(1) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to appropriations for fiscal years beginning after June 30, 1970.

Effective Date of 1956 Amendment

Amendment of section by act Aug. 2, 1956, effective July 1, 1956, see section 503 of act Aug. 2, 1956.

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.

Model Standards With Respect to Preventive Health Services in Communities

Pub. L. 95–83, title III, § 314, Aug. 1, 1977, 91 Stat. 398, required the Secretary of Health, Education, and Welfare, within two years of Aug. 1, 1977, to establish model standards with respect to preventive health services in communities and report such standards to Congress.

Transfer of Equipment

Pub. L. 94–573, § 15, Oct. 21, 1976, 90 Stat. 2719, provided that notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare could vest title to equipment purchased with funds under the seven contracts for emergency medical services demonstration projects entered into in 1972 and 1973 under this section (as in effect at the time the contracts were entered into), and by contractors with the United States under such contracts or subcontractors under such contracts, in such contractors or subcontractors without further obligation to the Government or on such terms as the Secretary considered appropriate.

Congressional Declaration of Purpose

Section 2 of Joint Res. July 28, 1955, provides a Congressional statement of the critical need for an analy-

sis and reevaluation of the human and economic problems of mental illness and of the resources, methods, and practices utilized in diagnosing, treating, caring for, and rehabilitating the mentally ill, both within and outside of institutions, as might lead to the development of recommendations for such better utilization of those resources or such improvements on and new developments in methods of diagnosis, treatment, care, and rehabilitation as give promise of resulting in a marked reduction in the incidence or duration of mental illness and, in consequence, a lessening of the appalling emotional and financial drain on the families of those afflicted or on the economic resources of the States and of the Nation and a declaration of the policy to promote mental health and to help solve the complex and the interrelated problems posed by mental illness by encouraging the undertaking of nongovernmental, multidisciplinary research into and reevaluation of all aspects of our resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill, including research aimed at the prevention of mental illness.

CHILDREN'S EMOTIONAL ILLNESS STUDY; PROGRAM GRANTS; CONDITIONS; DEFINITIONS; APPROPRIATIONS; TERMS OF GRANT

Pub. L. 89–97, title II, § 231, July 30, 1965, 79 Stat. 360, as amended by Pub. L. 90–248, title III, § 305, Jan. 2, 1968, 81 Stat. 929, authorized the Secretary of Health, Education, and Welfare upon the recommendation of the National Advisory Mental Health Council and after securing the advice of experts in pediatrics and child welfare, to make grants to organizations on certain conditions for carrying out a program of research into and study of resources, methods, and practices for diagnosing or preventing emotional illness in children and of treating, caring for, and rehabilitating children with emotional illnesses, defined ''organization'', and authorized appropriations for the making of such grants for fiscal years ending June 30, 1966, and June 30, 1967, with such research and study to be completed not later than three years from the date it was inaugurated.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 235, 242k, 242m, 288 of this title.

§ 242c. Repealed. Pub. L. 101–239, title VI, § 6103(d)(1)(A), Dec. 19, 1989, 103 Stat. 2205

Section, act July 1, 1944, ch. 373, title III, § 305, as added July 3, 1956, ch. 510, § 3, 70 Stat. 490; amended Oct. 30, 1970, Pub. L. 91–515, title II, § 210, 84 Stat. 1303; June 18, 1973, Pub. L. 93–45, title I, § 103, 87 Stat. 91; July 23, 1974, Pub. L. 93–353, title I, § 104, 88 Stat. 363; Oct. 8, 1976, Pub. L. 94–460, title III, § 301, 90 Stat. 1960; Nov. 9, 1978, Pub. L. 95–623, § 4, 92 Stat. 3445; Aug. 13, 1981, Pub. L. 97–35, title IX, § 919(a)(1), (2)(A), (3), (b)(1), (c), (d), 95 Stat. 565, 566; Oct. 30, 1984, Pub. L. 98–551, §§ 5(a), (b), 6, 98 Stat. 2817, 2819, 2820; Oct. 7, 1985, Pub. L. 99–117, § 6, 99 Stat. 492; Nov. 14, 1986, Pub. L. 99–660, title III, § 311(b)(2), 100 Stat. 3779; Dec. 1, 1987, Pub. L. 100–177, title I, §§ 101, 102, 101 Stat. 987; Nov. 4, 1988, Pub. L. 100–607, title II, § 204(1), 102 Stat. 3079; Nov. 18, 1988, Pub. L. 100–690, title II, § 2620(b)(3), 102 Stat. 4244; Aug. 16, 1989, Pub. L. 101–93, § 5(e)(3), 103 Stat. 612, related to National Center for Health Services Research and Health Care Technology Assessment.

TERMINATION OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ASSESSMENT

Section 6103(d)(1)(A) of Pub. L. 101–239 provided in part that the National Center for Health Services Research and Health Care Technology Assessment is terminated.

TRANSITIONAL AND SAVINGS PROVISIONS FOR PUB. L. 101–239

For provision transferring personnel of Department of Health and Human Services employed on Dec. 19, 1989, in connection with functions vested in Administrator for Health Care Policy and Research pursuant to amendments made by section 6103 of Pub. L. 101–239, and assets, liabilities, etc., of Department arising from or employed, held, used, or available on that date, or to be made available after that date, in connection with those functions, to Administrator for appropriate allocation, and for provisions for continued effectiveness of actions, orders, rules, official documents, etc., of Department that have been issued, made, granted, or allowed to become effective in performance of those functions, and that were effective on Dec. 19, 1989, see section 6103(f) of Pub. L. 101–239, set out as a note under section 299 of this title.

§ 242d. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title III, § 306, as added Aug. 2, 1956, ch. 871, title I, § 101, 70 Stat. 923; amended July 23, 1959, Pub. L. 86–105, § 1, 73 Stat. 239; Sept. 8, 1960, Pub. L. 88–497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(b), 82 Stat. 789; Mar. 12, 1970, Pub. L. 91–208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; June 18, 1973, Pub. L. 93–45, title I, § 104(a), 87 Stat. 91, which related to graduate or specialized training for physicians, engineers, nurses, and other professional personnel, was renumbered section 312 of act July 1, 1944, by Pub. L. 93–353 and transferred to section 244–1 of this title, and was subsequently repealed.

§ 242e. Repealed. Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362

Section, act July 1, 1944, ch. 373, title III, § 307, as added Aug. 2, 1956, ch. 871, title II, § 201, 70 Stat. 924; amended July 23, 1959, Pub. L. 86–105, § 2, 73 Stat. 239; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311, provided for a professional nurse traineeship program for which authorization of appropriations were made through fiscal year ending June 30, 1964. Provision for the continuation of the program was made by the Nurse Training Act of 1964, which enacted section 297 et seq. of this title.

§§ 242f to 242j. Transferred

CODIFICATION

Section 242f, act July 1, 1944, ch. 373, title III, § 308, as added July 12, 1960, Pub. L. 86–610, § 3, 74 Stat. 364, which related to international cooperation with respect to biomedical research and health services research and statistical activities, was renumbered section 307 of act July 1, 1944, by Pub. L. 93–353 and transferred to section 242*l* of this title.

Section 242g, act July 1, 1944, ch. 373, title III, § 309, as added Sept. 8, 1960, Pub. L. 86–720, § 1(a), 74 Stat. 819; amended Aug. 27, 1964, Pub. L. 88–497, § 3, 78 Stat. 613; Nov. 3, 1966, Pub. L. 89–749, § 4, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90–147, §§ 2(g), 8(c), 81 Stat. 534, 540; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(a), 82 Stat. 788; Mar. 12, 1970, Pub. L. 91–208, §§ 1, 2, 84 Stat. 52; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(B), 84 Stat. 352; June 18, 1973, Pub. L. 93–45, title I, § 104(b), (c), 87 Stat. 91, which related to graduate public health training grants, was renumbered section 313 of act July 1, 1944, by Pub. L. 93–353 and transferred to section 245a of this title, and was subsequently repealed.

Section 242h, act July 1, 1944, ch. 373, title III, § 310, as added Sept. 25, 1962, Pub. L. 87–692, 76 Stat. 592, and amended and renumbered, which related to health services for domestic agricultural migrants, was renumbered section 319 of act July 1, 1944, by Pub. L. 93–353, title I, § 102(d), July 23, 1974, 88 Stat. 362, transferred to section 247d of this title, and subsequently renumbered and transferred to section 254b of this title, prior to being omitted in the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104–299, § 2.

Section 242i, act July 1, 1944, ch. 373, title III, § 310A, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 270, 84 Stat. 1306; amended Nov. 18, 1971, Pub. L. 92–157, title II, § 201, 85 Stat. 461, which related to administration of grants in multigrant projects, was renumbered section 226 of act July 1, 1944, by Pub. L. 93–353 and transferred to section 235 of this title.

Section 242j, act July 1, 1944, ch. 373, title III, § 310B, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 280, 84 Stat. 1307, which provided for and annual report by Secretary on activities related to health facilities and services and expenditure of funds, was renumbered section 227 of act July 1, 1944, by Pub. L. 93–353 and transferred to section 236 of this title, and was subsequently repealed.

§ 242k. National Center for Health Statistics

(a) Establishment; appointment of Director; statistical and epidemiological activities

There is established in the Department of Health and Human Services the National Center for Health Statistics (hereinafter in this section referred to as the ''Center'') which shall be under the direction of a Director who shall be appointed by the Secretary. The Secretary, acting through the Center, shall conduct and support statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

(b) Duties

In carrying out subsection (a) of this section, the Secretary, acting through the Center,

(1) shall collect statistics on—

(A) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

(B) the impact of illness and disability of the population on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

(C) environmental, social, and other health hazards,

(D) determinants of health,

(E) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

(F) utilization of health care, including utilization of (i) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (ii) services of hospitals, extended care facilities, home health agencies, and other institutions,

(G) health care costs and financing, including the trends in health care prices and cost, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

(H) family formation, growth, and dissolution;

(2) shall undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in paragraph (1);

(3) may undertake and support (by grant or contract) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1); and

(4) may collect, furnish, tabulate, and analyze statistics, and prepare studies, on matters referred to in paragraph (1) upon request of public and nonprofit private entities under arrangements under which the entities will pay the cost of the service provided.

Amounts appropriated to the Secretary from payments made under arrangements made under paragraph (4) shall be available to the Secretary for obligation until expended.

(c) Statistical and epidemiological compilations and surveys

The Center shall furnish such special statistical and epidemiological compilations and surveys as the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives may request. Such statistical and epidemiological compilations and surveys shall not be made subject to the payment of the actual or estimated cost of the preparation of such compilations and surveys.

(d) Technical aid to States and localities

To insure comparability and reliability of health statistics, the Secretary shall, through the Center, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

(e) Cooperative Health Statistics System

For the purpose of producing comparable and uniform health information and statistics, there is established the Cooperative Health Statistics System. The Secretary, acting through the Center, shall—

(1) coordinate the activities of Federal agencies involved in the design and implementation of the System;

(2) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting the System;

(3) make grants to and enter into contracts with State and local health agencies to assist them in meeting the costs of data collection and other activities carried out under the System; and

(4) review the statistical activities of the Department of Health and Human Services to assure that they are consistent with the System.

States participating in the System shall designate a State agency to administer or be responsible for the administration of the statistical activities within the State under the System. The Secretary, acting through the Center, shall prescribe guidelines to assure that statistical activities within States participating in the system[1] produce uniform and timely data and assure appropriate access to such data.

[1] So in original. Probably should be capitalized.

(f) Federal-State cooperation

To assist in carrying out this section, the Secretary, acting through the Center, shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 5 of title 41, of any appropriate State or other public agency, and may, without regard to such section, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

(g) Collection of health data; data collection forms

To secure uniformity in the registration and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data.

(h) Registration area records

(1) There shall be an annual collection of data from the records of births, deaths, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such records of the States and municipalities which the Secretary, in his discretion, determines possess records affording satisfactory data in necessary detail and form. The Secretary shall encourage States and registration areas to obtain detailed data on ethnic and racial populations, including subpopulations of Hispanics, Asian Americans, and Pacific Islanders with significant representation in the State or registration area. Each State or registration area shall be paid by the Secretary the Federal share of its reasonable costs (as determined by the Secretary) for collecting and transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

(2) There shall be an annual collection of data from a statistically valid sample concerning the general health, illness, and disability status of the civilian noninstitutionalized population. Specific topics to be addressed under this paragraph, on an annual or periodic basis, shall include the incidence of illness and accidental injuries, prevalence of chronic diseases and impairments, disability, physician visits, hospitalizations, and the relationship between demographic and socioeconomic characteristics and health characteristics.

(i) Technical assistance in effective use of statistics

The Center may provide to public and nonprofit private entities technical assistance in the effective use in such activities of statistics collected or compiled by the Center.

(j) Coordination of health statistical and epidemiological activities

In carrying out the requirements of section 242b(c) of this title and paragraph (1) of subsection (e) of this section, the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health and Human Services by—

(1) establishing standardized means for the collection of health information and statistics under laws administered by the Secretary;

(2) developing, in consultation with the National Committee on Vital and Health Statistics, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1) of this section;

(3) after consultation with the National Committee on Vital and Health Statistics, establishing standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis;

(4) in the case of proposed health data collections of the Department which are required to be reviewed by the Director of the Office of Management and Budget under section 3509[2] of title 44, reviewing such proposed collections to determine whether they conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (2) and (3), and if any such proposed collection is found not to be in conformance, by taking such action as may be necessary to assure that it will conform to such sets of data and standards, and

(5) periodically reviewing ongoing health data collections of the Department, subject to review under such section 3509,[2] to determine if the collections are being conducted in accordance with the minimum sets of data and the standards promulgated pursuant to paragraphs (2) and (3) and, if any such collection is found not to be in conformance, by taking such action as may be necessary to assure that the collection will conform to such sets of data and standards not later than the ninetieth day after the date of the completion of the review of the collection.

(k) National Committee on Vital and Health Statistics; establishment; membership; term of office; compensation; functions; consultations of Secretary with Committee and professional advisory groups

(1) There is established in the Office of the Secretary a committee to be known as the National Committee on Vital and Health Statistics (hereinafter in this subsection referred to as the ''Committee'') which shall consist of 18 members.

(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.

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[2] See References in Text note below.

(3) Of the members of the Committee—

(A) 1 shall be appointed, not later than 60 days after August 21, 1996, by the Speaker of the House of Representatives after consultation with the Minority Leader of the House of Representatives;

(B) 1 shall be appointed, not later than 60 days after August 21, 1996, by the President pro tempore of the Senate after consultation with the Minority Leader of the Senate; and

(C) 16 shall be appointed by the Secretary.

(4) Members of the Committee shall be compensated in accordance with section 210(c) of this title.

(5) The Committee—

(A) shall assist and advise the Secretary—

(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

(ii) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e) of this section, and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e) of this section, and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1) of this section;

(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act [42 U.S.C. 1320d et seq.];

(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

(C) shall report to the Secretary not later than 4 years after August 21, 1996, recommendations and legislative proposals for such standards and electronic exchange; and

(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act [42 U.S.C. 1320d et seq.].

(6) In carrying out health statistical activities under this part, the Secretary shall consult with, and seek the advice of, the Committee and other appropriate professional advisory groups.

(7) Not later than 1 year after August 21, 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding the implementation of part C of title XI of the Social Security Act [42 U.S.C. 1320d et seq.]. Such report shall address the following subjects, to the extent that the Committee determines appropriate:

(A) The extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part.

(B) The extent to which such entities are meeting the security standards adopted under such part and the types of penalties assessed for noncompliance with such standards.

(C) Whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part.

(D) Any problems that exist with respect to implementation of such part.

(E) The extent to which timetables under such part are being met.

(*l*) Data specific to particular ethnic and racial populations

In carrying out this section, the Secretary, acting through the Center, shall collect and analyze adequate health data that is specific to particular ethnic and racial populations, including data collected under national health surveys. Activities carried out under this subsection shall be in addition to any activities carried out under subsection (m) of this section.

(m) Grants for assembly and analysis of data on ethnic and racial populations

(1) The Secretary, acting through the Center, may make grants to public and nonprofit private entities for—

(A) the conduct of special surveys or studies on the health of ethnic and racial populations or subpopulations;

(B) analysis of data on ethnic and racial populations and subpopulations; and

(C) research on improving methods for developing statistics on ethnic and racial populations and subpopulations.

(2) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.

(3) Provisions of section 242m(d) of this title do not apply to surveys or studies conducted by

grantees under this subsection unless the Secretary, in accordance with regulations the Secretary may issue, determines that such provisions are necessary for the conduct of the survey or study and receives adequate assurance that the grantee will enforce such provisions.

(4)(A) Subject to subparagraph (B), the Secretary, acting through the Center, shall collect data on Hispanics and major Hispanic subpopulation groups and American Indians, and for developing special area population studies on major Asian American and Pacific Islander populations.

(B) The provisions of subparagraph (A) shall be effective with respect to a fiscal year only to the extent that funds are appropriated pursuant to paragraph (3) of subsection (n) of this section, and only if the amounts appropriated for such fiscal year pursuant to each of paragraphs (1) and (2) of subsection (n) of this section equal or exceed the amounts so appropriated for fiscal year 1997.

(n) Authorization of appropriations

(1) For health statistical and epidemiological activities undertaken or supported under subsections (a) through (*l*) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 2003.

(2) For activities authorized in paragraphs (1) through (3) of subsection (m) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. Of such amounts, the Secretary shall use not more than 10 percent for administration and for activities described in subsection (m)(2) of this section.

(3) For activities authorized in subsection (m)(4) of this section, there are authorized to be appropriated $1,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(July 1, 1944, ch. 373, title III, §306, as added Pub. L. 93–353, title I, §105, July 23, 1974, 88 Stat. 365; amended Pub. L. 95–623, §§5, 8(a), Nov. 9, 1978, 92 Stat. 3445, 3453; Pub. L. 97–35, title IX, §920, Aug. 13, 1981, 95 Stat. 566; Pub. L. 97–414, §8(b), Jan. 4, 1983, 96 Stat. 2060; Pub. L. 100–177, title I, §§104, 105(a), Dec. 1, 1987, 101 Stat. 988; Pub. L. 101–239, title VI, §6103(e)(2), Dec. 19, 1989, 103 Stat. 2206; Pub. L. 101–527, §7(a), (b)(1), (c), Nov. 6, 1990, 104 Stat. 2327, 2328; Pub. L. 102–54, §13(q)(1)(A)(i), June 13, 1991, 105 Stat. 278; Pub. L. 103–183, title V, §501(a), (d), Dec. 14, 1993, 107 Stat. 2237, 2238; Pub. L. 104–191, title II, §263, Aug. 21, 1996, 110 Stat. 2031; Pub. L. 105–340, title II, §201, Oct. 31, 1998, 112 Stat. 3193; Pub. L. 105–392, title II, §201(b), Nov. 13, 1998, 112 Stat. 3585.)

REFERENCES IN TEXT

Section 3509 of title 44, referred to in subsec. (j)(4), (5), which required submission of certain plans and forms for collection of information to the Director of the Office of Management and Budget for approval, was omitted in the general amendment of chapter 35 of Title 44, Public Printing and Documents, by Pub. L. 96–511, §2(a), Dec. 11, 1980, 94 Stat. 2812. Pub. L. 104–13 subsequently enacted a new section 3509 of Title 44 relating to designation of a central collection agency. Provisions appearing in former section 3509 are contained in section 3507 of Title 44.

The Social Security Act, referred to in subsec. (k)(5)(A)(viii), (D), (7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (g) of this section were contained in section 313 of act July 1, 1944, ch. 373, title III, 58 Stat. 693; Oct. 30, 1970, Pub. L. 91–516, title II, §282, 84 Stat. 1308 (formerly classified to section 245 of this title), prior to repeal by Pub. L. 93–353, §102(a).

Provisions similar to those comprising subsec. (h) of this section were contained in section 312a of act July 1, 1944, ch. 373, title III, as added Aug. 31, 1954, ch. 1158, §2, 68 Stat. 1025 (formerly classified to section 244a of this title), prior to repeal by Pub. L. 93–353, §102(a).

AMENDMENTS

1998—Subsec. (m)(4). Pub. L. 105–392, §201(b)(1), added par. (4).

Subsec. (n)(1). Pub. L. 105–340, §201(1), and Pub. L. 105–392, §201(b)(2), amended par. (1) identically, substituting ''2003'' for ''1998''.

Subsec. (n)(2). Pub. L. 105–392, §201(b)(3)(A), in first sentence, substituted ''paragraphs (1) through (3) of subsection (m)'' for ''subsection (m)'' and substituted ''such sums as may be necessary for each of the fiscal years 1999 through 2003.'' for ''$5,000,000 for fiscal year 1991, $7,500,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for each of the fiscal years 1994 through 2003.''

Pub. L. 105–340, §201(2), substituted ''2003'' for ''1998''.

Subsec. (n)(3). Pub. L. 105–392, §201(b)(3)(B), added par. (3).

1996—Subsec. (k)(1). Pub. L. 104–191, §263(1), substituted ''18'' for ''16''.

Subsec. (k)(2). Pub. L. 104–191, §263(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The members of the Committee shall be appointed by the Secretary from among persons who have distinguished themselves in the fields of health statistics, health planning, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.''

Subsec. (k)(3), (4). Pub. L. 104–191, §263(3), added par. (3) and redesignated former par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (k)(5). Pub. L. 104–191, §263(4), amended par. (5) generally. Prior to amendment, par. (5) consisted of subpars. (A) to (G) relating to Committee functions in assisting and advising the Secretary.

Pub. L. 104–191, §263(3), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (k)(6). Pub. L. 104–191, §263(3), redesignated par. (5) as (6).

Subsec. (k)(7). Pub. L. 104–191, §263(5), added par. (7).

1993—Subsec. (c). Pub. L. 103–183, §501(a)(1), substituted ''Committee on Labor and Human Resources'' for ''Committee on Human Resources''.

Subsec. (g). Pub. L. 103–183, §501(a)(2), substituted ''data'' for ''data which shall be published as a part of the health reports published by the Secretary''.

Subsec. (i). Pub. L. 103–183, §501(a)(3), struck out ''engaged in health planning activities'' after ''entities''.

Subsec. (k)(2). Pub. L. 103–183, §501(a)(4), struck out subpar. (A) designation, substituted ''Members'' for ''Except as provided in subparagraph (B), members'', and struck out subpar. (B) which related to extensions of membership terms of members of National Committee on Vital and Health Statistics whose terms were to expire in calendar years 1988, 1989, and 1990.

Subsec. (*l*). Pub. L. 103–183, §501(a)(5)(A)–(C), redesignated subsec. (m) as (*l*), substituted ''subsection (m)'' for ''subsection (n)'', and struck out former subsec. (*l*) which related to development of plan for collection and

coordination of statistical and epidemiological data on effects of environment on health and establishment of guidelines for compilation, analysis, and distribution of statistics and information necessary for coordinated determination of effects of conditions of employment and indoor and outdoor environmental conditions on public health.

Subsec. (m). Pub. L. 103–183, § 501(a)(5)(B), redesignated subsec. (n) as (m). Former subsec. (m) redesignated (*l*).

Subsecs. (n), (*o*). Pub. L. 103–183, § 501(a)(5)(B), (D), (d), redesignated subsec. (*o*) as (n), in par. (1) substituted ''(*l*)'' for ''(m)'' and ''1998'' for ''1993'', and in par. (2) substituted ''(m)'' for ''(n)'', struck out ''and'' after ''1992,'', inserted '', and $10,000,000 for each of the fiscal years 1994 through 1998'', and substituted ''(m)(2)'' for ''(n)(2)''. Former subsec. (n) redesignated (m).

1991—Subsec. (k)(4)(C). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1990—Subsec. (h). Pub. L. 101–527, § 7(a), designated existing text as par. (1), inserted after second sentence ''The Secretary shall encourage States and registration areas to obtain detailed data on ethnic and racial populations, including subpopulations of Hispanics, Asian Americans, and Pacific Islanders with significant representation in the State or registration area.'', and added par. (2).

Subsecs. (m) to (*o*). Pub. L. 101–527, § 7(b)(1), (c), added subsecs. (m) and (n) and redesignated former subsec. (m) as (*o*) and amended it generally. Prior to amendment, subsec. (*o*) read as follows: ''For health statistical and epidemiological activities undertaken or supported under this section, there are authorized to be appropriated $55,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.''

1989—Subsec. (a). Pub. L. 101–239, § 6103(e)(2)(A), inserted at end ''The Secretary, acting through the Center, shall conduct and support statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.''

Subsec. (b). Pub. L. 101–239, § 6103(e)(2)(B), substituted ''subsection (a) of this section'' for ''section 242b(a) of this title''.

Subsec. (m). Pub. L. 101–239, § 6103(e)(2)(C), added subsec. (m).

1987—Subsec. (a). Pub. L. 100–177, § 104, struck out ''and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs)''.

Subsec. (k)(1). Pub. L. 100–177, § 105(a)(1), substituted ''16 members'' for ''fifteen members''.

Subsec. (k)(2)(A). Pub. L. 100–177, § 105(a)(2), substituted ''terms of 4 years'' for ''terms of three years''.

Subsec. (k)(2)(B). Pub. L. 100–177, § 105(a)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: ''Of the members first appointed—

''(i) five shall be appointed for terms of one year,

''(ii) five shall be appointed for terms of two years, and

''(iii) five shall be appointed for terms of three years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.''

1983—Subsec. (*l*)(2)(D). Pub. L. 97–414 redesignated subpar. (E) as (D) and struck out former subpar. (D) which provided that the Center would serve as a clearinghouse for statistics and information with respect to which guidelines had been established under subpar. (A).

Subsec. (*l*)(2)(E) to (G). Pub. L. 97–414 redesignated subpars. (F) and (G) as (E) and (F), respectively. Former subpar. (E) redesignated (D).

1981—Subsec. (a). Pub. L. 97–35, § 920(d)(1), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (c). Pub. L. 97–35, § 920(d)(2), substituted ''Energy and'' for ''Interstate and Foreign''.

Subsec. (e). Pub. L. 97–35, § 920(a), (d)(1), in par. (3) inserted applicability to other activities, and in par. (4) substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsecs. (j), (k)(4)(C), (D). Pub. L. 97–35, § 920(d)(1), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (*l*)(2). Pub. L. 97–35, § 920(b), (c), (d)(1), in subpar. (A) inserted reference to Office of Federal Statistical Policy and Standards, in subpar. (B)(v) substituted ''Health and Human Services'' for ''Health, Education, and Welfare'', and in subpar. (D) struck out provisions relating to assistance to executive departments.

1978—Subsec. (b). Pub. L. 95–623, § 5(a), struck out ''may'' after ''through the Center,'', substituted in pars. (1) and (2) ''shall collect'' and ''shall undertake'' for ''collect'' and ''undertake'', respectively, and added pars. (3) and (4) and provision for availability of certain appropriated funds from par. (4) payments until expended.

Subsec. (c). Pub. L. 95–623, § 5(b), substituted ''statistical and epidemiological compilations'' for ''statistical compilations'' in two places and ''Committee on Human Resources'' for ''Committee on Labor and Public Welfare'' of the Senate.

Subsec. (e). Pub. L. 95–623, § 5(c)(1), incorporated in introductory text prior cl. (1) provision requiring the Secretary to assist State and local health agencies and Federal agencies involved in health matters in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; enacted in pars. (1) and (2) provisions almost identical to prior cls. (2) and (3); enacted par. (3); struck out former cl. (4) provision for the Federal share of the data collection costs under the system; enacted in par. (4) provisions almost identical to former cl. (5); and required State designation of a State administrative agency to be responsible for the statistical activities within the State under the System and Federal guidelines for production of uniform and timely data and appropriate access to the data.

Subsec. (f). Pub. L. 95–623, § 5(d), substituted ''the Secretary, acting through the Center, shall cooperate and consult'' for ''the Secretary shall cooperate and consult''.

Subsecs. (i), (j). Pub. L. 95–623, § 5(f), added subsecs. (i) and (j). Former subsec. (i) redesignated (k).

Subsec. (k). Pub. L. 95–623, § 5(c)(2), (e), (f), struck from par. (1) ''United States'' before ''National Committee on Vital and Health Statistics''; authorized in par. (2)(A) the appointment of Committee members from distinguished persons in field of health planning; required the Committee to assist and advise the Secretary with respect to the Cooperative Health Statistics System and the standardized means for the collection of health information and statistics to be established by the Secretary; and redesignated such amended subsec. (i) as (k).

Subsec. (*l*). Pub. L. 95–623, § 8(a), added subsec. (*l*).

Change of Name

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

Effective Date of 1990 Amendment

Section 12 of Pub. L. 101–527 provided that: ''This Act and the amendments made by this Act [enacting sections 254c–1, 254t, 256a, 294bb, 294cc, and 300u–6 of this title, amending this section and sections 242m, 254b,

254c, 294m, 294*o*, and 295g–2 of this title, enacting provisions set out as notes under sections 201 and 300u–6 of this title, and repealing provisions set out as a note under section 292h of this title] shall take effect October 1, 1990, or upon the date of the enactment of this Act [Nov. 6, 1990], whichever occurs later.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 105(b) of Pub. L. 100–177 provided that: ''The amendments made by this section [amending this section] shall become effective on January 1, 1988.''

MONEY RECEIVED BY CENTER FROM REIMBURSEMENTS, INTERAGENCY AGREEMENTS, AND SALE OF DATA TAPES TO REMAIN AVAILABLE UNTIL EXPENDED

Pub. L. 103–333, title II, Sept. 30, 1994, 108 Stat. 2550, provided in part: ''That for fiscal year 1995 and subsequent fiscal years amounts received by the National Center for Health Statistics from reimbursements and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242b, 242*l*, 242m, 242p, 1320a, 1320d–1 of this title.

§ 242*l*. International cooperation

(a) Cooperative endeavors; statement of purpose

For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical research, health care technology, and the health services research and statistical activities authorized by section 242k of this title and by subchapter VII of this chapter.

(b) Authority of Secretary; building construction prohibition

In connection with the cooperative endeavors authorized by subsection (a) of this section, the Secretary may—

(1) make such use of resources offered by participating foreign countries as he may find necessary and appropriate;

(2) establish and maintain fellowships in the United States and in participating foreign countries;

(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

(4) make grants or loans of equipment and materials, for use by public or nonprofit institutions or agencies, or by individuals, in participating foreign countries;

(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with biomedical research, health services research, health statistics, or health care technology;

(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments or programs of biomedical research, health services research, health statistical activities, or health care technology activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703(b)[1] of title 5 for persons in the Government service employed intermittently;

(7) procure, in accordance with section 3109 of title 5, the temporary or intermittent services of experts or consultants; and

(8) enter into contracts with individuals for the provision of services (as defined in section 104 of part 37 of title 48, Code of Federal Regulations (48 CFR 37.104)) in participating foreign countries, which individuals may not be deemed employees of the United States for any purpose.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country.

(c) Benefits for overseas assignees

The Secretary may provide to personnel appointed or assigned by the Secretary to serve abroad, allowances and benefits similar to those provided under chapter 9 of title I of the Foreign Service Act of 1990 (22 U.S.C. 4081 et seq.). Leaves of absence for personnel under this subsection shall be on the same basis as that provided under subchapter I of chapter 63 of title 5 to individuals serving in the Foreign Service.

(July 1, 1944, ch. 373, title III, § 307, formerly § 308, as added Pub. L. 86–610, § 3, July 12, 1960, 74 Stat. 364; renumbered § 307 and amended Pub. L. 93–353, title I, § 106, July 23, 1974, 88 Stat. 367; Pub. L. 97–35, title IX, § 921, Aug. 13, 1981, 95 Stat. 566; Pub. L. 101–239, title VI, § 6103(e)(3), Dec. 19, 1989, 103 Stat. 2206; Pub. L. 102–531, title III, § 310, Oct. 27, 1992, 106 Stat. 3503; Pub. L. 103–183, title VII, § 702, Dec. 14, 1993, 107 Stat. 2239.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b)(6), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

The Foreign Service Act of 1990, referred to in subsec. (c), probably means the Foreign Service Act of 1980, which is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071. Chapter 9 of title I of the Act is classified generally to subchapter IX (§ 4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

Section was formerly classified to section 242f of this title.

PRIOR PROVISIONS

A prior section 307 of act July 1, 1944, was classified to section 242e of this title, prior to repeal by Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–183 added subsec. (c).

1992—Subsec. (b)(8). Pub. L. 102–531, which directed amendment of subsec. (b) by adding par. (8) at the end thereof, was executed by adding par. (8) after par. (7) to reflect the probable intent of Congress.

1989—Subsec. (a). Pub. L. 101–239 substituted ''section 242k of this title and by subchapter VII of this chapter'' for ''sections 242b, 242c, 242k, and 242n of this title''.

[1] See References in Text note below.

1981—Subsec. (a). Pub. L. 97–35, § 921(a), inserted reference to health care technology and section 242n of this title.

Subsec. (b). Pub. L. 97–35, § 921(b), in par. (5) inserted reference to health care technology, and in par. (6) inserted reference to health care technology activities.

1974—Pub. L. 93–353 amended section generally.

INTERNATIONAL HEALTH STUDY

Pub. L. 95–83, title III, § 315, Aug. 1, 1977, 91 Stat. 398, provided that the Secretary of Health, Education, and Welfare arrange through the National Academy of Sciences or other nonprofit private groups or associations, for a study to determine opportunities for broadened Federal program activities in areas of international health, which study was to consider biomedical and behavioral research, health services research, health professions education, immunization and public health activities, and other areas that might improve our and other nations' capacities to prevent, diagnose, control, or cure disease, and to organize and deliver effective and efficient health services, with an interim report on such study completed no later than Oct. 1, 1977 and a final report completed no later than Jan. 1, 1978 and both reports submitted to the Secretary, the Committee on Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242m, 300cc–15 of this title; title 22 section 2101.

§ 242m. General provisions respecting effectiveness, efficiency, and quality of health services

(a) Reports to Congress and President; preparation; review by Office of Management and Budget

(1) Not later than March 15 of each year, the Secretary shall submit to the President and Congress the following reports:

(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 242k(b)(1)(G) of this title.

(B) A report on health resources. Such report shall include a description and analysis, by geographical area, of the statistics collected under section 242k(b)(1)(E) of this title.

(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(F) of this title.

(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(A) of this title.

(2) The reports required in paragraph (1) shall be prepared through the National Center for Health Statistics.

(3) The Office of Management and Budget may review any report required by paragraph (1) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting any such report.

(b) Grants or contracts; applications, submittal; application peer review group, findings and recommendations; necessity of favorable recommendation; appointments

(1) No grant or contract may be made under section 242b, 242k, or 242*l* of this title unless an application therefor has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe and unless a peer review group referred to in paragraph (2) has recommended the application for approval.

(2)(A) Each application submitted for a grant or contract under section 242k of this title in an amount exceeding $50,000 of direct costs and for a health services research, evaluation, or demonstration project, or for a grant under section 242k(m) of this title, shall be submitted to a peer review group for an evaluation of the technical and scientific merits of the proposals made in each such application. The Director of the National Center for Health Statistics shall establish such peer review groups as may be necessary to provide for such an evaluation of each such application.

(B) A peer review group to which an application is submitted pursuant to subparagraph (A) shall report its finding and recommendations respecting the application to the Secretary, acting through the Director of the National Center for Health Statistics, in such form and manner as the Secretary shall by regulation prescribe. The Secretary may not approve an application described in such subparagraph unless a peer review group has recommended the application for approval.

(C) The Secretary, acting through the Director of the National Center for Health Statistics, shall make appointments to the peer review groups required in subparagraph (A) from among persons who are not officers or employees of the United States and who possess appropriate technical and scientific qualifications, except that peer review groups regarding grants under section 242k(m) of this title may include appropriately qualified such officers and employees.

(c) Development and dissemination of statistics

The Secretary shall take such action as may be necessary to assure that statistics developed under sections 242b and 242k of this title are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and shall publish, make available, and disseminate such statistics on as wide a basis as is practicable.

(d) Information; publication restrictions

No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under section 242b, 242k, or 242*l* of this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose; and in the case of information obtained in the course of health statistical or epidemiological activities under section 242b or 242k of this title, such information may not be published or

released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

(e) Payment procedures; advances or reimbursement; installments; conditions; reductions

(1) Payments of any grant or under any contract under section 242b, 242k, or 242*l* of this title may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of such section.

(2) The amounts otherwise payable to any person under a grant or contract made under section 242b, 242k, or 242*l* of this title shall be reduced by—

(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

(f) Contracts without regard to section 3324 of title 31 and section 5 of title 41

Contracts may be entered into under section 242b or 242k of this title without regard to section 3324 of title 31 and section 5 of title 41.

(July 1, 1944, ch. 373, title III, §308, as added Pub. L. 93–353, title I, §107(a), July 23, 1974, 88 Stat. 368; amended Pub. L. 94–273, §7(2), Apr. 21, 1976, 90 Stat. 378; Pub. L. 95–83, title I, §104, Aug. 1, 1977, 91 Stat. 384; Pub. L. 95–623, §§2, 6(d), 8(b), Nov. 9, 1978, 92 Stat. 3443, 3451, 3455; Pub. L. 97–35, title IX, §§917(a), (b), 919(a)(2)(B), 922, Aug. 13, 1981, 95 Stat. 564, 565, 567; Pub. L. 97–414, §8(c), Jan. 4, 1983, 96 Stat. 2060; Pub. L. 98–551, §7, Oct. 30, 1984, 98 Stat. 2820; Pub. L. 100–177, title I, §§106(a), 107, 108, Dec. 1, 1987, 101 Stat. 988–990; Pub. L. 100–690, title II, §2612, Nov. 18, 1988, 102 Stat. 4235; Pub. L. 101–239, title VI, §6103(e)(4), Dec. 19, 1989, 103 Stat. 2206; Pub. L. 101–527, §7(b)(2), (d), Nov. 6, 1990, 104 Stat. 2328; Pub. L. 103–183, title V, §501(c), Dec. 14, 1993, 107 Stat. 2237; Pub. L. 105–392, title IV, §401(d), Nov. 13, 1998, 112 Stat. 3587.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (e) of this section were contained in subsec. (a)(3) of section 304 of act July 1, 1944, ch. 373, title III, as added July 28, 1955, ch. 417, §3, 69 Stat. 382, and amended (formerly classified to section 242b(a)(3) of this title), prior to general amendment of section 304 by Pub. L. 93–353, §103.

AMENDMENTS

1998—Subsec. (b)(2)(A), (C). Pub. L. 105–392 substituted ''242k(m)'' for ''242k(n)''.

1993—Subsec. (a)(1). Pub. L. 103–183, §501(c)(1)(A), redesignated subpars. (B) to (E) as (A) to (D), respectively, and struck out former subpar. (A) which read as follows: ''A report on—

''(i) the administration of sections 242b, 242k, and 242*l* of this title and subchapter VII of this chapter during the preceding fiscal year; and

''(ii) the current state and progress of health services research, health statistics, and health care technology.''

Subsec. (a)(2). Pub. L. 103–183, §501(c)(1)(B), substituted ''reports required in paragraph (1) shall be prepared through the National Center'' for ''reports required by subparagraphs (B) through (E) of paragraph (2) shall be prepared through the Agency for Health Care Policy and Research and the National Center''.

Subsec. (c). Pub. L. 103–183, §501(c)(2)(A)–(D), (3), redesignated subsec. (g)(2) as subsec. (c), substituted ''shall take'' for ''shall (A) take'' and ''and shall publish'' for ''and (B) publish'', and struck out former subsec. (c) which read as follows: ''The aggregate number of grants and contracts made or entered into under sections 242b and 242c of this title for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed twenty; and the aggregate amount of funds obligated under grants and contracts under such sections for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed $5,000,000.''

Subsec. (f). Pub. L. 103–183, §501(c)(4), substituted ''section 3324 of title 31 and section 5 of title 41'' for ''sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5)''.

Subsec. (g). Pub. L. 103–183, §501(c)(2)(B), (C), (E), redesignated par. (2) as subsec. (c) and struck out par. (1) which read as follows: ''The Secretary shall—

''(A) publish, make available and disseminate, promptly in understandable form and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations undertaken and supported under sections 242b and 242c of this title;

''(B) make available to the public data developed in such research, demonstrations, and evaluations; and

''(C) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on health services research, demonstrations, and evaluations in health care delivery to public and private entities and individuals engaged in the improvement of health care delivery and the general public; and undertake programs to develop new or improved methods for making such information available.''

Subsec. (h). Pub. L. 103–183, §501(c)(5), struck out subsec. (h) which read as follows:

''(1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of section 242k of this title, a grant or contract under any of such sections of this title with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

''(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 267a—267a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 276c of title 40.

''(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe.''

1990—Subsec. (b)(2)(A). Pub. L. 101–527, § 7(b)(2)(A), inserted ''or for a grant under section 242k(n) of this title,'' after ''demonstration project,''.

Subsec. (b)(2)(C). Pub. L. 101–527, § 7(b)(2)(B), inserted before period at end '', except that peer review groups regarding grants under section 242k(n) of this title may include appropriately qualified such officers and employees''.

Subsec. (b)(3). Pub. L. 101–527, § 7(d), struck out par. (3) which related to applications submitted under section 242k of this title for which a grant or contract may be made under another provision of this chapter.

1989—Pub. L. 101–239, § 6103(e)(4)(A), amended section catchline.

Subsec. (a)(1)(A)(i). Pub. L. 101–239, § 6103(e)(4)(B)(i), substituted ''sections 242b, 242k, and 242*l* of this title and subchapter VII of this chapter'' for ''sections 242b, 242c, 242k, and 242*l* of this title and section 242n of this title''.

Subsec. (a)(2). Pub. L. 101–239, § 6103(e)(4)(B)(ii), substituted ''the Agency for Health Care Policy and Research'' for ''the National Center for Health Services Research and Health Care Technology Assessment''.

Subsec. (b)(1). Pub. L. 101–239, § 6103(e)(4)(C)(i), which directed amendment of par. (1) by substituting ''section 242b, 242k, or 242*l* of this title'' for ''sections 242b, 242c, 242k, 242*l*, and 242n of this title'', was executed by making the substitution for ''section 242b, 242c, 242k, 242*l*, or 242n of this title'' as the probable intent of Congress.

Subsec. (b)(2)(A). Pub. L. 101–239, § 6103(e)(4)(C)(ii), substituted ''under section 242k of this title'' for ''under section 242b or 242c of this title,'' in first sentence, struck out second sentence which read as follows: ''Each application for a grant, contract, or cooperative agreement in an amount exceeding $50,000 of direct costs for the dissemination of research findings or the development of research agendas (including conferences, workshops, and meetings) shall be submitted to a standing peer review group with persons with appropriate expertise and shall not be submitted to any peer review group established to review applications for research, evaluation, or demonstration projects.'', and amended last sentence generally. Prior to amendment, last sentence read as follows: ''The Secretary, acting through the Director of the National Center for Health Services Research and Health Care Technology Assessment (or, as appropriate, through the Director of the National Center for Health Statistics), shall establish such peer review groups as may be necessary to provide for such an evaluation of an application described in the first two sentences of this subparagraph.''

Subsec. (b)(2)(B). Pub. L. 101–239, § 6103(e)(4)(C)(iii), substituted ''the Director of the National Center for Health Statistics'' for ''the Director involved''.

Subsec. (b)(2)(C). Pub. L. 101–239, § 6103(e)(4)(C)(iv), substituted ''the Director of the National Center for Health Statistics'' for ''the Directors''.

Subsec. (b)(3). Pub. L. 101–239, § 6103(e)(4)(C)(v), substituted ''submitted under section 242k of this title'' for ''submitted under section 242b, 242c, or 242k of this title'' and ''approved under any of such sections'' for ''approved under section 242b, 242c, or 242k of this title''.

Subsec. (d). Pub. L. 101–239, § 6103(e)(4)(D), substituted ''section 242b, 242k, or 242*l* of this title'' for ''section 242b, 242c, 242k, 242*l*, or 242n of this title'', struck out ''(1)'' after ''for such other purpose; and'', and substituted ''publication or release in other form.'' for ''publication or release in other form, and (2) in the case of information obtained in the course of health services research, evaluations, or demonstrations under section 242b or 242c of this title or in the course of health care technology activities under section 242n of this title, such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.''

Subsec. (e)(1), (2). Pub. L. 101–239, § 6103(e)(4)(E), substituted ''section 242b, 242k, or 242*l* of this title'' for ''section 242b, 242c, 242k, 242*l*, or 242n of this title''.

Subsec. (f). Pub. L. 101–239, § 6103(e)(4)(F), substituted ''section 242b or 242k of this title'' for ''section 242b, 242c, 242k, or 242n of this title''.

Subsec. (g)(1). Pub. L. 101–239, § 6103(e)(4)(G)(i), struck out at end ''Except as provided in subsection (d) of this section, the Secretary may not restrict the publication and dissemination of data from, and results of projects undertaken by, centers supported under section 242c(d) of this title.''

Subsec. (g)(2). Pub. L. 101–239, § 6103(e)(4)(G)(ii), substituted ''sections 242b and 242k of this title'' for ''sections 242b, 242c, 242k, and 242n of this title''.

Subsec. (h)(1). Pub. L. 101–239, § 6103(e)(4)(H), substituted ''effectuate the purposes of section 242k of this title'' for ''effectuate the purposes of section 242b, 242c, 242k, or 242n of this title'' and ''contract under any of such sections'' for ''contract under section 242b, 242c, 242k, or 242n of this title''.

Subsec. (i). Pub. L. 101–239, § 6103(e)(4)(I), struck out subsec. (i) which authorized appropriations for carrying out certain programs under sections 242b, 242c, 242k, and 242n of this title during fiscal years 1988 to 1990.

1988—Subsec. (b)(2)(A). Pub. L. 100–690 inserted after first sentence ''Each application for a grant, contract, or cooperative agreement in an amount exceeding $50,000 of direct costs for the dissemination of research findings or the development of research agendas (including conferences, workshops, and meetings) shall be submitted to a standing peer review group with persons with appropriate expertise and shall not be submitted to any peer review group established to review applications for research, evaluation, or demonstration projects.'' and substituted ''an application described in the first two sentences of this subparagraph'' for ''each such application'' in last sentence.

1987—Subsec. (a)(1), (2). Pub. L. 100–177, § 106(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) Not later than December 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of sections 242b, 242c, 242k, and 242*l* and section 242n of this title during the preceding fiscal year, and (B) the current state and progress of health services research and, health statistics, and health care technology.

''(2) The Secretary, acting through the National Center for Health Services Research and the National Center for Health Statistics, shall assemble and submit to the President and the Congress not later than December 1 of each year the following reports:

''(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 242k(b)(1)(G) of this title.

''(B) A report on health resources. Such report shall include a description and analysis, by geographic area, of the statistics collected under section 242k(b)(1)(E) of this title.

''(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(F) of this title.

''(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 242k(b)(1)(A) of this title.''

Subsec. (a)(3). Pub. L. 100–177, § 106(a)(2), struck out ''or (2)'' after ''paragraph (1)''.

Subsec. (b)(1). Pub. L. 100–177, § 107(1), inserted ''and unless a peer review group referred to in paragraph (2) has recommended the application for approval'' before period at end.

Subsec. (b)(2). Pub. L. 100–177, § 107(2), added par. (2) and struck out former par. (2) which read as follows: ''Each application submitted for a grant or contract under section 242b or 242c of this title, in an amount exceeding $50,000 of direct costs and for a health services research, evaluation, or demonstration project, shall be

submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is submitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall by regulation prescribe.''

Subsec. (i). Pub. L. 100–177, §108, amended subsec. (i) generally, substituting provisions authorizing appropriations for fiscal years 1988 to 1990 for carrying out activities under sections 242b, 242c, 242k, and 242n of this title for former provisions authorizing appropriations for fiscal years 1975 to 1987 for carrying out activities under those sections.

1984—Subsec. (i)(1). Pub. L. 98–551, §7(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987, inserted ''and Health Care Technology Assessment'' after ''Research'', substituted ''and at least 10 per centum of such amount or $1,500,000, whichever is less, shall be available only for the user liaison program and the technical assistance program referred to in section 242c(c)(2) of this title and for dissemination activities directly undertaken through such Center'' for ''and at least 5 per centum of such amount or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken through such Center'', inserted ''For health care technology assessment activities undertaken under subsections (b)(5), (e), (f), and (g) of section 242c of this title the Secretary shall obligate from funds appropriated under this paragraph not less than $3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, and $4,000,000 for the fiscal year ending September 30, 1987. For grants under section 242n of this title the Secretary shall obligate from funds appropriated under this paragraph not less than $500,000 for the fiscal year ending September 30, 1985, $750,000 for the fiscal year ending September 30, 1986, and $750,000 for the fiscal year ending September 30, 1987.'', and in last sentence substituted ''for any fiscal year'' for ''for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984,''.

Subsec. (i)(2). Pub. L. 98–551, §7(b), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987.

1983—Subsec. (d). Pub. L. 97–414 inserted '', if an establishment or person supplying the information or described in it is identifiable,'' after ''No information'', and substituted ''such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose'' for ''authorized by guidelines in effect under section 242k(*l*)(2) of this title or under regulations of the Secretary''.

1981—Subsec. (a)(2). Pub. L. 97–35, §922(a), substituted ''December'' for ''September'', which change had already been made by Pub. L. 94–273.

Subsec. (b)(2). Pub. L. 97–35, §922(b), substituted ''$50,000'' for ''$35,000''.

Subsec. (d)(2). Pub. L. 97–35, §922(c), inserted applicability to health care technology activities under section 242n of this title.

Subsec. (i)(1). Pub. L. 97–35, §§917(a), 919(a)(2)(B), inserted provisions respecting amounts of and limitations on uses for appropriations for the fiscal years ending Sept. 30, 1982, 1983, and 1984.

Subsec. (i)(2). Pub. L. 97–35, §917(b), inserted provisions respecting appropriations for the fiscal years ending Sept. 30, 1982, 1983, and 1984.

1978—Subsec. (a)(1). Pub. L. 95–623, §6(d)(1), required the report to cover the administration of section 242n of this title and the current state and progress of health care technology.

Subsec. (b)(1). Pub. L. 95–623, §6(d)(2), inserted reference to grant or contract under section 242n of this title.

Subsec. (d). Pub. L. 95–623, §§6(d)(3), 8(b), inserted reference to section 242n of this title and substituted in cl. (1) ''statistical or epidemiological activities'' for ''statistical activities''; and authorized use of information for purposes other than for which supplied when authorized by guidelines in effect under section 242k(*l*)(2) of this title.

Subsecs. (e), (f), (g)(2), (h)(1). Pub. L. 95–623, §6(d)(4)–(7), inserted references to section 242n of this title.

Subsec. (i)(1). Pub. L. 95–623, §2(a), authorized appropriation of $35,000,000; $40,000,000; and $45,000,000 for fiscal years ending Sept. 30, 1979, through 1981, and substituted minimum amounts of the lesser of 20 per centum of appropriated funds or $6,000,000 for health services research, evaluation and demonstration activities of the National Center for Health Services Research and 5 per centum of such funds or $1,000,000 for dissemination activities of such Center for prior similar requirement of 25 per centum of appropriated funds for the applicable fiscal years for health services research, evaluation, and demonstration activities of the Secretary.

Subsec. (i)(2). Pub. L. 95–623, §2(b), authorized appropriation of $50,000,000; $65,000,000; and $70,000,000 for fiscal years ending Sept. 30, 1979, through 1981.

1977—Subsec. (i)(1). Pub. L. 95–83, §104(a), authorized appropriation of $28,600,000 for fiscal year ending Sept. 30, 1978.

Subsec. (i)(2). Pub. L. 95–83, §104(b), authorized appropriation of $33,600,000 for fiscal year ending Sept. 30, 1978.

1976—Subsec. (a). Pub. L. 94–273 substituted ''December'' for ''September'' wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–392, title IV, §401(e), Nov. 13, 1998, 112 Stat. 3587, provided that: ''This section [amending this section and sections 247b–5, 247b–6, 247c, 285f–2, 300d–1 to 300d–3, 300d–13, 300d–32, 300k, and 300n–1 of this title] is deemed to have taken effect immediately after the enactment of Public Law 103–183 [Dec. 14, 1993].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2600 of Pub. L. 100–690 provided that: ''Except as provided in section 2613(b)(1) [42 U.S.C. 285m note], the amendments made by this subtitle [subtitle G (§§2600–2641) of title II of Pub. L. 100–690, enacting sections 285m–4 to 285m–6 of this title, amending this section, sections 242c, 281, 284, 284c, 285j, 285m, 285m–1 to 285m–6, 286, 289f, 290cc–28, 290cc–36, 292h, 294a, 295g–4, 295g–7, 295g–8b, 295h, 295h–5, 295j, 297j, 297n, 300cc–3, 300cc–13, 300cc–17, 300cc–20, 300cc–31, 300dd–1, 300dd–3, 300dd–8, 300dd–10, 300dd–12 to 300dd–14, 300dd–21, 300dd–32, 300ee, 300ee–2, 300ee–5, 300ee–12, 300ee–13, 300ee–15 to 300ee–18, 300ee–20, 300ee–22, 300ee–34, 300ff–48, and 300aaa to 300aaa–13 of this title, and section 393 of Title 21, Food and Drugs, enacting provisions set out as notes under section 285m of this title, amending provisions set out as notes under sections 201, 292h, 300cc, 300ee–1, and 300ff–48 of this title, and repealing provisions set out as a note under section 285m of this title] shall take effect immediately after the enactment of the Health Omnibus Programs Extension of 1988 [Nov. 4, 1988].''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 106(c) of Pub. L. 100–177 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 242p of this title] shall apply to reports and profiles required to be submitted after November 1, 1987.''

MINE WORKERS STUDY; REPORT COMPLETED AND SUBMITTED NO LATER THAN 30 MONTHS AFTER NOVEMBER 9, 1978

Section 10 of Pub. L. 95–623, as amended by S. Res. 30, Mar. 7, 1979; H. Res. 549, Mar. 25, 1980, required the Secretary, acting through the National Center for Health Services Research, to arrange for the conduct of a study to evaluate the impact upon the utilization of

health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of Mar. 1978 with a report to be submitted to the Secretary and specific committees of the Senate and House of Representatives within 30 months after Nov. 9, 1978.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1977

Section 107(b) of Pub. L. 93–353 provided that: ''The authorizations of appropriations provided by section 308(i) of the Public Health Service Act [subsec. (i) of this section] is extended for the fiscal year ending June 30, 1977, in the amounts authorized for the preceding fiscal year unless before June 30, 1976, Congress has passed legislation repealing this subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242k, 242p of this title.

§ 242n. Repealed. Pub. L. 101–239, title VI, § 6103(d)(1)(B), Dec. 19, 1989, 103 Stat. 2205

Section, act July 1, 1944, ch. 373, title III, § 309, as added Nov. 9, 1978, Pub. L. 95–623, § 6(c), 92 Stat. 3447; amended July 10, 1979, Pub. L. 96–32, § 5(d), 93 Stat. 83; Aug. 13, 1981, Pub. L. 97–35, title IX, §§ 917(c), 923, 95 Stat. 565, 567; Oct. 30, 1984, Pub. L. 98–551, § 8, 98 Stat. 2820; Oct. 7, 1985, Pub. L. 99–117, § 8(a), 99 Stat. 493; Dec. 1, 1987, Pub. L. 100–177, title I, § 109, 101 Stat. 990, related to grants for a council on health care technology.

TERMINATION OF COUNCIL ON HEALTH CARE TECHNOLOGY

Section 6103(d)(1)(B) of Pub. L. 101–239 provided in part that the council on health care technology established under this section is terminated.

TRANSITIONAL AND SAVINGS PROVISIONS FOR PUB. L. 101–239

For provision transferring personnel of Department of Health and Human Services employed on Dec. 19, 1989, in connection with functions vested in Administrator for Health Care Policy and Research pursuant to amendments made by section 6103 of Pub. L. 101–239, and assets, liabilities, etc., of Department arising from or employed, held, used, or available on that date, or to be made available after that date, in connection with those functions, to Administrator for appropriate allocation, and for provisions for continued effectiveness of actions, orders, rules, official documents, etc., of Department that have been issued, made, granted, or allowed to become effective in performance of those functions, and that were effective on Dec. 19, 1989, see section 6103(f) of Pub. L. 101–239, set out as a note under section 299 of this title.

§ 242*o*. Health conferences; publication of health educational information

(a) A conference of the health authorities in and among the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

(b) From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions concerned with health services.

(July 1, 1944, ch. 373, title III, § 310, formerly §§ 309, 310, as added Pub. L. 93–353, title I, § 107(a), July 23, 1974, 88 Stat. 371; renumbered § 310, Pub. L. 95–623, § 6(a), (b), Nov. 9, 1978, 92 Stat. 3447.)

CODIFICATION

Subsec. (a) of this section consists of former section 309 of act July 1, 1944, prior to the renumbering of that section as section 310(a) by Pub. L. 95–623. Subsec. (b) of this section consists of former section 310 of act July 1, 1944, prior to the renumbering of that section as section 310(b) by Pub. L. 95–623.

PRIOR PROVISIONS

A prior section 310 of act July 1, 1944, was renumbered section 329, and was classified to section 254b of this title prior to the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104–299.

Provisions similar to those comprising subsec. (a) of this section were contained in section 312 of act July 1, 1944, ch. 373, title III, 58 Stat. 693, as amended (formerly classified to section 244 of this title), prior to repeal by Pub. L. 93–353, § 102(a).

Provisions similar to those comprising subsec. (b) of this section were contained in section 315 of act July 1, 1944, ch. 373, title III, 58 Stat. 695; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308 (formerly classified to section 247 of this title), prior to repeal by Pub. L. 93–353, § 102(a).

§ 242p. National disease prevention data profile

(a) The Secretary, acting through the National Center for Health Statistics, shall submit to Congress on March 15, 1990, and on March 15 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventable diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

(b) In preparing the profile required by subsection (a) of this section, the Secretary, acting through the National Center for Health Statis-

tics, shall comply with all relevant provisions of sections 242k and 242m of this title.

(Pub. L. 95–626, title IV, § 404, Nov. 10, 1978, 92 Stat. 3591; Pub. L. 100–177, title I, § 106(b), Dec. 1, 1987, 101 Stat. 989.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 95–626, Nov. 10, 1978, 92 Stat. 3551, known as the Health Services and Centers Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendments note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Health Services and Centers Amendments of 1978, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–177 substituted ''on March 15, 1990, and on March 15 of every third year thereafter'' for ''on December 1, 1980, and on December 1 of every third year thereafter'' in first sentence.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–177 applicable to reports and profiles required to be submitted after Nov. 1, 1987, see section 106(c) of Pub. L. 100–177, set out as a note under section 242m of this title.

§ 242q. Task Force on Aging Research; establishment and duties

(a) Establishment

The Secretary of Health and Human Services shall establish a Task Force on Aging Research.

(b) Duties

With respect to aging research (as defined in section 242q–4 of this title), the Task Force each fiscal year shall—

(1) make recommendations to the Secretary specifying the particular projects of research, or the particular categories of research, that should be conducted or supported by the Secretary;

(2) of the projects specified under paragraph (1), make recommendations to the Secretary of the projects that should be given priority in the provision of funds; and

(3) make recommendations to the Secretary of the amount of funds that should be appropriated for such research.

(c) Provision of information to public

The Task Force may make available to health professionals, and to other members of the public, information regarding the research described in subsection (b) of this section.

(Pub. L. 101–557, title III, § 301, Nov. 15, 1990, 104 Stat. 2768.)

CODIFICATION

Section was enacted as part of the Home Health Care and Alzheimer's Disease Amendments of 1990, and not as part of the Public Health Service Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242q–2, 242q–3, 242q–4, 242q–5 of this title.

§ 242q–1. Membership

(a) Composition

The Task Force shall be composed of—

(1) the Assistant Secretary for Health;

(2) the Surgeon General of the Public Health Service;

(3) the Assistant Secretary for Planning and Evaluation;

(4) the Director of the National Institute on Aging, and the Directors of such other agencies of the National Institutes of Health as the Secretary determines to be appropriate;

(5) the Commissioner of the Administration on Aging;

(6) the Commissioner of Food and Drugs;

(7) the Under Secretary for Health of the Department of Veterans Affairs;

(8) the Administrator of the the[1] Substance Abuse and Mental Health Services Administration;

(9) the Administrator of the Health Care Financing Administration;

(10) the Commissioner of Social Security;

(11) the Administrator for Health Care Policy and Research;

(12) two Members of the House of Representatives appointed by the Speaker of the House in consultation with the Minority Leader, and two members of the Senate appointed by the Majority Leader in consultation with the Minority Leader, not more than one of whom from each body shall be members of the same political party; and

(13) three members of the general public, to be appointed by the Secretary, that shall include one representative each from—

(A) a nonprofit group representing older Americans;

(B) a private voluntary health organization concerned with the health problems affecting older Americans; and

(C) a nonprofit organization concerned with research related to the health and independence of older Americans.

(b) Chair

The Secretary, acting through either the Assistant Secretary for Health or the Director of the National Institute on Aging, shall serve as the Chair of the Task Force.

(c) Quorum

A majority of the members of the Task Force shall constitute a quorum, and a lesser number may hold hearings.

(d) Meetings

The Task Force shall meet periodically at the call of the Chair, but in no event less than twice each year.

(e) Compensation and expenses

(1) Compensation

Members of the Task Force who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Task Force or otherwise engaged in the business of the Task Force (including traveltime), be entitled to receive

[1] So in original.

compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS–18 of the General Schedules established under section 5332 of title 5.

(2) Expenses

While away from their homes or regular places of business on the business of the Task Force, members of such Task Force may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5 for persons employed intermittently in the Government service.

(Pub. L. 101–557, title III, § 302, Nov. 15, 1990, 104 Stat. 2769; Pub. L. 102–321, title I, § 161, July 10, 1992, 106 Stat. 375; Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985.)

CODIFICATION

Section was enacted as part of the Home Health Care and Alzheimer's Disease Amendments of 1990, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1992—Subsec. (a)(7). Pub. L. 102–405 substituted ''Under Secretary for Health of the Department of Veterans Affairs'' for ''Chief Medical Director of the Department of Veterans Affairs''.

Subsec. (a)(8). Pub. L. 102–321 substituted ''Substance Abuse and Mental Health Services Administration'' for ''Alcohol, Drug Abuse and Mental Health Administration''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242q–4, 242q–5 of this title.

§ 242q–2. Administrative staff and support

The Secretary, acting through either the Assistant Secretary for Health or the Director of the National Institute on Aging, shall appoint an Executive Secretary for the Task Force and shall provide the Task Force with such administrative staff and support as may be necessary to enable the Task Force to carry out subsections (b) and (c) of section 242q of this title.

(Pub. L. 101–557, title III, § 303, Nov. 15, 1990, 104 Stat. 2770.)

CODIFICATION

Section was enacted as part of the Home Health Care and Alzheimer's Disease Amendments of 1990, and not as part of the Public Health Service Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242q–4, 242q–5 of this title.

§ 242q–3. Reports

(a) In general

Not later than 1 year after November 15, 1990, and annually thereafter, the Task Force shall prepare and submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report providing the recommendations required in section 242q(b) of this title.

(b) Availability to public

The Task Force may make available to the public copies of the reports required in subsection (a) of this section.

(Pub. L. 101–557, title III, § 304, Nov. 15, 1990, 104 Stat. 2770.)

CODIFICATION

Section was enacted as part of the Home Health Care and Alzheimer's Disease Amendments of 1990, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242q–4, 242q–5 of this title.

§ 242q–4. Definitions

For purposes of sections 242q to 242q–5 of this title:

(1) Aging research

(A) The term ''aging research'' means research on the aging process and on the diagnosis and treatment of diseases, disorders, and complications related to aging, including menopause. Such research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals.

(B) For purposes of subparagraph (A), the term ''independence'', with respect to diseases, disorders, and complications of aging, means the functional ability of individuals to perform activities of daily living or instrumental activities of daily living without assistance or supervision.

(2) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(3) Task Force

The term ''Task Force'' means the Task Force on Aging Research established under section 242q(a) of this title.

(Pub. L. 101–557, title III, § 305, Nov. 15, 1990, 104 Stat. 2770.)

CODIFICATION

Section was enacted as part of the Home Health Care and Alzheimer's Disease Amendments of 1990, and not

as part of the Public Health Service Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242q, 242q–5 of this title.

§ 242q–5. Authorization of appropriations

For the purpose of carrying out sections 242q to 242q–5 of this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

(Pub. L. 101–557, title III, § 306, Nov. 15, 1990, 104 Stat. 2770.)

CODIFICATION

Section was enacted as part of the Home Health Care and Alzheimer's Disease Amendments of 1990, and not as part of the Public Health Service Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242q–4 of this title.

PART B—FEDERAL-STATE COOPERATION

§ 243. General grant of authority for cooperation

(a) Enforcement of quarantine regulations; prevention of communicable diseases

The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this chapter which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases and with respect to other public health matters, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations, and shall advise the several States on matters relating to the preservation and improvement of the public health.

(b) Comprehensive and continuing planning; training of personnel for State and local health work; fees

The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out public health activities. The Secretary is also authorized to train personnel for State and local health work. The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.

(c) Development of plan to control epidemics and meet emergencies or problems resulting from disasters; cooperative planning; temporary assistance; reimbursement of United States

(1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition and to meet other health emergencies or problems. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies).

(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of six months) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.

(July 1, 1944, ch. 373, title III, § 311, 58 Stat. 693; Pub. L. 89–749, § 5, Nov. 3, 1966, 80 Stat. 1190; Pub. L. 90–174, § 4, Dec. 5, 1967, 81 Stat. 536; Pub. L. 91–515, title II, § 282, Oct. 30, 1970, 84 Stat. 1308; Pub. L. 94–317, title II, § 202(b), (c), June 23, 1976, 90 Stat. 703; Pub. L. 97–35, title IX, § 902(c), Aug. 13, 1981, 95 Stat. 559; Pub. L. 97–414, § 8(d), Jan. 4, 1983, 96 Stat. 2060; Pub. L. 99–117, § 11(a), Oct. 7, 1985, 99 Stat. 494.)

AMENDMENTS

1985—Subsec. (c)(1). Pub. L. 99–117 struck out "referred to in section 247b(f) of this title" after "epidemics of any disease or condition", "involving or resulting from disasters or any such disease" after "health emergencies or problems" in first sentence, and struck out "resulting from disasters or any disease or condition referred to in section 247b(f) of this title" after "(including epidemics and health emergencies)" in second sentence.

1983—Subsec. (c)(2). Pub. L. 97–414 substituted "six months" for "forty-five days" after "not in excess of".

1981—Subsec. (a). Pub. L. 97–35, § 902(c)(1), inserted applicability to other public health matters, and struck out reference to section 246 of this title.

Subsec. (b). Pub. L. 97–35, § 902(c)(2), substituted "public health activities" for "the purposes of section 246 of this title".

1976—Subsec. (b). Pub. L. 94–317, § 202(c), inserted provision authorizing Secretary to charge only private entities reasonable fees for training of their personnel.

Subsec. (c). Pub. L. 94–317, § 202(b), made changes in phraseology and restructured provisions into pars. (1) and (2) and, in par. (1), as so restructured, inserted provisions authorizing Secretary to develop a plan utilizing Public Health Service personnel, equipment, medical supplies and other resources to control epidemics of any disease referred to in section 247b of this title.

1970—Subsecs. (a), (b). Pub. L. 91–515 substituted "Secretary" for "Surgeon General" wherever appearing.

1967—Subsec. (c). Pub. L. 90–174 added subsec. (c).

1966—Pub. L. 89–749 designated existing provisions as subsec. (a), added subsec. (b), and amended subsec. (b) to permit Surgeon General to train personnel for State and local health work.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as a note under section 238*l* of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5(a) of Pub. L. 89–749 provided that subsec. (b) of this section is effective July 1, 1966.

Section 5(b) of Pub. L. 89–749 provided that the amendment of subsec. (b) of this section, permitting

the Surgeon General to train personnel for State and local health work, is effective July 1, 1967.

TRAINING OF PRIVATE PERSONS SUBJECT TO REIMBURSEMENT OR ADVANCES TO APPROPRIATIONS

Pub. L. 103–333, title II, Sept. 30, 1994, 108 Stat. 2550, provided in part: ''That for fiscal year 1995 and subsequent fiscal years training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7610 of this title.

§ 244. Repealed. Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362

Section, acts July 1, 1944, ch. 373, title III, § 312, 58 Stat. 693; July 3, 1946, ch. 538, § 8, 60 Stat. 424; Dec. 5, 1967, Pub. L. 90–174, § 12(b), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308, provided for health conferences. See section 242*o*(a) of this title.

§ 244–1. Repealed. Pub. L. 94–484, title V, § 503(b), Oct. 12, 1976, 90 Stat. 2300

Section, act July 1, 1944, ch. 373, title III, § 312, formerly § 306, as added Aug. 2, 1956, ch. 871, title I, § 101, 70 Stat. 923; amended July 23, 1959, Pub. L. 86–105, § 1, 73 Stat. 239; Sept 8, 1960, Pub. L. 86–720, § 1(b), 74 Stat. 820; Aug. 27, 1964, Pub. L. 88–497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(b), 82 Stat. 789; Mar. 12, 1970, Pub. L. 91–208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; June 18, 1973, Pub. L. 93–45, title I, § 104(a), 87 Stat. 91; renumbered § 312 and amended July 23, 1974, Pub. L. 93–353, title I, § 102(b), 88 Stat. 362; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(a)(1), 90 Stat. 2244, related to graduate or specialized training for physicians, engineers, nurses, and other professional personnel.

EFFECTIVE DATE OF REPEAL

Section 503(c) of Pub. L. 94–484 provided that: ''The amendments made by this section [amending former section 295f–2 of this title and repealing this section and section 245a of this title] shall take effect October 1, 1977.''

§§ 244a, 245. Repealed. Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362

Section 244a, act July 1, 1944, ch. 373, title III, § 312a, as added Aug. 31, 1954, ch. 1158, § 2, 68 Stat. 1025, related to birth and death statistics, annual collection, and compensation for transcription. See section 242k(h) of this title.

Section 245, acts July 1, 1944, ch. 373, title III, § 313, 58 Stat. 693; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308, provided for collection of vital statistics. See section 242k(g) of this title.

§ 245a. Repealed. Pub. L. 94–484, title V, § 503(b), Oct. 12, 1976, 90 Stat. 2300

Section, act July 1, 1944, ch. 373, title III, § 313, formerly § 309, as added Sept. 8, 1960, Pub. L. 86–720, § 1(a), 74 Stat. 819; amended Aug. 27, 1964, Pub. L. 88–497, § 3, 78 Stat. 613; Nov. 3, 1966, Pub. L. 89–749, § 4, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90–174, §§ 2(g), 8(c), 81 Stat. 534, 540; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(a), 82 Stat. 788; Mar. 12, 1970, Pub. L. 91–208, §§ 1, 2, 84 Stat. 52; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(B), 84 Stat. 352; June 18, 1973, Pub. L. 93–45, title I, § 104(b), (c), 87 Stat. 91; renumbered § 313 and amended July 23, 1974, Pub. L. 93–353, title I, § 102(c), 88 Stat. 362; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(a)(2), (3), 90 Stat. 2244, related to graduate public health training grants.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1977, see section 503(c) of Pub. L. 94–484, set out as a note under section 244–1 of this title.

§ 246. Grants and services to States

(a) Comprehensive health planning and services

(1) In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, and $10,000,000 for the fiscal year ending June 30, 1974.

(2) In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health care facilities of the Department of Veterans Affairs, the individual whom the Secretary of Veterans Affairs shall have designated to serve on such council as the representative of the hospitals or other health care facilities of such Department which are located in such State) and nongovernmental organizations and groups concerned with health (including representation of the regional medical program or programs included in whole or in part within the State), and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to provide for comprehensive State planning for health services (both public and private and including home health care), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State and including environmental considerations as they relate to public health;

(D) provide for encouraging cooperative efforts among governmental or nongovern-

mental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommend appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

(3)(A) From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year.

(4) From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The ''Federal share'' for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum of such cost.

(b) Project grants for areawide health planning; authorization of appropriations; prerequisites for grants; application; contents

(1)(A) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1974, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section, project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such serv-

ices; and including the provision of such services through home health care; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1967, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, and $25,100,000 for the fiscal year ending June 30, 1974.

(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

(2)(A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services.

(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan which will meet the needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

(c) Project grants for training, studies, and demonstrations; authorization of appropriations

The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1974, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, $7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, $12,000,000 for the fiscal year ending June 30, 1973, and $4,700,000 for the fiscal year ending June 30, 1974.

(July 1, 1944, ch. 373, title III, § 314, 58 Stat. 693; July 3, 1946, ch. 538, § 9, 60 Stat. 424; June 16, 1948, ch. 481, § 5, 62 Stat. 468; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 852, § 18, 70 Stat. 910; Pub. L. 85–544, § 1, July 22, 1958, 72 Stat. 400; Pub. L. 87–395, § 2(a)–(d), Oct. 5, 1961, 75 Stat. 824; Pub. L. 87–688, § 4(a)(1), Sept. 25, 1962, 76 Stat. 587; Pub. L. 89–109, § 4, Aug. 5, 1965, 79 Stat. 436; Pub. L. 89–749, § 3, Nov. 3, 1966, 80 Stat. 1181; Pub. L. 90–174, §§ 2(a)–(f), 3(b)(2), 8(a), (b), 12(d), Dec. 5, 1967, 81 Stat. 533–535, 540, 541; Pub. L. 91–296, title I, § 111(b), title IV, § 401(b)(1)(C), (D), June 30, 1970, 84 Stat. 340, 352; Pub. L. 91–513, title I, § 3(b), Oct. 27, 1970, 84 Stat. 1241; Pub. L. 91–515, title II, §§ 220, 230, 240, 250, 260(a)–(c)(1), 282, Oct. 30, 1970, 84 Stat. 1304–1306, 1308; Pub. L. 91–616, title III, § 331, Dec. 31, 1970, 84 Stat. 1853; Pub. L. 91–648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925, as amended Pub. L. 95–454, title VI, § 602(c), Oct. 13, 1978, 92 Stat. 1189; Pub. L. 92–255, title IV, § 403(a), Mar. 21, 1972, 86 Stat. 77; Pub. L. 93–45, title I, § 106, June 18, 1973, 87 Stat. 92; Pub. L. 93–151, § 8, Nov. 9, 1973, 87 Stat. 568; Pub. L. 94–63, title I, § 102, title V, § 501(b), title VII, § 701(a), (b), July 29, 1975, 89 Stat. 304, 346, 352; Pub. L. 94–484, title IX, § 905(b)(1), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–83, title III, § 302, Aug. 1, 1977, 91 Stat. 387; Pub. L. 95–454, title VI, § 602(c), Oct. 13, 1978, 92 Stat. 1189; Pub. L. 95–622, title I, § 109, Nov. 9, 1978, 92 Stat. 3417; Pub. L. 95–626, title II, § 201(a), (b)(2), Nov. 10, 1978, 92 Stat. 3570; Pub. L. 96–32, § 6(e), (f), July 10, 1979, 93 Stat. 83; Pub. L. 96–79, title I, § 115(k)(2), Oct. 4, 1979, 93 Stat. 610; Pub. L. 96–398, title I, § 107(d), Oct. 7, 1980, 94 Stat. 1571; Pub. L. 97–35, title IX, § 902(b), Aug. 13, 1981, 95 Stat. 559; Pub. L. 99–117, § 12(a), Oct. 7, 1985, 99 Stat. 495; Pub. L. 102–54, § 13(q)(1)(D), June 13, 1991, 105 Stat. 279.)

AMENDMENTS

1991—Subsec. (a)(2)(B). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'', ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs'' and ''such Department'' for ''such Administration''.

1985—Subsec. (g). Pub. L. 99–117 directed that subsec. (g) be repealed. Previously, subsec. (g) was repealed by Pub. L. 96–398. See 1980 Amendment note below.

1981—Subsec. (d). Pub. L. 97–35 struck out subsec. (d) which related to grants for services, form, manner, etc.,

of application, review of activities undertaken, allotments, and authorization of appropriations.

1980—Subsec. (g). Pub. L. 96–398 struck out subsec. (g) which related to application, procedures applicable, amount, etc., for State mental health program grants.

1979—Subsec. (d)(2)(C)(ii). Pub. L. 96–32, §6(e), substituted ''uniform national health program reporting system'' for ''uniform national reporting system''.

Subsec. (d)(4)(A). Pub. L. 96–32, §6(f), in provision following subd. (II) of cl. (ii), substituted ''the preceding provisions of this subparagraph'' for ''clauses (i) and (ii)'' and ''amount'' for ''amounts'' and inserted provision that if the amount appropriated for a fiscal year is equal to or less than the amount appropriated for fiscal year ending Sept. 30, 1979, the total amount of grants for a State health authority shall be an amount which bears the same ratio to the amount appropriated as the total amount of grants received by such authority from appropriations for fiscal year ending Sept. 30, 1979, bears to the amount appropriated for that fiscal year.

Subsec. (g)(2)(D)(iv). Pub. L. 96–79 substituted ''a plan which is consistent with the State health plan in effect for the State under section 300m–3(c) of this title and'' for ''a plan''.

1978—Subsec. (d). Pub. L. 95–626, §201(b)(2), completely revised subsec. (d) under which the Secretary is authorized to make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services by including requirements that the States submit an application outlining how funds will be used to supplement non-Federal support for the provision of public health services in the State, by setting out formulae under which funds will be made available to States including definitions of ''applicable grant computation percentage'' and ''State and local expenditures for comprehensive public health services'', by requiring implementation of a national health program reporting system to assure accountability for expenditure of funds, and by authorizing appropriations of $150,000,000 for fiscal year ending Sept. 30, 1980, and $170,000,000 for fiscal year ending Sept. 30, 1981.

Subsec. (d)(7)(A). Pub. L. 95–626, §201(a)(1), inserted provision authorizing an appropriation of $103,000,000 for fiscal year ending Sept. 30, 1979.

Subsec. (d)(7)(B). Pub. L. 95–626, §201(a)(2), inserted provision authorizing an appropriation of $20,000,000 for fiscal year ending Sept. 30, 1979.

Subsec. (f). Pub. L. 95–454 designated existing provisions of section 403 of Pub. L. 91–648 (see 1971 Amendment note below) as subsec. (a) thereof and added subsec. (b) thereto repealing subsec. (f) of this section as subsec. (f) of this section had applied to commissioned officers of the Public Health Service.

Subsec. (g). Pub. L. 95–622 substituted provisions relating to grants for State mental health programs for provisions relating to regulations and amendments with respect to grants to States under subsecs. (a) and (d) and reduction and suspension of subsec. (a) and (d) grant payments.

1977—Subsec. (d)(7)(A). Pub. L. 95–83, §302(a), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $106,750,000 for fiscal year ending Sept. 30, 1978.

Subsec. (d)(7)(B). Pub. L. 95–83, §302(b), substituted provision for an appropriation authorization for fiscal year ending Sept. 30, 1977, for prior such authorization for fiscal year 1977, and authorized appropriation of $12,680,000 for fiscal year ending Sept. 30, 1978.

1976—Subsec. (g)(4)(B). Pub. L. 94–484 defined ''State'' to include the Northern Mariana Islands.

1975—Subsec. (d). Pub. L. 94–63, §§102, 701(a), substituted provisions relating to grants made pursuant to allotments to State health and mental health authorities for meeting the costs of providing comprehensive public health services, for provisions relating to grants made pursuant to appropriations for fiscal year ending June 30, 1968 to fiscal year ending June 30, 1975, to State health or mental health authorities to aid in the establishment and maintenance of adequate public health services, including the training of personnel for State and local health work.

Subsec. (e). Pub. L. 94–63, §§501(b), 701(b), struck out subsec. (e) which authorized appropriations from fiscal year ending June 30, 1968 through fiscal year ending June 30, 1975 for project grants for health services and related training, set forth procedures for making such grants, and prohibited grants after the fiscal year ending June 30, 1975, for provisions of this chapter amended by title VII of the Health Revenue Sharing and Health Services Act of 1975.

1973—Subsec. (a)(1). Pub. L. 93–45, §106(a)(1), authorized appropriations of $10,000,000 for fiscal year ending June 30, 1974.

Subsec. (b)(1)(A). Pub. L. 93–45, §106(a)(2), (b), authorized appropriations of $25,100,000 for fiscal year ending June 30, 1974, and extended period for making project grants from June 30, 1973, to June 30, 1974.

Subsec. (c). Pub. L. 93–45, §106(a)(3), (b), authorized appropriations of $4,700,000 for fiscal year ending June 30, 1974, and extended period for grants from June 30, 1973, to June 30, 1974.

Subsec. (d)(1). Pub. L. 93–45, §106(a)(4), authorized appropriations of $90,000,000 for fiscal year ending June 30, 1974.

Subsec. (e). Pub. L. 93–151 prohibited use of appropriated funds for lead based paint poisoning control.

Pub. L. 93–45, §106(a)(5), authorized appropriations of $230,700,000 for fiscal year ending June 30, 1974, and prohibited any grant for such fiscal year to cover cost of services described in cl. (1) or (2) of the first sentence if a grant or contract to cover cost of such services may be made or entered into from funds authorized to be appropriated for such fiscal year under an appropriations authorization in any provision of this chapter (other than this subsection) amended by title I of the Health Programs Extension Act of 1973.

1972—Subsec. (d)(2)(K). Pub. L. 92–255 required State plans to provide for licensing of facilities for treatment and rehabilitation of persons with drug abuse and other drug dependence problems and for expansion of State mental health programs and other prevention and treatment programs in the field of drug abuse and drug dependence.

1971—Subsec. (f). Pub. L. 91–648, §403(a), as amended by Pub. L. 94–454, §602(c), repealed subsec. (f) which authorized the Secretary to arrange the interchange of personnel with States to aid in discharge of responsibilities in field of health care, except as subsec. (b) applied to commissioned officers of the Public Health Service. See 1978 Amendment note above.

1970—Pub. L. 91–515, §282, substituted ''Secretary'' for ''Surgeon General'' in subsecs. (a)(1), (a)(2)(C), (E) to (H), (K), (a)(3)(B), (a)(4), (b)(1)(A), (c), (d)(1), (d)(2)(C), (F) to (H), (J), (d)(4)(A), (d)(6), and (g)(1) to (3).

Subsec. (a)(1). Pub. L. 91–515, §220(a), extended period for making grants to States from June 30, 1970 to June 30, 1973, and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Subsec. (a)(2)(B). Pub. L. 91–515, §220(b), (c), inserted provisions authorizing appointment of an exofficio member from representatives of Federal, State, and local agencies involved, and requiring representation of the regional medical program or programs included in whole or in part within the State.

Subsec. (a)(2)(C). Pub. L. 91–515, §220(d), inserted ''and including home health care'' after ''private'' and ''and including environmental considerations as they relate to public health'' after ''people of the State''.

Subsec. (b). Pub. L. 91–515, §230, redesignated existing provisions as subsec. (b)(1)(A), and, as so redesignated, extended period for making project grants from June 30, 1970 to June 30, 1973, inserted ''and including the provision of such services through home health care'' after ''such services'', and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, and added subsec. (b)(1)(B) and (b)(2).

Pub. L. 91–296, § 111(b), inserted provisions requiring that before grants be made to agencies or organizations to develop or revise health plans for an area the Secretary determine that the agency or organization provides means for appropriate representation of the interests of the hospitals, practicing physicians, and the general public.

Subsec. (c). Pub. L. 91–515, § 240, extended period for making grants from June 30, 1970, to June 30, 1973, and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Subsec. (d)(1). Pub. L. 91–515, § 250(a), authorized appropriations for fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Pub. L. 91–296, § 401(b)(1)(C), struck out except which provided for use of up to 1 per centum by Secretary for evaluation.

Subsec. (d)(2)(C). Pub. L. 91–515, § 250(b), inserted provisions requiring State plan to contain assurances that the plan is compatible with total health program of the State.

Subsec. (d)(2)(K). Pub. L. 91–513 added subpar. (K).

Subsec. (d)(2)(L). Pub. L. 91–616 added subpar. (L).

Subsec. (e). Pub. L. 91–515, § 260(a), (b), (c)(1), inserted provisions authorizing appropriations for fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, provisions authorizing grants to cover part of cost of equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity, and provisions requiring the application for any grant made under this subsection to be referred for review and comment to the appropriate areawide health planning agency, or, if no such agency is in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions.

Pub. L. 91–296, § 401(b)(1)(D), struck out provision for use of up to 1 per centum of appropriation for grants under subsec. (e) by the Secretary for evaluation.

1967—Subsec. (a)(1). Pub. L. 90–174, § 2(a)(1), extended period for making grants to States from June 30, 1968, to June 30, 1970, increased appropriations authorization for fiscal year ending June 30, 1968, from $5,000,000 to $7,000,000, and authorized appropriations of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1969, and 1970, respectively.

Subsec. (a)(2)(I) to (K). Pub. L. 90–174, § 2(a)(2), added subpar. (I) and redesignated former subpars. (I) and (J) as (J) and (K), respectively.

Subsec. (a)(4). Pub. L. 90–174, § 2(a)(3), limited Federal share of expenditures, in case of allotments for fiscal year ending June 30, 1968, to 75 per centum of cost of planning.

Subsec. (b). Pub. L. 90–174, § 2(b)(1), (2), extended period for making grants to public or nonprofit private organizations from June 30, 1968, to June 30, 1970, and authorized appropriations of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and provided for appropriate representation of interests of local government where recipient of grant is not a local government or combination thereof or an agency of such government or combination, respectively.

Subsec. (c). Pub. L. 90–174, § 2(c), extended period for making grants to public or nonprofit private organizations from June 30, 1968, to June 30, 1970, and authorized appropriations of $5,000,000 and $7,500,000 for fiscal years ending June 30, 1969, and 1970, respectively.

Subsec. (d)(1). Pub. L. 90–174, §§ 2(d)(1), 8(a), increased appropriations authorization for fiscal year ending June 30, 1968, from $62,500,000 to $70,000,000, and authorized appropriations of $90,000,000 and $100,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and made program evaluation funds available for any fiscal year ending after June 30, 1968, respectively.

Subsec. (d)(5). Pub. L. 90–174, § 2(d)(2), made Federal share of 66⅔ per centum applicable to the Trust Territory of the Pacific Islands.

Subsec. (d)(7). Pub. L. 90–174, § 2(d)(3), provided for an allocation of 70 per centum of funds for provision under the State plan of services in communities of the State.

Subsec. (e). Pub. L. 90–174, §§ 2(e), 3(b)(2), 8(b), increased appropriations authorization for fiscal year ending June 30, 1968, from $62,500,000 to $90,000,000, authorized appropriations of $95,000,000 and $80,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, inserted ''(including related training)'' after ''providing services'' in cl. (1), substituted ''developing'' for ''stimulating'' and inserted ''(including related training)'' after ''health services'' in cl. (2), struck out cl. (3) which authorized grants to cover part of cost of undertaking studies, demonstrations, or training designed to develop new methods or improve existing methods of providing health services, and made program evaluation funds available for any fiscal year ending after June 30, 1968.

Subsec. (f)(5). Pub. L. 90–174, § 12(d)(1), inserted ''for'' before ''the expenses of travel''.

Subsec. (f)(6), (8). Pub. L. 90–174, § 12(d)(2), substituted ''Department'' for ''Service''.

Subsec. (g)(4)(B). Pub. L. 90–174, § 2(f), defined ''State'' to include the Trust Territory of the Pacific Islands.

1966—Subsec. (a). Pub. L. 89–749 substituted provisions authorizing the Surgeon General to make grants to States to assist in comprehensive and continuing planning for their current and future health needs, authorizing appropriations therefor, setting out the requirements for an acceptable State plan for comprehensive State health planning, covering the allotting of the appropriated sums to the States, and the payment of the allotted funds, for provisions authorizing the Surgeon General, through the use of grants and other assistance, to help local programs of prevention, treatment, and control of venereal diseases, covering the payment of the costs of assistance by personnel of the Public Health Service to assist in carrying out the purposes of the section with respect to venereal disease, and authorizing the appropriation of funds.

Subsec. (b). Pub. L. 89–749 substituted provisions for project grants by the Surgeon General covering the development of comprehensive regional, metropolitan, or local coordination of existing and planned health facilities and persons required for providing services and the authorization of appropriations of $5,000,000 for fiscal 1967 and $7,500,000 for fiscal 1968 for provisions authorizing the appropriation of funds to enable the Surgeon General to aid in the development of measures for the local prevention, treatment, and control of tuberculosis.

Subsec. (c). Pub. L. 89–749 substituted provisions for project grants for the development of improved or more effective comprehensive health planning throughout the United States and the authorization of appropriations of $1,500,000 for fiscal 1967 and $2,500,000 for fiscal 1968 for provisions authorizing the Surgeon General to assist, through grants and otherwise, in the establishment and maintenance of adequate public health services by States, counties, health districts, and other political subdivisions, authorizing appropriations therefor, and covering the allotment, payment, and allocation of appropriated funds.

Subsec. (d). Pub. L. 89–749 substituted provisions authorizing grants by the Surgeon General to State health or mental health authorities to assist in establishing and maintaining adequate public health services, setting out the requirements for an acceptable State plan for the supplying of public health services, authorizing an appropriation of $62,500,000 for fiscal 1968, the allotment of appropriated funds, payments to States, and the determination of the Federal share for provisions covering the allotment of appropriated funds among the several States on the basis of population, incidence of venereal disease, tuberculosis, mental health problems, and the financial needs of the various States.

Subsec. (e). Pub. L. 89–749 substituted provisions for project grants for health services development to public or private nonprofit agencies and for the authorization of an appropriation of $62,500,000 for fiscal 1968 for

provisions covering the establishment and maintenance of community programs of heart disease control and the allotments and appropriations therefor.

Subsec. (f). Pub. L. 89–749 substituted provisions covering the interchange of personnel with States, the application of statutes covering Federal employees to interchanged personnel, and the coverage of State officers and employees, for provisions for the determination and certification of amounts paid to each State from allotments thereto.

Subsec. (g). Pub. L. 89–749 substituted provisions for consultation with State health planning agencies concerning regulations and amendments with respect to grants to States, the reduction of payments, cessation of payments for non-compliance, and definitions, for provisions limiting the expending of grant funds for purposes specified by statute and by the agency, organization, or institution to which payment was made.

Subsecs. (h) to (m). Pub. L. 89–749 struck out subsecs. (h) to (m) which dealt, respectively, with requirement that State funds be provided for same purpose as that for which allotted funds are spent, cessation of Federal aid and procedures in connection therewith, promulgation of rules and regulations and consultation with State health authorities precedent thereto, availability of appropriated funds for administrative expenses including printing and travel expenses, applicability of section to Guam and Samoa, and reduction of payments commensurate to expense of detailing of Public Health Service personnel to States.

1965—Subsec. (c). Pub. L. 89–109 substituted ''first six fiscal years ending after June 30, 1961'' for ''first five fiscal years ending after June 30, 1961'' and ''$5,000,000'' for ''$2,500,000''.

1962—Subsec. (*l*). Pub. L. 87–688 inserted ''and American Samoa'', ''or American Samoa'', and ''or American Samoa, respectively'' after ''Guam''.

1961—Subsec. (c). Pub. L. 87–395, §2(a)–(c), substituted ''of the first five fiscal years ending after June 30, 1961, the sum of $50,000,000'' for ''fiscal year a sum not to exceed $30,000,000'', ''such amount as may be necessary'' for ''an amount, not to exceed $3,000,000'', ''$2,500,000'' for ''$1,000,000'', and provided that when an appropriating act provides that the amounts it specifies are available only for allotments and payments for such services and activities under this subsection as specified in such act, the requirements of subsec. (h) shall apply to such allotments and payments.

Subsec. (m). Pub. L. 87–395, §2(d), added subsec. (m).

1958—Subsec. (c). Pub. L. 85–544 designated existing provisions of second sentence as cl. (1) and added cl. (2).

1956—Subsec. (*l*). Act Aug. 1, 1956, added subsec. (*l*).

1948—Subsec. (e). Act June 16, 1948, §5(a), added subsec. (e) to provide for community programs of heart disease control. Former subsec. (e) redesignated (f).

Subsec. (f). Act June 16, 1948, §5(a), (b), redesignated former subsec. (e) as (f) and inserted proviso relating to determination and certification of amounts to be paid under subsec. (e). Former subsec. (f) redesignated (g).

Subsec. (g). Act June 16, 1948, §5(a), (c), redesignated former subsec. (f) as (g) and brought subsecs. (e) and (f)(1) within the provisions of this subsection. Former subsec. (g) redesignated (h).

Subsec. (h). Act June 16, 1948, §5(a), (d), redesignated former subsec. (g) as (h) and made subsection applicable to agencies, institutions or other organizations specified in subsec. (f)(1). Former subsec. (h) redesignated (i).

Subsec. (i). Act June 16, 1948, §5(a), (e), redesignated former subsec. (h) as (i), made subsection applicable to subsec. (e), and made technical changes as a result of the renumbering of subsections. Former subsec. (i) redesignated (j).

Subsecs. (j), (k). Act June 16, 1948, §5(a), redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1946—Subsec. (c). Act July 3, 1946, increased annual appropriation from $20,000,000 to $30,000,000, and increased annual amount available to provide demonstrations and to train personnel for State and local health work from $2,000,000 to $3,000,000.

Subsec. (d). Act July 3, 1946, provided that Surgeon General shall give special consideration to the extent of the mental health problem as well as other special problems.

Subsecs. (f), (h), (i). Act July 3, 1946, provided that in matters relating to work in field of mental health Surgeon General shall deal with State mental health authorities where they differ from general health authorities.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as a note under section 238*l* of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 107(d) of Pub. L. 96–398 provided that the amendment made by that section is effective Sept. 30, 1981. See Repeals note below.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective one year after Oct. 4, 1979, see section 129(a) of Pub. L. 96–79.

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 201(b)(2) of Pub. L. 95–626 provided that the amendment made by section is effective Oct. 1, 1979.

Section 403(b) of Pub. L. 91–648, as added by section 602(c) of Pub. L. 95–454, provided that the repeal of subsec. (f) of this section (as applicable to commissioned officers of the Public Health Service) is effective beginning on the effective date of the Civil Service Reform Act of 1978, i.e., 90 days after Oct. 13, 1978.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 102 of Pub. L. 94–63 provided that the amendment made by that section is effective with respect to grants made under subsec. (d) of this section from appropriations under such subsection for fiscal years beginning after June 30, 1975.

Amendment by section 501(b) of 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 1971 AMENDMENT

Repeal of subsec. (f) of this section (less applicability to commissioned officers of the Public Health Service) by section 403(a) of Pub. L. 91–648, as amended by Pub. L. 94–454, §602(c), effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91–648, set out as an Effective Date note under section 3371 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 260(c)(2) of Pub. L. 91–515 provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective with respect to grants under section 314(c) of the Public Health Service Act [subsec. (e) of this section] which are made after the date of enactment of this Act [Oct. 30, 1970.]''

Section 401(b)(1) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to appropriations for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2(d)(2), (f) of Pub. L. 90–174 provided that the amendments made by that section are effective July 1, 1968.

Section 3(b) of Pub. L. 90–174 provided that the amendment of this section, the repeal of section 291n of this title, and the enactment of provisions set out as a note under section 242b of this title by such section 3(b) is effective with respect to appropriations for fiscal years ending after June 30, 1967.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 6 of Pub. L. 89–749 provided in part that: ''The amendments made by section 3 [amending this section]

shall become effective as of July 1, 1966, except that the provisions of section 314 of the Public Health Service Act [this section] as in effect prior to the enactment of this Act shall be effective until July 1, 1967, in lieu of the provisions of subsections (d) and (e), and the provisions of subsections (g) insofar as they relate to such subsections (d) and (e), of section 314 of the Public Health Service Act [this section] as amended by this Act.''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4(b) of Pub. L. 87–688 provided that: ''The amendments made by this section [amending this section and sections 291g, 291i, and 291t of this title] shall become effective July 1, 1962.''

EFFECTIVE AND TERMINATION DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85–544 provided that: ''The amendment made by the first section of this Act [amending this section] shall be applicable only to the fiscal years beginning July 1, 1958, and July 1, 1959.''

EFFECTIVE DATE OF 1956 AMENDMENT

Section 18 of act Aug. 1, 1956, provided that the amendment made by that section is effective July 1, 1956.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 96–398, title I, § 107(d), cited as a credit to this section and set out as an Effective Date of 1980 Amendment note above, which provided for repeal of subsec. (g) of this section, effective Sept. 30, 1981, was repealed by section 902(e)(1) of Pub. L. 97–35, title IX, Aug. 13, 1981, 95 Stat. 560, effective Oct. 1, 1981.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health and Human Services under subsecs. (a)(2)(F) and (d)(2)(F) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to Office of Personnel Management, see section 4728(a)(3)(C) of this title.

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.

YEAR 2000 HEALTH OBJECTIVES PLANNING

Pub. L. 101–582, Nov. 15, 1990, 104 Stat. 2867, provided for grants for State plans regarding health objectives for year 2000, prior to repeal by Pub. L. 102–531, title I, § 105, Oct. 27, 1992, 106 Stat. 3474.

CONGRESSIONAL FINDINGS AND DECLARATION

Section 201(b)(1) of Pub. L. 95–626 provided that: ''The Congress finds and declares that—

''(A) individual health status can be effectively and economically improved through an adequate investment in community public health programs and services;

''(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

''(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

''(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health services delivery systems; and

''(E) the States and their communities, not the Federal Government, should have primary responsibility for identifying and measuring the impact of public health problems and the allocation of resources for their amelioration.''

Section 2 of Pub. L. 89–749 provided that:

''(a) The Congress declares that fulfillment of our national purpose depends on promoting and assuring the highest level of health attainable for every person, in an environment which contributes positively to healthful individual and family living; that attainment of this goal depends on an effective partnership, involving close intergovernmental collaboration, official and voluntary efforts, and participation of individuals and organizations; that Federal financial assistance must be directed to support the marshaling of all health resources—national, State, and local—to assure comprehensive health services of high quality for every person, but without interference with existing patterns of private professional practice of medicine, dentistry, and related healing arts.

''(b) To carry out such purpose, and recognizing the changing character of health problems, the Congress finds that comprehensive planning for health services, health manpower, and health facilities is essential at every level of government; that desirable administration requires strengthening the leadership and capacities of State health agencies; and that support of health services provided people in their communities should be broadened and made more flexible.''

Section 2 of act July 3, 1956, provided that:

''(a) The Congress hereby finds and declares—

''(1) that the latest information on the number and relevant characteristics of persons in the country suffering from heart disease, cancer, diabetes, arthritis and rheumatism, and other diseases, injuries, and handicapping conditions is now seriously out of date; and

''(2) that periodic inventories providing reasonably current information on these matters are urgently needed for purposes such as (A) appraisal of the true state of health of our population (including both adults and children), (B) adequate planning of any programs to improve their health, (C) research in the field of chronic diseases, and (D) measurement of the numbers of persons in the working ages so disabled as to be unable to perform gainful work.

''(b) It is, therefore, the purpose of this Act [see Short Title of 1956 Amendment note set out under section 201 of this title] to provide (1) for a continuing survey and special studies to secure on a non-compulsory basis accurate and current statistical information on the amount, distribution, and effects of illness and disability in the United States and the services received for or because of such conditions; and (2) for studying methods and survey techniques for securing such statistical information, with a view toward their continuing improvement.''

LIMITATION ON GRANTS-IN-AID TO SCHOOLS OF PUBLIC HEALTH

Section 2 of Pub. L. 85–544, which had limited the authority of the Surgeon General to make grants-in-aid totaling not to exceed $1,000,000 annually to schools of public health for fiscal year beginning July 1, 1958, and July 1, 1959, was repealed by section 2 of Pub. L. 86–720, Sept. 8, 1960, 74 Stat. 820.

GRANTS TO STATES TO PROVIDE FOR VACCINATION AGAINST POLIOMYELITIS

The Poliomyelitis Vaccination Assistance Act of 1955, act Aug. 12, 1955, ch. 863, 69 Stat. 704, as amended Feb.

15, 1956, ch. 39, 70 Stat. 18, authorized appropriations to remain available until close of June 30, 1957 and provided for allotments to States, State application for funds, payments to States, use of funds paid to States, furnishing of vaccine by Surgeon General, diversion of Federal funds, supervision over exercise of functions, and definitions.

APPLICABILITY OF REORGANIZATION PLAN NO. 3 OF 1966

Section 7 of Pub. L. 89–749 provided that: ''The provisions enacted by this Act [amending this section and sections 242g and 243 of this title] shall be subject to the provisions of Reorganization Plan No. 3 of 1966 [set out as a note under section 202 of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 235, 248a, 291e, 1320a–1, 4728, 7610 of this title; title 48 section 1666.

§ 246a. Bureau of State Services management fund; establishment; advancements; availability

For the purpose of facilitating the economical and efficient conduct of operations in the Bureau of State Services which are financed by two or more appropriations where the costs of operation are not readily susceptible of distribution as charges to such appropriations, there is established the Bureau of State Services management fund. Such amounts as the Secretary may determine to represent a reasonable distribution of estimated costs among the various appropriations involved may be advanced each year to this fund and shall be available for expenditure for such costs under such regulations as may be prescribed by the Secretary: *Provided*, That funds advanced to this fund shall be available only in the fiscal year in which they are advanced: *Provided further*, That final adjustments of advances in accordance with actual costs shall be effected wherever practicable with the appropriations from which such funds are advanced.

(Pub. L. 86–703, title II, § 201, Sept. 2, 1960, 74 Stat. 765; Pub. L. 91–515, title II, § 282, Oct. 30, 1970, 84 Stat. 1308.)

CODIFICATION

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

AMENDMENTS

1970—Pub. L. 91–515 substituted ''Secretary'' for ''Surgeon General'' wherever appearing.

§ 247. Omitted

Section, act July 1, 1944, ch. 373, title III, § 315, as added Oct. 4, 1988, Pub. L. 100–471, § 1, 102 Stat. 2284, which related to grants for treatment drugs for acquired immune deficiency syndrome, ceased to exist Mar. 31, 1989, pursuant to subsec. (d) thereof.

PRIOR PROVISIONS

A prior section 247, act July 1, 1944, ch. 373, title III, § 315, as added Nov. 10, 1978, Pub. L. 95–626, title II, § 203, 92 Stat. 3578; amended July 10, 1979, Pub. L. 96–32, § 6(h), 93 Stat. 83, related to formula grants to States for preventive health service programs, prior to repeal by Pub. L. 99–117, § 12(b), Oct. 7, 1985, 99 Stat. 495.

Another prior section 247, acts July 1, 1944, ch. 373, title III, § 315, 58 Stat. 695; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308, provided for publication of health educational information, prior to repeal by Pub. L. 93–353, title I, § 102(a), July 23, 1974, 88 Stat. 362. See section 242*o*(b) of this title.

§ 247a. Family support groups for Alzheimer's disease patients

(a) Establishment; priorities

Subject to available appropriations, the Secretary, acting through the National Institute of Mental Health, the National Institutes of Health, and the Administration on Aging, shall promote the establishment of family support groups to provide, without charge, educational, emotional, and practical support to assist individuals with Alzheimer's disease or a related memory disorder and members of the families of such individuals. In promoting the establishment of such groups, the Secretary shall give priority to—

(1) university medical centers and other appropriate health care facilities which receive Federal funds from the Secretary and which conduct research on Alzheimer's disease or provide services to individuals with such disease; and

(2) community-based programs which receive funds from the Secretary, acting through the Administration on Aging.

(b) National network to coordinate groups

The Secretary shall promote the establishment of a national network to coordinate the family support groups described in subsection (a) of this section.

(July 1, 1944, ch. 373, title III, § 316, as added Pub. L. 99–319, title IV, § 401, May 23, 1986, 100 Stat. 489; amended Pub. L. 103–43, title XX, § 2008(a), June 10, 1993, 107 Stat. 210.)

PRIOR PROVISIONS

A prior section 247a, act July 1, 1944, ch. 373, title III, § 316, as added Nov. 10, 1978, Pub. L. 95–626, title II, § 208(a), 92 Stat. 3586; amended Aug. 13, 1981, Pub. L. 97–35, title XXI, § 2193(a)(1)(A), 95 Stat. 826, related to lead-based paint poisoning prevention programs, prior to repeal by Pub. L. 97–35, title XXI, § 2193(b)(1), Aug. 13, 1981, 95 Stat. 827.

Another prior section 247a, act July 1, 1944, ch. 373, title III, § 316, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 281, 84 Stat. 1307, provided for establishment, composition, qualifications of members, terms of office, vacancies, reappointment, compensation, travel expenses, and functions of National Advisory Council on Comprehensive Health Planning Programs, prior to repeal by Pub. L. 93–641, § 5(d), Jan. 4, 1975, 88 Stat. 2275.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–43 struck out subsec. (c) which read as follows: ''The Secretary shall report to Congress, not later than one year after May 23, 1986, on family support groups and the network of such groups established pursuant to this section.''

§ 247b. Project grants for preventive health services

(a) Grant authority

The Secretary may make grants to States, and in consultation with State health authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health service programs.

(b) Application

No grant may be made under subsection (a) of this section unless an application therefor has

been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

(1) a complete description of the type and extent of the program for which the applicant is seeking a grant under subsection (a) of this section;

(2) with respect to each such program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of such program, (B) a description of the services provided by the applicant in such program in such period, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes;

(3) assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) of this section will be provided in a manner consistent with the State health plan in effect under section 300m–3(c)[1] of this title and in those cases where the applicant is a State, that such program will be provided, where appropriate, in a manner consistent with any plans in effect under an application approved under section 247[1] of this title;

(4) assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a) of this section;

(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

(8) such other information as the Secretary may by regulation prescribe.

(c) Approval; annual project review

(1) The Secretary shall not approve an application submitted under subsection (b) of this section for a grant for a program for which a grant was previously made under subsection (a) of this section unless the Secretary determines—

(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

(C) the applicant will comply with the assurances provided with the application.

(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) of this section to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant.

(d) Amount of grant; payment

The amount of a grant under subsection (a) of this section shall be determined by the Secretary. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

(e) Reduction

The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may reduce the amount of such grant by—

(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(f) Recordkeeping; audit authority

(1) Each recipient of a grant under subsection (a) of this section shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the re-

[1] See References in Text note below.

cipient of grants under subsection (a) of this section that are pertinent to such grants.

(g) Use of grant funds; mandatory treatment prohibited

(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a) of this section.

(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

(h) Reports

The Secretary shall include, as part of the report required by section 300u–4 of this title, a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j) of this section; on the amount of funds obligated under grants under subsection (a) of this section in the preceding fiscal year for each of the programs listed in subsection (j) of this section; and on the effectiveness of the activities assisted under grants under subsection (a) of this section in controlling such diseases and conditions.

(i) Technical assistance

The Secretary may provide technical assistance to States, State health authorities, and other public entities in connection with the operation of their preventive health service programs.

(j) Authorization of appropriations

(1) Except for grants for immunization programs the authorization of appropriations for which are established in paragraph (2), for grants under subsections (a) and (k)(1) of this section for preventive health service programs to immunize without charge children, adolescents, and adults against vaccine-preventable diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2002. Not more than 10 percent of the total amount appropriated under the preceding sentence for any fiscal year shall be available for grants under subsection (k)(1) of this section for such fiscal year.

(2) For grants under subsection (a) of this section for preventive health service programs for the provision without charge of immunizations with vaccines approved for use, and recommended for routine use, after October 1, 1997, there are authorized to be appropriated such sums as may be necessary.

(k) Additional grants to States, political subdivisions, and other public and nonprofit private entities

(1) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

(A) research into the prevention and control of diseases that may be prevented through vaccination;

(B) demonstration projects for the prevention and control of such diseases;

(C) public information and education programs for the prevention and control of such diseases; and

(D) education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

(2) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

(A) research into the prevention and control of diseases and conditions;

(B) demonstration projects for the prevention and control of such diseases and conditions;

(C) public information and education programs for the prevention and control of such diseases and conditions; and

(D) education, training, and clinical skills improvement activities in the prevention and control of such diseases and conditions for health professionals (including allied health personnel).

(3) No grant may be made under this subsection unless an application therefor is submitted to the Secretary in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

(4) Subsections (d), (e), and (f) of this section shall apply to grants under this subsection in the same manner as such subsections apply to grants under subsection (a) of this section.

(July 1, 1944, ch. 373, title III, § 317, as added Pub. L. 87–868, § 2, Oct. 23, 1962, 76 Stat. 1155; amended Pub. L. 89–109, § 2, Aug. 5, 1965, 79 Stat. 435; Pub. L. 91–464, § 2, Oct. 16, 1970, 84 Stat. 988; Pub. L. 92–449, title I, § 101, Sept. 30, 1972, 86 Stat. 748; Pub. L. 93–354, § 4, July 23, 1974, 88 Stat. 376; Pub. L. 94–63, title VI, § 601, July 29, 1975, 89 Stat. 346; Pub. L. 94–317, title II, § 202(a), June 23, 1976, 90 Stat. 700; Pub. L. 94–380, § 2, Aug. 12, 1976, 90 Stat. 1113; Pub. L. 95–626, title II, §§ 202, 204(b)(2), Nov. 10, 1978, 92 Stat. 3574, 3583; Pub. L. 96–32, § 6(i), July 10, 1979, 93 Stat. 83; Pub. L. 97–35, title IX, § 928, Aug. 13, 1981, 95 Stat. 569; Pub. L. 98–555, § 2, Oct. 30, 1984, 98 Stat. 2854; Pub. L. 99–117, § 11(c), Oct. 7, 1985, 99 Stat. 495; Pub. L. 100–177, title I, §§ 110(a), 111, Dec. 1, 1987, 101 Stat. 990, 991; Pub. L. 101–368, § 2, Aug. 15, 1990, 104 Stat. 446; Pub. L. 101–502, § 2(a), Nov. 3, 1990, 104 Stat. 1285; Pub. L. 103–183, title III, § 301(b), Dec. 14, 1993, 107 Stat. 2235; Pub. L. 105–392, title III, § 303, Nov. 13, 1998, 112 Stat. 3586.)

REFERENCES IN TEXT

Section 300m–3 of this title, referred to in subsec. (b)(3), was repealed by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799.

Section 247 of this title, referred to in subsec. (b)(3), was repealed by Pub. L. 99–117, § 12(b), Oct. 7, 1985, 99 Stat. 495.

AMENDMENTS

1998—Subsec. (j)(1). Pub. L. 105–392, § 303(1), substituted ''children, adolescents, and adults against vaccine-preventable diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2002.'' for ''individuals

against vaccine-preventable diseases, there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.''

Subsec. (j)(2). Pub. L. 105–392, § 303(2), substituted ''1997'' for ''1990''.

1993—Subsec. (j). Pub. L. 103–183, § 301(b)(1), redesignated subpars. (A) and (B) of par. (1) as pars. (1) and (2), respectively, substituted ''established in paragraph (2)'' for ''established in subparagraph (B)'' in par. (1), and struck out former par. (2), which read as follows: ''For grants under subsection (a) of this section for preventive health service programs for the prevention, control, and elimination of tuberculosis, and for grants under subsection (k)(2) of this section, there are authorized to be appropriated $24,000,000 for fiscal year 1988, $31,000,000 for fiscal year 1989, $36,000,000 for fiscal year 1990, $36,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995. Not more than 10 percent of the total amount appropriated under the preceding sentence for any fiscal year shall be available for grants under subsection (k)(2) of this section for such fiscal year.''

Subsec. (k)(2). Pub. L. 103–183, § 301(b)(2)(A), (B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

''(A) research into the prevention, control, and elimination of tuberculosis, especially research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations;

''(B) demonstration projects for the prevention, control, and elimination of tuberculosis;

''(C) public information and education programs for prevention, control, and elimination of tuberculosis; and

''(D) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health personnel.''

Subsec. (k)(3). Pub. L. 103–183, § 301(b)(2)(B), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (k)(4), (5). Pub. L. 103–183, § 301(b)(2)(B), (C), redesignated par. (5) as (4) and made technical amendments to references to subsections (d), (e), and (f) of this section and subsection (a) of this section, to reflect change in references to corresponding provisions of original act. Former par. (4) redesignated (3).

Subsec. (*l*). Pub. L. 103–183, § 301(b)(3), struck out subsec. (*l*) which related to establishment and function of Advisory Council for the Elimination of Tuberculosis.

1990—Subsec. (j)(1)(A). Pub. L. 101–502, § 2(a)(1), substituted provisions authorizing appropriations for fiscal years 1991 through 1995 for provisions authorizing appropriations for fiscal years 1988 through 1990.

Subsec. (j)(1)(B). Pub. L. 101–502, § 2(a)(2), substituted Oct. 1, 1990, for Dec. 1, 1987, and provisions authorizing appropriations as may be necessary for provisions authorizing appropriations for fiscal years 1988 to 1990.

Subsec. (j)(1)(C). Pub. L. 101–502, § 2(a)(3), struck out subpar. (C) which, on the implementation of part 2 of subchapter XIX of this chapter, authorized appropriations for grants under subsec. (a) of this section for fiscal years 1988 to 1990.

Subsec. (j)(2). Pub. L. 101–368, § 2(c), inserted provisions authorizing appropriations of $36,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992 through 1995.

Pub. L. 101–368, § 2(a)(1), substituted ''preventive health service programs for the prevention, control, and elimination of tuberculosis'' for ''preventive health service programs for tuberculosis''.

Subsec. (k)(2)(A) to (D). Pub. L. 101–368, § 2(a)(2), substituted ''prevention, control, and elimination'' for ''prevention and control''.

Subsec. (*l*). Pub. L. 101–368, § 2(b), added subsec. (*l*).

1987—Subsec. (j). Pub. L. 100–177, §§ 110(a), 111(a), amended subsec. (j) generally, substituting provisions authorizing appropriations for fiscal years 1988 to 1990 for grants under subsecs. (a) and (k) of this section for former provisions authorizing appropriations for fiscal years 1982 to 1987 for grants under subsec. (a) of this section.

Subsec. (k). Pub. L. 100–177, § 111(b), added subsec. (k).

1985—Subsec. (j). Pub. L. 99–117 amended directory language of Pub. L. 97–35, § 928(b), to correct a technical error. See 1981 Amendment note below.

1984—Subsec. (j)(1). Pub. L. 98–555, § 2(a), substituted ''immunize individuals against vaccine-preventable diseases'' for ''immunize children against immunizable diseases'' and inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987.

Subsec. (j)(2). Pub. L. 98–555, § 2(b), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987.

1981—Subsec. (a). Pub. L. 97–35, § 928(a), struck out par. (1) which related to grants to State health authorities, and redesignated par. (2) as entire section and, as so redesignated, struck out reference to former par. (1).

Subsec. (j). Pub. L. 97–35, § 928(b), as amended by Pub. L. 99–117, substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984, for provisions setting forth appropriations through fiscal year ending Sept. 30, 1981, and provisions setting forth limitations, conditions, etc., for appropriations.

1979—Subsec. (j)(4), (5). Pub. L. 96–32 added par. (4), redesignated former par. (4) as (5) and, in par. (5) as so redesignated, substituted ''paragraph (1), (2), (3), or (4)'' for ''paragraph (1), (2), or (3)''.

1978—Pub. L. 95–626, § 202, amended section generally, substituting provisions relating to project grants for preventive health services for provisions relating to grants for disease control programs.

Subsec. (g)(2). Pub. L. 95–626, § 204(b)(2), struck out ''Except as provided in section 247c of this title,'' before ''No funds appropriated under any provision of this chapter''.

1976—Pub. L. 94–317 amended section generally to include many non-communicable diseases as well as expanding coverage of communicable diseases, increased appropriations for grants, widened scope of Secretary's authority to make grants and enter into contracts to include nonprofit private entities, and required a report from the Secretary on the effectiveness of all Federal and other public and private activities in controlling the diseases covered under this section.

Subsecs. (j) to (*l*). Pub. L. 94–380 added subsecs. (j) to (*l*).

1975—Subsec. (d)(3). Pub. L. 94–63, § 601(b), inserted authorization of appropriation for fiscal year 1976.

Subsec. (h)(1). Pub. L. 94–63, § 601(a), inserted reference to diseases borne by rodents.

1974—Subsec. (a). Pub. L. 93–354, § 4(1)–(3), substituted ''communicable and other disease control'' for ''communicable disease control'', ''communicable and other diseases'' for ''communicable diseases'', and ''communicable and other disease control program'' for ''communicable disease program''.

Subsec. (b)(2)(C). Pub. L. 93–354, § 4(1), (4), substituted ''communicable or other disease'' for ''communicable disease'' in cl. (i) and ''communicable and other disease control'' for ''communicable disease control'' in cl. (ii).

Subsecs. (b)(3), (d)(1), (2), (3), (f)(1). Pub. L. 93–354, § 4(1), substituted ''communicable and other disease control'' for ''communicable disease control''.

Subsec. (h)(1). Pub. L. 93–354, § 4(1), (5), substituted ''communicable and other disease control'' for ''communicable disease control'' in two places and inserted reference to diabetes mellitus.

Subsec. (i). Pub. L. 93–354, § 4(1), substituted ''communicable and other disease control'' for ''communicable disease control''.

1972—Subsec. (a). Pub. L. 92–449 substituted provision for grants by the Secretary in consultation with the State health authority to agencies and political subdivisions of States, for former provision for grants by

the Secretary with the approval of the State health authority to political subdivisions or instrumentalities of States, incorporated existing provisions in provision designated as cl. (1), inserting ", in the area served by the applicant for the grant,", substituted a cl. (2) reading "design of the applicant's communicable disease program to determine its effectiveness", for former provision reading "levels of performance in preventing and controlling such diseases", struck out appropriations authorization of $75,000,000 and $90,000,000 for fiscal years ending June 30, 1971, and 1972, now covered for subsequent years in subsec. (d), and struck out provision for use of grants to meet cost of studies to determine the control needs of communities and the means of best meeting such needs, now covered in subsec. (h)(1) of this section.

Subsec. (b). Pub. L. 92–449 substituted provisions of par. (1) respecting applications for grants, submission, approval, form, and content of applications; par. (2) respecting application requirements; and par. (3) incorporating former subsec. (g) provisions respecting consent of individuals for former definitions provision now incorporated in subsec. (h) of this section.

Subsec. (c). Pub. L. 92–449 designated existing provisions as par. (1) and among minor punctuation changes inserted "under grants" after "Payments"; and redesignated former subsec. (d) as par. (2), inserted "of the Government" after "officer or employee", substituted "in detailing the personnel" for "personal services", and struck out provision that reduced amount shall, for purposes of subsec. (c), be deemed to have been paid to the agency.

Subsec. (d). Pub. L. 92–449 substituted provisions respecting authorization of appropriations and limitation on use of funds for provisions respecting grant reduction.

Subsec. (e). Pub. L. 92–449 substituted provisions for emergency plan development and authorization of appropriations for provisions relating to use of funds.

Subsec. (f). Pub. L. 92–449 substituted provisions respecting conditional limitation on use of funds for provisions for an annual report.

Subsec. (g). Pub. L. 92–449 incorporated former subsec. (f) provisions in introductory text and cl. (3), prescribed a January 1 submission date, and inserted provisions of cls. (1), (2), and (4). Former subsec. (g) consent of individuals provision respecting communicable disease control and vaccination assistance were covered in subsec. (b)(3) of this section and section 247c(h) of this title.

Subsec. (h). Pub. L. 92–449 redesignated former subsec. (b) as (h), substituted in introductory text "this section" for "this subsection", and in par. (1) struck out "venereal disease" after "tuberculosis,", inserted "(other than venereal disease)" after "other communicable diseases", and included in definition of "communicable disease control program" vaccination programs, laboratory services, and control studies.

Subsec. (i). Pub. L. 92–449 redesignated former subsec. (e) as (i), inserted reference to agency of a State, and substituted "under provisions of Federal law (other than this chapter)" for "under other provisions of this chapter or other Federal law".

1970—Subsec. (a). Pub. L. 91–464 authorized appropriation of $75,000,000 for fiscal year ending June 30, 1971, and $90,000,000 for fiscal year ending June 30, 1972, and made award of grants dependent upon extent of communicable disease and success of programs and permitted use of grants for meeting cost of programs and studies to control communicable diseases and struck out reference to purchase of vaccines and use of grants for salaries and expenses of personnel and to authority of the Surgeon General.

Subsec. (b). Pub. L. 91–464 substituted definitions of "communicable disease control program" and "State" for definition of "immunization program".

Subsec. (c). Pub. L. 91–464 substituted reference to Secretary for reference to Surgeon General and struck out provisions relating to purchasing and furnishing of vaccines and requirement of obtaining assurances from recipients of grants.

Subsec. (d). Pub. L. 91–464 substituted reference to Secretary for reference to Surgeon General and struck out reference to Public Health Service.

Subsec. (e). Pub. L. 91–464 struck out reference to title V of the Social Security Act and substituted provisions for the use of funds for the conduct of communicable disease control programs for provisions for the purchase of vaccine or for organizing, promoting, conducting, or participating in immunization programs.

Subsecs. (f), (g). Pub. L. 91–464 added subsecs. (f) and (g).

1965—Subsec. (a). Pub. L. 89–109, § 2(a), (b), (d)(1), inserted "and each of the next three fiscal years", substituted "any fiscal year ending prior to July 1, 1968" for "the fiscal years ending June 30, 1963, and June 30, 1964", "tetanus, and measles" for "and tetanus", "of preschool age" for "under the age of five years", and "immunization" for "intensive community vaccination", and permitted grants to be used to pay costs in connection with immunization of other infectious diseases.

Subsec. (b). Pub. L. 89–109, § 2(c), (d)(1), substituted "against the diseases referred to in subsection (a) of this section" for "against poliomyelitis, diphtheria, whooping cough, and tetanus", "of preschool age" for "who are under the age of five years" and "immunization" for "intensive community vaccination" in two places.

Subsec. (c). Pub. L. 89–109, § 2(d)(1), (e), inserted "on the basis of estimates" and "(with necessary adjustments on account of underpayments or overpayments)" in par. (1), and substituted "immunization" for "intensive community vaccination" in pars. (2) and (3).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 202 of Pub. L. 95–626, as amended by Pub. L. 96–32, § 6(g), July 10, 1979, 93 Stat. 83, provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 202(a) of Pub. L. 94–317 provided that the amendment made by that section is effective with respect to grants under this section for fiscal years beginning after June 30, 1975.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 608 of title VI of Pub. L. 94–63 provided that: "Except as may otherwise be specifically provided, the amendments made by this title [enacting sections 300c–21 and 300c–22 of this title, amending this section, and enacting provisions set out as notes under sections 289, 289k–2, and 1395x of this title] and by titles I [amending section 246 of this title and enacting provisions set out as notes under section 246 of this title], II [enacting sections 300a–6a and 300a–8 of this title, amending sections 300 and 300a–1 to 300a–4 of this title, repealing section 3505c of this title, and enacting provision set out as a note under section 300 of this title], III [enacting sections 2689 to 2689aa of this title, amending sections 2691 and 2693 to 2696 of this title, and enacting provisions set out as notes under section 2689 of this title], IV [amending sections 218 and 254b of this title and enacting provision set out as a note under section 254b of this title], and V [enacting section 254c of this title and amending section 246 of this title] of this Act shall take effect July 1, 1975. The amendments made by this title and by such titles to the provisions of law amended by this title and by such titles are made to such provisions as amended by title VII of this Act [amending sections 246, 254b, 300, 300a–1 to 300a–3 of this title and sections 2681, 2687, 2688a, 2688d, 2688j–1, 2688j–2, 2688*l*, 2688*l*–1, 2688n–1, 2688*o*, and 2688u of this title]."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 102 of Pub. L. 92–449 provided that: "The amendment made by section 101 of this title [amending this section] shall apply to grants made under section 317 of the Public Health Service Act [this section] after

June 30, 1972, except that subsection (d) of such section as amended by section 101 [subsec. (d) of this section] shall take effect on the date of enactment of this Act [Sept. 30, 1972].''

ASSISTANCE OF ADMINISTRATOR OF VETERANS' AFFAIRS IN ADMINISTRATION OF NATIONAL SWINE FLU IMMUNIZATION PROGRAM OF 1976; CLAIMS FOR DAMAGES

Pub. L. 94–420, § 3, Sept. 23, 1976, 90 Stat. 1301, provided that, in order to assist Secretary of Health, Education, and Welfare in carrying out National Swine Flu Immunization Program of 1976 pursuant to 42 U.S.C. 247b(j), as added by Pub. L. 94–380, Administrator of Veterans' Affairs, in accordance with 42 U.S.C. 2476(j), could authorize administration of vaccine, procured under such program and provided by Secretary at no cost to Veterans' Administration, to eligible veterans (voluntarily requesting such vaccine) in connection with provision of care for a disability under chapter 17 of title 38, in any health care facility under jurisdiction of Administrator, and provided for consideration and processing of claims and suits for damages for personal injury or death, in connection with administration of vaccine.

STUDY BY SECRETARY OF SCOPE AND EXTENT OF LIABILITY ARISING OUT OF IMMUNIZATION PROGRAM; ALTERNATIVE PROTECTIVE APPROACHES; REPORT TO CONGRESS

Section 3 of Pub. L. 94–380 directed Secretary to conduct a study of liability for personal injuries or death arising out of immunization programs and of alternative approaches to provide protection against such liability and report to Congress on findings of such study by Aug. 12, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 256b, 256c, 300w–1, 1396s of this title.

§ 247b–1. Screenings, referrals, and education regarding lead poisoning

(a) Authority for grants

(1) In general

Subject to paragraph (2), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and political subdivisions of States for the initiation and expansion of community programs designed—

(A) to provide, for infants and children—

(i) screening for elevated blood lead levels;

(ii) referral for treatment of such levels; and

(iii) referral for environmental intervention associated with such levels; and

(B) to provide education about childhood lead poisoning.

(2) Authority regarding certain entities

With respect to a geographic area with a need for activities authorized in paragraph (1), in any case in which neither the State nor the political subdivision in which such area is located has applied for a grant under paragraph (1), the Secretary may make a grant under such paragraph to any grantee under section 254b, 254c, 256, or 256a of this title[1] for carrying out such activities in the area.

(3) Provision of all services and activities through each grantee

In making grants under paragraph (1), the Secretary shall ensure that each of the activities described in such paragraph is provided through each grantee under such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers.

(b) Status as medicaid provider

(1) In general

Subject to paragraph (2), the Secretary may not make a grant under subsection (a) of this section unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver regarding certain secondary agreements

(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.

(c) Priority in making grants

In making grants under subsection (a) of this section, the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood lead levels in infants and children.

(d) Grant application

No grant may be made under subsection (a) of this section, unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall prescribe and shall include each of the following:

(1) A complete description of the program which is to be provided by or through the applicant.

(2) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to—

(A) communicate to parents, educators, and local health officials the significance

[1] See References in Text notes below.

and prevalence of lead poisoning in infants and children (including the sources of lead exposure, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk of lead poisoning) which the program is designed to detect and prevent; and

(B) communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research (including the health consequences, if any, of low-level lead burden; the prevalence of lead poisoning among all socioeconomic groupings; the benefits of expanded lead screening; and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families).

(3) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of such referrals, and other information to measure program effectiveness.

(4) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

(5) Assurances satisfactory to the Secretary that the applicant will coordinate the activities carried out pursuant to subsection (a) of this section with related activities and services carried out in the State by grantees under title V or XIX of the Social Security Act [42 U.S.C. 701 et seq., 1396 et seq.].

(6) Assurances satisfactory to the Secretary that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

(7) Such other information as the Secretary may prescribe.

(e) Relationship to services and activities under other programs

(1) In general

A recipient of a grant under subsection (a) of this section may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(2) Applicability to certain secondary agreements for provision of services

Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) of this section provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) of this section regarding the provider.

(f) Method and amount of payment

The Secretary shall determine the amount of a grant made under subsection (a) of this section. Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

(g) Supplies, equipment, and employee detail

The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may reduce the amount of such grant by—

(1) the fair market value of any supplies or equipment furnished the grant recipient; and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(h) Records

Each recipient of a grant under subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(i) Audit and examination of records

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a) of this section, that are pertinent to such grant.

(j) Annual report

(1) In general

Not later than May 1 of each year, the Secretary shall submit to the Congress a report on the effectiveness during the preceding fiscal year of programs carried out with grants

under subsection (a) of this section and of any programs that are carried out by the Secretary pursuant to subsection (*l*)(2) of this section.

(2) Certain requirements

Each report under paragraph (1) shall include, in addition to any other information that the Secretary may require, the following information:

(A) The number of infants and children screened.

(B) Demographic information on the population of infants and children screened, including the age and racial or ethnic status of such population.

(C) The number of screening sites.

(D) A description of the severity of the extent of the blood lead levels of the infants and children screened, expressed in categories of severity.

(E) The sources of payment for the screenings.

(F) A comparison of the data provided pursuant to subparagraphs (A) through (E) with the equivalent data, if any, provided in the report under paragraph (1) preceding the report involved.

(k) Indian tribes

For purposes of this section, the term ''political subdivision'' includes Indian tribes.

(*l*) Funding

(1) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 2002.

(2) Allocation for other programs

Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary may reserve not more than 20 percent for carrying out programs regarding the activities described in subsection (a) of this section in addition to the program of grants established in such subsection.

(July 1, 1944, ch. 373, title III, § 317A, as added Pub. L. 100–572, § 3, Oct. 31, 1988, 102 Stat. 2887; amended Pub. L. 102–531, title III, § 303(a), Oct. 27, 1992, 106 Stat. 3484; Pub. L. 103–183, title VII, § 705(a), Dec. 14, 1993, 107 Stat. 2241; Pub. L. 105–392, title IV, § 404, Nov. 13, 1998, 112 Stat. 3588.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (a)(2), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in subsec. (a)(2), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

The Social Security Act, referred to in subsecs. (b)(1) and (d)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§ 701 et seq.) and XIX (§ 1396 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.

PRIOR PROVISIONS

A prior section 247b–1, Pub. L. 95–626, title IV, § 401, Nov. 10, 1978, 92 Stat. 3590; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; H. Res. 549, Mar. 25, 1980, related to demonstration and evaluation of optimal methods for organizing and delivering comprehensive preventive health services to defined populations, prior to repeal by Pub. L. 97–35, title IX, § 902(a), (h), Aug. 13, 1981, 95 Stat. 559, 561, eff. Oct. 1, 1981.

AMENDMENTS

1998—Subsec. (*l*)(1). Pub. L. 105–392 substituted ''2002'' for ''1998''.

1993—Subsec. (*l*)(1). Pub. L. 103–183 substituted ''through 1998'' for ''through 1997''.

1992—Pub. L. 102–531 amended section generally, substituting present provisions for provisions relating to grants to States for lead poisoning prevention, grant applications, conditions for approval, method and amount of payment, reduction of amount, recordkeeping and audits, inclusion of Indian tribes as grant recipients, and authorization of appropriations.

§ 247b–2. Repealed. Pub. L. 97–35, title IX, § 902(a), Aug. 13, 1981, 95 Stat. 559

Section, Pub. L. 95–626, title IV, § 402, Nov. 10, 1978, 92 Stat. 3591; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, related to deterrence of smoking and alcoholic beverage use among children and adolescents.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 300aaa–12 of this title.

§ 247b–3. Education, technology assessment, and epidemiology regarding lead poisoning

(a) Prevention

(1) Public education

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out a program to educate health professionals and paraprofessionals and the general public on the prevention of lead poisoning in infants and children. In carrying out the program, the Secretary shall make available information concerning the health effects of low-level lead toxicity, the causes of lead poisoning, and the primary and secondary preventive measures that may be taken to prevent such poisoning.

(2) Interagency Task Force

(A) Not later than 6 months after October 27, 1992, the Secretary shall establish a council to be known as the Interagency Task Force on the Prevention of Lead Poisoning (in this paragraph referred to as the ''Task Force''). The Task Force shall coordinate the efforts of Federal agencies to prevent lead poisoning.

(B) The Task Force shall be composed of—

(i) the Secretary, who shall serve as the chair of the Task Force;

(ii) the Secretary of Housing and Urban Development;

(iii) the Administrator of the Environmental Protection Agency; and

(iv) senior staff of each of the officials specified in clauses (i) through (iii), as selected by the officials respectively.

(C) The Task Force shall—

(i) review, evaluate, and coordinate current strategies and plans formulated by the officials serving as members of the Task Force, including—

(I) the plan of the Secretary of Health and Human Services entitled ''Strategic Plan for the Elimination of Lead Poisoning'', dated February 21, 1991;

(II) the plan of the Secretary of Housing and Urban Development entitled ''Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing'', dated December 7, 1990; and

(III) the strategy of the Administrator of the Environmental Protection Agency entitled ''Strategy for Reducing Lead Exposures'', dated February 21, 1991;

(ii) develop a unified implementation plan for programs that receive Federal financial assistance for activities related to the prevention of lead poisoning;

(iii) establish a mechanism for sharing and disseminating information among the agencies represented on the Task Force;

(iv) identify the most promising areas of research and education concerning lead poisoning;

(v) identify the practical and technological constraints to expanding lead poisoning prevention;

(vi) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and not later than May 1 of each year, submit to the Committee on Labor and Human Resources of the Senate and the Committee on the Environment and Public Works of the Senate, and to the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the findings made as a result of such review and that contains the recommendations of the Task Force on the programs and policies with respect to which the Task Force is established, including related budgetary recommendations; and

(vii) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.

(b) Technology assessment and epidemiology

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants or contracts—

(1) provide for the development of improved, more cost-effective testing measures for detecting lead toxicity in children;

(2) provide for the development of improved methods of assessing the prevalence of lead poisoning, including such methods as may be necessary to conduct individual assessments for each State;

(3) provide for the collection of data on the incidence and prevalence of lead poisoning of infants and children, on the demographic characteristics of infants and children with such poisoning (including racial and ethnic status), and on the source of payment for treatment for such poisoning (including the extent to which insurance has paid for such treatment); and

(4) provide for any applied research necessary to improve the effectiveness of programs for the prevention of lead poisoning in infants and children.

(July 1, 1944, ch. 373, title III, § 317B, as added Pub. L. 102–531, title III, § 303(b), Oct. 27, 1992, 106 Stat. 3488; amended Pub. L. 103–43, title XX, § 2008(i)(1)(B)(i), June 10, 1993, 107 Stat. 212.)

AMENDMENTS

1993—Pub. L. 103–43 made technical amendment to directory language of Pub. L. 103–531, § 303(b), which enacted this section.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 247b–4. Programs regarding birth defects

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out programs—

(1) to collect, analyze, and make available data on birth defects (in a manner that facilitates compliance with subsection (d)(2) of this section), including data on the causes of such defects and on the incidence and prevalence of such defects;

(2) to operate regional centers for the conduct of applied epidemiological research on the prevention of such defects; and

(3) to provide information and education to the public on the prevention of such defects.

(b) Additional provisions regarding collection of data

(1) In general

In carrying out subsection (a)(1) of this section, the Secretary—

(A) shall collect and analyze data by gender and by racial and ethnic group, including Hispanics, non-Hispanic whites, Blacks, Native Americans, Asian Americans, and Pacific Islanders;

(B) shall collect data under subparagraph (A) from birth certificates, death certificates, hospital records, and such other sources as the Secretary determines to be appropriate; and

(C) shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects, and to make the data available.

(2) National clearinghouse

In carrying out subsection (a)(1) of this section, the Secretary shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

(c) Grants and contracts

(1) In general

In carrying out subsection (a) of this section, the Secretary may make grants to and enter into contracts with public and nonprofit private entities.

(2) Supplies and services in lieu of award funds

(A) Upon the request of a recipient of an award of a grant or contract under paragraph (1), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(3) Application for award

The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

(d) Biennial report

Not later than February 1 of fiscal year 1999 and of every second such year thereafter, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that, with respect to the preceding 2 fiscal years—

(1) contains information regarding the incidence and prevalence of birth defects and the extent to which birth defects have contributed to the incidence and prevalence of infant mortality;

(2) contains information under paragraph (1) that is specific to various racial and ethnic groups (including Hispanics, non-Hispanic whites, Blacks, Native Americans, and Asian Americans);

(3) contains an assessment of the extent to which various approaches of preventing birth defects have been effective;

(4) describes the activities carried out under this section; and

(5) contains any recommendations of the Secretary regarding this section.

(e) Applicability of privacy laws

The provisions of this section shall be subject to the requirements of section 552a of title 5. All Federal laws relating to the privacy of information shall apply to the data and information that is collected under this section.

(f) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1999, $40,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.

(July 1, 1944, ch. 373, title III, § 317C, as added Pub. L. 102–531, title III, § 306(a), Oct. 27, 1992, 106 Stat. 3494; amended Pub. L. 103–43, title XX, § 2008(i)(1)(B)(iii), June 10, 1993, 107 Stat. 213; Pub. L. 105–168, § 2, Apr. 21, 1998, 112 Stat. 43.)

AMENDMENTS

1998—Pub. L. 105–168 amended section generally, substituting present provisions for provisions which directed Secretary to encourage and assist States in collection and analysis of epidemiological data on birth defects and to establish and maintain National Information Clearinghouse on Birth Defects, required report not later than July 1, 1993, and biennially thereafter, and authorized appropriations for fiscal years 1993, 1994, and 1995.

1993—Pub. L. 103–43 made technical amendment to directory language of Pub. L. 102–531, § 306(a), which enacted this section.

CONGRESSIONAL FINDINGS

Pub. L. 105–168, § 1(b), Apr. 21, 1998, 112 Stat. 43, provided that: ''Congress makes the following findings:

''(1) Birth defects are the leading cause of infant mortality, directly responsible for one out of every five infant deaths.

''(2) Thousands of the 150,000 infants born with a serious birth defect annually face a lifetime of chronic disability and illness.

''(3) Birth defects threaten the lives of infants of all racial and ethnic backgrounds. However, some conditions pose excess risks for certain populations. For example, compared to all infants born in the United States, Hispanic-American infants are more likely to be born with anencephaly spina bifida and other neural tube defects and African-American infants are more likely to be born with sickle-cell anemia.

''(4) Birth defects can be caused by exposure to environmental hazards, adverse health conditions during pregnancy, or genetic mutations. Prevention efforts are slowed by lack of information about the number and causes of birth defects. Outbreaks of birth defects may go undetected because surveillance and research efforts are underdeveloped and poorly coordinated.

''(5) Public awareness strategies, such as programs using folic acid vitamin supplements to prevent spina bifida and alcohol avoidance programs to prevent Fetal Alcohol Syndrome, are essential to prevent the heartache and costs associated with birth defects.''

§ 247b–5. Preventive health measures with respect to prostate cancer

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and local health departments for the purpose of enabling such States and departments to carry out programs—

(1) to screen men for prostate cancer as a preventive health measure;

(2) to provide appropriate referrals for medical treatment of men screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;

(3) to develop and disseminate public information and education programs for the detection and control of prostate cancer;

(4) to improve the education, training, and skills of health professionals (including appropriate allied health professionals) in the detection and control of prostate cancer;

(5) to establish mechanisms through which the States and such departments can monitor the quality of screening procedures for prostate cancer, including the interpretation of such procedures; and

(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program monitoring activities.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under paragraph (2)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

(2) Determination of amount of non-Federal contribution

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

(B) In making a determination of the amount of non-Federal contributions for purposes of paragraph (1), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the applicant involved toward the purpose described in subsection (a) of this section for the 2-year period preceding the fiscal year for which the applicant involved is applying to receive a grant under such subsection.

(C) In making a determination of the amount of non-Federal contributions for purposes of paragraph (1), the Secretary shall, subject to subparagraphs (A) and (B) of this paragraph, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] by the applicant involved toward the purpose described in paragraphs (1) and (2) of subsection (a) of this section.

(c) Education on significance of early detection

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that, in carrying out subsection (a)(3) of this section, the applicant will carry out education programs to communicate to men, and to local health officials, the significance of the early detection of prostate cancer.

(d) Requirement of provision of all services by date certain

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees—

(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of such subsection;

(2) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in such subsection is provided; and

(3) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.[1]

(e) Additional required agreements

(1) Priority for low-income men

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that low-income men, and men at risk of prostate cancer, will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of such subsection.

(2) Limitation on imposition of fees for services

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

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

(B) will be adjusted to reflect the income of the man involved; and

(C) will not be imposed on any man with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(3) Relationship to items and services under other programs

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(4) Coordination with other prostate cancer programs

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that the services and activities funded through the grant will be coordinated with other Federal, State, and local prostate cancer programs.

[1] So in original. Probably should be ''subsection.''

(5) Limitation on administrative expenses

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(6) Restrictions on use of grant

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

(7) Records and audits

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees that—

(A) the applicant will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the applicant under such section;[2] and

(B) upon request, the applicant will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the applicant of the grant.

(f) Reports to Secretary

The Secretary may not make a grant under subsection (a) of this section unless the applicant involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

(g) Description of intended uses of grant

The Secretary may not make a grant under subsection (a) of this section unless—

(1) the applicant involved submits to the Secretary a description of the purposes for which the applicant intends to expend the grant;

(2) the description identifies the populations, areas, and localities in the applicant[3] with a need for the services or activities described in subsection (a) of this section;

(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprivate entities; and

(4) the description provides assurances that the grant funds will be used in the most cost-effective manner.

(h) Requirement of submission of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (g) of this section, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(i) Method and amount of payment

The Secretary shall determine the amount of a grant made under subsection (a) of this section. Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of the underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

(j) Technical assistance and provision of supplies and services in lieu of grant funds

(1) Technical assistance

The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to subsection (a) of this section. The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

(2) Provision of supplies and services in lieu of grant funds

(A) Upon the request of an applicant receiving a grant under subsection (a) of this section, the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the applicant in carrying out such section and, for such purpose, may detail to the applicant any officer or employee of the Department of Health and Human Services.

(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the grant under subsection (a) of this section to the applicant involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(k) "Units of local government" defined

For purposes of this section, the term ''units of local government'' includes Indian tribes.

***(l)* Authorization of appropriations**

(1) In general

For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1998.

(2) Allocation for technical assistance

Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out subsection (j)(1) of this section.

(July 1, 1944, ch. 373, title III, § 317D, as added Pub. L. 102–531, title III, § 308, Oct. 27, 1992, 106 Stat. 3495; amended Pub. L. 103–43, title XX, § 2010(i)(1)(B)(iv), June 10, 1993, 107 Stat. 213; Pub. L. 103–183, title VII, § 705(b), Dec. 14, 1993, 107

[2] So in original. Probably should be ''subsection;''.

[3] So in original. Probably should be ''application''.

Stat. 2241; Pub. L. 105–392, title IV, § 401(a)(3), Nov. 13, 1998, 112 Stat. 3587.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1998—Subsec. (*l*)(1). Pub. L. 105–392 made technical amendment to directory language of Pub. L. 103–183. See 1993 Amendment note below.

1993—Pub. L. 103–43 made technical amendment to directory language of Pub. L. 102–531, § 308, which enacted this section.

Subsec. (*l*)(1). Pub. L. 103–183, as amended by Pub. L. 105–392, substituted ''through 1998'' for ''through 1996''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

§ 247b–6. Preventive health services regarding tuberculosis

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, political subdivisions, and other public entities for preventive health service programs for the prevention, control, and elimination of tuberculosis.

(b) Research, demonstration projects, education, and training

With respect to the prevention, control, and elimination of tuberculosis, the Secretary may, directly or through grants to public or nonprofit private entities, carry out the following:

(1) Research, with priority given to research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations.

(2) Demonstration projects.

(3) Public information and education programs.

(4) Education, training, and clinical skills improvement activities for health professionals, including allied health personnel and emergency response employees.

(5) Support of centers to carry out activities under paragraphs (1) through (4).

(6) Collaboration with international organizations and foreign countries in carrying out such activities.

(c) Cooperation with providers of primary health services

The Secretary may make a grant under subsection (a) or (b) of this section only if the applicant for the grant agrees that, in carrying out activities under the grant, the applicant will cooperate with public and nonprofit private providers of primary health services or substance abuse services, including entities receiving assistance under section 254b, 254c, 256, or 256a of this title[1] or under subchapter III–A or XVII of this chapter.

[1] See References in Text notes below.

(d) Application for grant

(1) In general

The Secretary may make a grant under subsection (a) or (b) of this section only if an application for the grant is submitted to the Secretary and the application, subject to paragraph (2), is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the subsection involved.

(2) Plan for prevention, control, and elimination

The Secretary may make a grant under subsection (a) of this section only if the application under paragraph (1) contains a plan regarding the prevention, control, and elimination of tuberculosis in the geographic area with respect to which the grant is sought.

(e) Supplies and services in lieu of grant funds

(1) In general

Upon the request of a grantee under subsection (a) or (b) of this section, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out the subsection involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(f) Advisory Council

(1) In general

The Secretary shall establish an advisory council to be known as the Advisory Council for the Elimination of Tuberculosis (in this subsection referred to as the ''Council'').

(2) General duties

The Council shall provide advice and recommendations regarding the elimination of tuberculosis to the Secretary, the Assistant Secretary for Health, and the Director of the Centers for Disease Control and Prevention.

(3) Certain activities

With respect to the elimination of tuberculosis, the Council shall—

(A) in making recommendations under paragraph (2), make recommendations regarding policies, strategies, objectives, and priorities;

(B) address the development and application of new technologies; and

(C) review the extent to which progress has been made toward eliminating tuberculosis.

(4) Composition

The Secretary shall determine the size and composition of the Council, and the frequency and scope of official meetings of the Council.

(5) Staff, information, and other assistance

The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

(g) Funding

(1) In general; allocation for emergency grants

(A) For the purpose of making grants under subsection (a) of this section, there are authorized to be appropriated $200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

(B) Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary may reserve not more than 25 percent for emergency grants under subsection (a) of this section for any geographic area in which there is, relative to other areas, a substantial number of cases of tuberculosis or a substantial rate of increase in such cases.

(2) Research, demonstration projects, education, and training

For the purpose of carrying out subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 2002.

(July 1, 1944, ch. 373, title III, § 317E, as added Pub. L. 103–183, title III, § 301(a), Dec. 14, 1993, 107 Stat. 2233; amended Pub. L. 105–392, title IV, §§ 401(b)(1), 405, Nov. 13, 1998, 112 Stat. 3587, 3588.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (c), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in subsec. (c), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

AMENDMENTS

1998—Subsec. (g)(1)(A). Pub. L. 105–392, § 405(1)(A), substituted ''2002'' for ''1998''.

Subsec. (g)(1)(B). Pub. L. 105–392, § 405(1)(B), substituted ''25 percent'' for ''$50,000,000''.

Subsec. (g)(2). Pub. L. 105–392, § 405(2), substituted ''2002'' for ''1998''.

Pub. L. 105–392, § 401(b)(1), substituted ''carrying out subsection (b)'' for ''making grants under subsection (b)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 401(b)(1) of Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 256d of this title.

§ 247b–7. Loan repayment program

(a) In general

(1) Authority

Subject to paragraph (2), the Secretary may carry out a program of entering into contracts with appropriately qualified health professionals under which such health professionals agree to conduct prevention activities, as employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of such health professionals.

(2) Limitation

The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

(A) has a substantial amount of educational loans relative to income; and

(B) agrees to serve as an employee of the Centers for Disease Control and Prevention or the Agency for Toxic Substances and Disease Registry for purposes of paragraph (1) for a period of not less than 3 years.

(b) Applicability of certain provisions

With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of this subchapter, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program.

(c) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

(d) Availability of appropriations

Amounts appropriated for a fiscal year for contracts under subsection (a) of this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

(July 1, 1944, ch. 373, title III, § 317F, as added Pub. L. 103–183, title VII, § 703, Dec. 14, 1993, 107 Stat. 2240; amended Pub. L. 105–392, title IV, § 406, Nov. 13, 1998, 112 Stat. 3588.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–392, § 406(1), substituted ''$35,000'' for ''$20,000''.

Subsec. (c). Pub. L. 105–392, § 406(2), substituted ''2002'' for ''1998''.

Subsec. (d). Pub. L. 105–392, § 406(3), added subsec. (d).

§ 247b–8. Fellowship and training programs

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish fellowship and training programs to be conducted by such Centers to train individuals to develop skills in epidemiology, surveillance, laboratory analysis, and other disease detection and prevention methods. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in local, State, national, and international efforts toward the prevention and control of diseases, injuries, and disabilities. Such fellowships and training may be administered through the use of either appointment or nonappointment procedures.

(July 1, 1944, ch. 373, title III, § 317G, as added Pub. L. 105–115, title IV, § 408(b)(1), Nov. 21, 1997, 111 Stat. 2371.)

EFFECTIVE DATE

Section 408(b)(2) of Pub. L. 105–115 provided that: ''The amendment made by this subsection [enacting this section] is deemed to have taken effect July 1, 1995.''

§ 247c. Sexually transmitted diseases; prevention and control projects and programs

(a) Technical assistance to public and nonprofit private entities and scientific institutions

The Secretary may provide technical assistance to appropriate public and nonprofit private entities and to scientific institutions for their research in, and training and public health programs for, the prevention and control of sexually transmitted diseases.

(b) Research, demonstration, and public information and education projects

The Secretary may make grants to States, political subdivisions of States, and any other public and nonprofit private entity for—

(1) research into the prevention and control of sexually transmitted diseases;

(2) demonstration projects for the prevention and control of sexually transmitted diseases;

(3) public information and education programs for the prevention and control of such diseases; and

(4) education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

(c) Project grants to States

The Secretary is also authorized to make project grants to States and, in consultation with the State health authority, to political subdivisions of States, for—

(1) sexually transmitted diseases surveillance activities, including the reporting, screening, and followup of diagnostic tests for, and diagnosed cases of, sexually transmitted diseases;

(2) casefinding and case followup activities respecting sexually transmitted diseases, including contact tracing of infectious cases of sexually transmitted diseases and routine testing, including laboratory tests and followup systems;

(3) interstate epidemiologic referral and followup activities respecting sexually transmitted diseases; and

(4) such special studies or demonstrations to evaluate or test sexually transmitted diseases prevention and control strategies and activities as may be prescribed by the Secretary.

(d) Grants for innovative, interdisciplinary approaches

The Secretary may make grants to States and political subdivisions of States for the development, implementation, and evaluation of innovative, interdisciplinary approaches to the prevention and control of sexually transmitted diseases.

(e) Authorization of appropriations; terms and conditions; payments; recordkeeping; audit; grant reduction; information disclosure

(1) For the purpose of making grants under subsections (b) through (d) of this section, there are authorized to be appropriated $85,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

(2) Each recipient of a grant under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant was given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(3) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of grants under this section that are pertinent to such grants.

(4) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies or equipment furnished to such recipient and by the amount of pay, allowances, travel expenses, and any other costs in connection with the detail of an officer or employee of the United States to the recipient when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based.

(5) All information obtained in connection with the examination, care, or treatment of any individual under any program which is being carried out with a grant made under this section shall not, without such individual's consent, be disclosed except as may be necessary to provide service to him or as may be required by a law of

a state or political subdivision of a State. Information derived from any such program may be disclosed—

(A) in summary, statistical, or other form; or

(B) for clinical or research purposes;

but only if the identity of the individuals diagnosed or provided care or treatment under such program is not disclosed.

(f) Consent of individuals

Nothing in this section shall be construed to require any State or any political subdivision of a State to have a sexually transmitted diseases program which would require any person, who objects to any treatment provided under such a program, to be treated under such a program.

(July 1, 1944, ch. 373, title III, § 318, as added Pub. L. 92–449, title II, § 203, Sept. 30, 1972, 86 Stat. 751; amended Pub. L. 94–317, title II, § 203(b)–(i), June 23, 1976, 90 Stat. 704, 705; Pub. L. 94–484, title IX, § 905(b)(2), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–626, title II, § 204(b)(1), (c), (d), Nov. 10, 1978, 92 Stat. 3583; Pub. L. 96–32, § 6(j), July 10, 1979, 93 Stat. 84; Pub. L. 97–35, title IX, § 929, Aug. 13, 1981, 95 Stat. 569; Pub. L. 98–555, § 3, Oct. 30, 1984, 98 Stat. 2854; Pub. L. 100–607, title III, § 311, Nov. 4, 1988, 102 Stat. 3112; Pub. L. 103–183, title IV, § 401, Dec. 14, 1993, 107 Stat. 2236; Pub. L. 105–392, title IV, § 401(b)(2), (c), Nov. 13, 1998, 112 Stat. 3587.)

PRIOR PROVISIONS

A prior section 247c, act July 1, 1944, ch. 373 title III, § 318, as added Aug. 18, 1964, Pub. L. 88–443, § 2, 78 Stat. 447, related to grants for assisting in the areawide planning of health and related facilities, prior to repeal by Pub. L. 89–749, § 6, Nov. 3, 1966, 80 Stat. 1190 eff. July 1, 1967.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–392, § 401(b)(2), redesignated subsec. (e), relating to consent of individuals, as (f).

Subsec. (e)(5). Pub. L. 105–392, § 401(c), made technical amendment to directory language of Pub. L. 103–183, § 401(c)(3). See 1993 Amendment note below.

Subsec. (f). Pub. L. 105–392, § 401(b)(2), redesignated subsec. (e), relating to consent of individuals, as (f).

1993—Subsec. (b)(3). Pub. L. 103–183, § 401(c)(1), substituted ''; and'' for '', and''.

Subsec. (c)(3). Pub. L. 103–183, § 401(c)(2), which directed the substitution of ''; and'' for '', and'', could not be executed because '', and'' did not appear.

Subsec. (d). Pub. L. 103–183, § 401(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103–183, § 401(a)(1), redesignated subsec. (d), relating to authorization of appropriations, etc., as (e).

Subsec. (e)(1). Pub. L. 103–183, § 401(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purpose of making grants under subsections (b) and (c) of this section there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $51,500,000 for the fiscal year ending September 30, 1980, $59,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, $46,500,000 for the fiscal year ending September 30, 1983, $50,000,000 for the fiscal year ending September 30, 1984, $57,000,000 for the fiscal year ending September 30, 1985, $62,500,000 for the fiscal year ending September 30, 1986, $68,000,000 for the fiscal year ending September 30, 1987, $78,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991. For grants under subsection (b) of this section in any fiscal year, the Secretary shall obligate not less than 10 per centum of the amount appropriated for such fiscal year under the preceding sentence. Grants made under subsection (b) or (c) of this section shall be made on such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary.''

Subsec. (e)(5). Pub. L. 103–183, § 401(c)(3), as amended by Pub. L. 105–392, § 401(c), substituted ''form; or'' for ''form, or'' in subpar. (A) and ''purposes;'' for ''purposes,'' in subpar. (B).

1988—Pub. L. 100–607, § 311(1), amended section catchline.

Subsec. (d). Pub. L. 100–607, § 311(2), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to acquired immune deficiency syndrome.

Subsec. (d)(1). Pub. L. 100–607, § 311(4), substituted ''(b) and (c)'' for ''(b), (c), and (d)'', struck out ''and'' after ''1986,'', and inserted '', $78,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991'' before period at end of first sentence; substituted ''(b) or (c)'' for ''(b), (c), or (d)'' in third sentence; and struck out at end ''If the appropriations under the first sentence for fiscal year 1985 exceed $50,000,000, one-half of the amount in excess of $50,000,000 shall be made available for grants under subsection (d) of this section; if the appropriations under the first sentence for fiscal year 1986 exceed $52,500,000, one-half of the amount in excess of $52,500,000 shall be made available for such grants; and if the appropriations under the first sentence for fiscal year 1987 exceed $55,000,000, one-half of the amount in excess of $55,000,000 shall be made available for such grants.''

Subsecs. (e) to (g). Pub. L. 100–607, § 311(2), (3), struck out subsec. (f) which related to conditional limitation on use of funds and redesignated subsecs. (e) and (g) as (d) and (e), respectively.

1984—Subsec. (a). Pub. L. 98–555, § 3(b)(1), substituted ''research in, and training and public health programs for, the prevention and control of sexually transmitted diseases'' for ''research, training, and public health programs for the prevention and control of venereal disease''.

Subsec. (b). Pub. L. 98–555, § 3(b)(2), in amending subsec. (b) generally, designated existing provisions as pars. (1) to (3), added par. (4), and substituted references to sexually transmitted diseases for reference to venereal disease.

Subsec. (c). Pub. L. 98–555, § 3(b)(3), (6)(A), substituted ''sexually transmitted diseases'' for ''venereal disease'' wherever appearing, struck out par. (4) relating to professional venereal disease education, training and clinical skills improvement activities, and redesignated par. (5) as (4).

Subsec. (d). Pub. L. 98–555, § 3(b)(5)(A), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 98–555, § 3(a), (b)(4), (5), redesignated subsec. (d) as (e), and in par. (1) of subsec. (e) as so redesignated, substituted ''(b), (c), and (d)'' for ''(b) and (c)'', inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987, substituted ''10 per centum'' for ''5 per centum'', and inserted provisions directing that one-half the excess of appropriations in fiscal years 1985, 1986, and 1987 over certain amounts be made available for grants under subsec. (d). Notwithstanding language of section 3(b)(5)(B)(ii) directing the substitution of ''(b), (c), or (d)'' for ''(b) or (c)'' in second sentence of subsec. (e)(1), the amendment was executed by making the substitution in third sentence of subsec. (e)(1) to reflect the probable intent of Congress because ''(b) or (c)'' did not appear in second sentence. Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 98–555, § 3(b)(5)(A), (6)(A), (C), redesignated subsecs. (e) and (f) as (f) and (g), respectively, in subsecs. (f) and (g) as so redesignated, sub-

stituted ''sexually transmitted diseases'' for ''venereal disease'', and struck out former subsec. (g) which defined venereal disease.

1981—Subsec. (d)(1). Pub. L. 97–35 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1979—Subsec. (b). Pub. L. 96–32 amended directory language of Pub. L. 95–626, § 204(c)(2), and required no change in text. See 1978 Amendment note below.

1978—Subsec. (b). Pub. L. 95–626, § 204(c)(2), as amended by Pub. L. 96–32, substituted ''research, demonstrations, and public information and education for the prevention and control of venereal disease'' for ''research, demonstrations, education, and training for the prevention and control of venereal disease'', struck out ''(1)'' preceding provisions thus amended, and struck out par. (2) which authorized appropriation of $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978 for purpose of carrying out this subsection.

Subsec. (c). Pub. L. 95–626, § 204(d), struck out ''(1)'' after ''(c)'' at beginning of existing provisions, changed designations at beginning of each of the five clauses from ''(A)'', ''(B)'', ''(C)'', ''(D)'', and ''(E)'' to ''(1)'', ''(2)'', ''(3)'', ''(4)'', and ''(5)'', respectively, substituted ''The Secretary is also authorized'' for ''The Secretary is authorized'' in provisions preceding cl. (1) as redesignated, substituted ''professional (including appropriate allied health personnel) venereal disease education, training and clinical skills improvement activities'' for ''professional and public venereal disease education activities'' in cl. (4) as redesignated, and struck out former par. (2) which had authorized appropriations of $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978.

Subsec. (d)(1). Pub. L. 95–626, § 204(c)(1), inserted provisions authorizing appropriations of $45,000,000 for fiscal year ending Sept. 30, 1979, $51,500,000 for fiscal year ending Sept. 30, 1980, and $59,000,000 for fiscal year ending Sept. 30, 1981, for purpose of making grants under subsecs. (b) and (c) of this section, and inserted provisions directing Secretary to obligate not less than 5 per centum of amount appropriated for any fiscal year.

Subsec. (f). Pub. L. 95–626, § 204(b)(1), redesignated subsec. (g) as (f). Former subsec. (f), requiring that not to exceed 50 per centum of amounts appropriated for any fiscal year under subsecs. (b) and (c) of this section could be used by Secretary for grants for such fiscal year under section 247b of this title, was struck out.

Subsec. (g). Pub. L. 95–626, § 204(b)(1), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

1976—Subsec. (a). Pub. L. 94–317, § 203(c), substituted ''public and nonprofit private entities and to'' for ''public authorities and''.

Subsec. (b)(1). Pub. L. 94–317, § 203(i), inserted ''education,'' before ''and training''.

Subsec. (b)(2). Pub. L. 94–317, § 203(b)(1), substituted provisions authorizing appropriations of $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978, for provisions authorizing appropriations of $7,500,000 for fiscal year ending June 30, 1973, and for each of the next two fiscal years.

Subsec. (c). Pub. L. 94–484, purported to amend former subsec. (c)(1) by defining ''State'' to include the Northern Mariana Islands. Former subsec. (c) of this section had been previously repealed by section 203(f)(1) of Pub. L. 94–317. See par. below.

Pub. L. 94–317, § 203(b)(2), (d), (e), (f)(1), (3), (8), redesignated subsec. (d) as (c), inserted, in par. (1)(B), reference to routine testing, including laboratory tests and followup systems and substituted in par. (1)(E). ''prevention and control strategies and activities'' for ''control'' and, in par. (2), provisions authorizing appropriations of $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978, for provisions authorizing appropriations of $30,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Former subsec. (c), which provided for authorization of appropriations to enable the Secretary to make grants to state health authorities to establish and maintain programs for diagnosis and treatment of venereal disease was amended by striking out reference to dark-field microscope techniques for diagnosis of both gonorrhea an syphilis, and as so amended, was repealed.

Subsec. (d). Pub. L. 94–317, § 203(f)(2), (4), (5), (8), redesignated subsec. (e) as (d), substituted in par. (1) ''or (c)'' for ''or (d)'', struck out in par. (4) provisions relating to the amount of reduction of a grant under former subsec. (c) whereby such amount shall be deemed a part of the grant to the recipient of the grant and shall be deemed to have been paid to such recipient, and inserted in par. (5) reference to requirement by law of a State or political subdivision of a state. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 94–317, § 203(f)(8), (g), redesignated subsec. (f) as (e) and substituted ''247b(g)(2) of this title'' for ''247b(d)(4) of this title''. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 94–317, § 203(f)(6), (8), redesignated subsec. (g) as (f) and substituted ''and (c)'' for '', (c), and (d)''. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94–317, § 203(f)(7), (8), redesignated subsec. (h) as (g) and struck out ''treated or to have any child or ward of his'' after ''a program, to be''. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 94–317, § 203(h), added subsec. (h). Former subsec. (h) redesignated (g).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

DISTRIBUTION OF INFORMATION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME BY DIRECTOR OF CENTERS FOR DISEASE CONTROL TO EVERY AMERICAN HOUSEHOLD

Pub. L. 100–202, § 101(h) [title II], Dec. 22, 1987, 101 Stat. 1329–256, 1329–365, provided: ''That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by June 30, 1988, as approved and funded by the Congress in Public Law 100–71 [July 11, 1987, 101 Stat. 391].''

CONGRESSIONAL FINDINGS AND DECLARATIONS

Section 204(a) of Pub. L. 95–626 provided that: ''The Congress finds and declares that—

''(1) the number of reported cases of venereal disease persists in epidemic proportions in the United States;

''(2) the number of persons affected by venereal disease and reported to public health authorities is only a fraction of those actually affected;

''(3) the incidence of venereal disease continues to be particularly high among American youth, ages fifteen to twenty-nine, and among populations in metropolitan areas;

''(4) venereal disease accounts for severe permanent disabilities and sometimes death in newborns and causes reproductive dysfunction in women of childbearing age;

''(5) it is conservatively estimated that the public cost of health care for persons suffering from complications of venereal disease exceeds one-half billion dollars annually;

''(6) the number of trained Federal venereal disease prevention and control personnel has fallen to a dangerously inadequate level;

''(7) no vaccine for syphilis, gonorrhea, or any other venereal disease has yet been developed, nor does a blood test for the detection of asymptomatic gonorrhea in women exist, nor are safe and effective therapeutic agents available for some other venereal diseases;

''(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup have all been found to be

effective venereal disease prevention and control methodologies;

''(9) skilled and knowledgeable health care providers, informed and concerned individuals and active, well-coordinated voluntary groups are fundamental to venereal disease prevention and control;

''(10) biomedical research toward improved diagnostic and therapeutic tools is of singular importance to the elimination of venereal disease; and

''(11) an increasing number of sexually transmissible diseases besides syphilis and gonorrhea have become a public health hazard.''

Section 203(a) of Pub. L. 94–317 provided that: ''The Congress finds and declares that—

''(1) the number of reported cases of venereal disease continues in epidemic proportions in the United States;

''(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those actually infected;

''(3) the incidence of venereal disease is particularly high in the 15–29-year age group, and in metropolitan areas;

''(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

''(5) the number of cases of congenital syphilis, a preventable disease, tends to parallel the incidence of syphilis in adults;

''(6) it is conservatively estimated that the public cost of care for persons suffering the complications of venereal disease exceed $80,000,000 annually;

''(7) medical researchers have no successful vaccine for syphilis or gonorrhea, and have no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females;

''(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup activities have all been found to be effective disease intervention methodologies;

''(9) knowledgeable health providers and concerned individuals and groups are fundamental to venereal disease prevention and control;

''(10) biomedical research leading to the development of vaccines for syphilis and gonorrhea is of singular importance for the eventual eradication of these dreaded diseases; and

''(11) a variety of other sexually transmitted diseases, in addition to syphilis and gonorrhea, have become of public health significance.''

Section 202 of Pub. L. 92–449 provided that:

''(a) The Congress finds and declares that—

''(1) the number or reported cases of venereal disease has reached epidemic proportions in the United States;

''(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those treated by physicians;

''(3) the incidence of venereal disease is particularly high among individuals in the 20–24 age group, and in metropolitan areas;

''(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

''(5) the number of cases of congenital syphilis, a preventable disease, in infants under one year of age increased by 33⅓ per centum between 1970 and 1971;

''(6) health education programs in schools and through the mass media may prevent a substantial portion of the venereal disease problem; and

''(7) medical authorities have no successful vaccine for syphilis or gonorrhea and no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females.

''(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act [this chapter] to establish a national program for the prevention and control of venereal disease.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 256b, 256d of this title.

§ 247c–1. Infertility and sexually transmitted diseases

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, political subdivisions of States, and other public or nonprofit private entities for the purpose of carrying out the activities described in subsection (c) of this section regarding any treatable sexually transmitted disease that can cause infertility in women if treatment is not received for the disease.

(b) Authority regarding individual diseases

With respect to diseases described in subsection (a) of this section, the Secretary shall, in making a grant under such subsection, specify the particular disease or diseases with respect to which the grant is to be made. The Secretary may not make the grant unless the applicant involved agrees to carry out this section only with respect to the disease or diseases so specified.

(c) Authorized activities

With respect to any sexually transmitted disease described in subsection (a) of this section, the activities referred to in such subsection are—

(1) screening women for the disease and for secondary conditions resulting from the disease, subject to compliance with criteria issued under subsection (f) of this section;

(2) providing treatment to women for the disease;

(3) providing counseling to women on the prevention and control of the disease (including, in the case of a woman with the disease, counseling on the benefits of locating and providing such counseling to any individual from whom the woman may have contracted the disease and any individual whom the woman may have exposed to the disease);

(4) providing follow-up services;

(5) referrals for necessary medical services for women screened pursuant to paragraph (1), including referrals for evaluation and treatment with respect to acquired immune deficiency syndrome and other sexually transmitted diseases;

(6) in the case of any woman receiving services pursuant to any of paragraphs (1) through (5), providing to the partner of the woman the services described in such paragraphs, as appropriate;

(7) providing outreach services to inform women of the availability of the services described in paragraphs (1) through (6);

(8) providing to the public information and education on the prevention and control of the disease, including disseminating such information; and

(9) providing training to health care providers in carrying out the screenings and counseling described in paragraphs (1) and (3).

(d) Requirement of availability of all services through each grantee

The Secretary may make a grant under subsection (a) of this section only if the applicant

involved agrees that each activity authorized in subsection (c) of this section will be available through the applicant. With respect to compliance with such agreement, the applicant may expend the grant to carry out any of the activities directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities carry out the activities.

(e) Required providers regarding certain services

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that, in expending the grant to carry out activities authorized in subsection (c) of this section, the services described in paragraphs (1) through (7) of such subsection will be provided only through entities that are State or local health departments, grantees under section 254b, 254c, 256, 256a, or 300 of this title,[1] or are other public or nonprofit private entities that provide health services to a significant number of low-income women.

(f) Quality assurance regarding screening for diseases

For purposes of this section, the Secretary shall establish criteria for ensuring the quality of screening procedures for diseases described in subsection (a) of this section.

(g) Confidentiality

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees, subject to applicable law, to maintain the confidentiality of information on individuals with respect to activities carried out under subsection (c) of this section.

(h) Limitation on imposition of fees for services

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the individual involved; and

(3) will not be imposed on any individual with an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(i) Limitations on certain expenditures

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that not less than 80 percent of the grant will be expended for the purpose of carrying out paragraphs (1) through (7) of subsection (c) of this section.

(j) Reports to Secretary

(1) Collection of data

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees, with respect to any disease selected under subsection (b) of this section for the applicant, to submit to the Secretary, for each fiscal year for which the applicant receives such a grant, a report providing—

(A) the incidence of the disease among the population of individuals served by the applicant;

(B) the number and demographic characteristics of individuals in such population;

(C) the types of interventions and treatments provided by the applicant, and the health conditions with respect to which referrals have been made pursuant to subsection (c)(5) of this section;

(D) an assessment of the extent to which the activities carried pursuant to subsection (a) of this section have reduced the incidence of infertility in the geographic area involved; and

(E) such other information as the Secretary may require with respect to the project carried out with the grant.

(2) Utility and comparability of data

The Secretary shall carry out activities for the purpose of ensuring the utility and comparability of data collected pursuant to paragraph (1).

(k) Maintenance of effort

With respect to activities for which a grant under subsection (a) of this section is authorized to be expended, the Secretary may make such a grant only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the average level of such expenditures maintained by the applicant for the 2-year period preceding the fiscal year for which the applicant is applying to receive such a grant.

***(l)* Requirement of application**

(1) In general

The Secretary may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Secretary, the application contains the plan required in paragraph (2), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(2) Submission of plan for program of grantee

(A) In general

The Secretary may make a grant under subsection (a) of this section only if the applicant involved submits to the Secretary a plan describing the manner in which the applicant will comply with the agreements required as a condition of receiving such a grant, including a specification of the entities through which activities authorized in subsection (c) of this section will be provided.

(B) Participation of certain entities

The Secretary may make a grant under subsection (a) of this section only if the applicant provides assurances satisfactory to the Secretary that the plan submitted under subparagraph (A) has been prepared in consultation with an appropriate number and variety of—

[1] See References in Text notes below.

(i) representatives of entities in the geographic area involved that provide services for the prevention and control of sexually transmitted diseases, including programs to provide to the public information and education regarding such diseases; and

(ii) representatives of entities in such area that provide family planning services.

(m) Duration of grant

The period during which payments are made to an entity from a grant under subsection (a) of this section may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments in such year. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

(n) Technical assistance, and supplies and services in lieu of grant funds

(1) Technical assistance

The Secretary may provide training and technical assistance to grantees under subsection (a) of this section with respect to the planning, development, and operation of any program or service carried out under such subsection. The Secretary may provide such technical assistance directly or through grants or contracts.

(2) Supplies, equipment, and employee detail

The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may reduce the amount of such grant by—

(A) the fair market value of any supplies or equipment furnished the grant recipient; and

(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(*o*) Evaluations and reports by Secretary

(1) Evaluations

The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to subsection (a) of this section in order to determine the quality and effectiveness of the programs.

(2) Report to Congress

Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (q) of this section, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report—

(A) summarizing the information provided to the Secretary in reports made pursuant to subsection (j)(1) of this section, including information on the incidence of sexually transmitted diseases described in subsection (a) of this section; and

(B) summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year.

(p) Coordination of Federal programs

The Secretary shall coordinate the program carried out under this section with any similar programs administered by the Secretary (including coordination between the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health).

(q) Authorization of appropriations

For the purpose of carrying out this section, other than subsections (*o*) and (r) of this section, there are authorized to be appropriated $25,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1998.

(r) Separate grants for research on delivery of services

(1) In general

The Secretary may make grants for the purpose of conducting research on the manner in which the delivery of services under subsection (a) of this section may be improved. The Secretary may make such grants only to grantees under such subsection and to public and nonprofit private entities that are carrying out programs substantially similar to programs carried out under such subsection.

(2) Authorization of appropriations

For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1998.

(July 1, 1944, ch. 373, title III, § 318A, as added Pub. L. 102–531, title III, § 304, Oct. 27, 1992, 106 Stat. 3490; amended Pub. L. 103–43, title XX, § 2008(i)(1)(B)(ii), June 10, 1993, 107 Stat. 212; Pub. L. 103–183, title IV, § 402, Dec. 14, 1993, 107 Stat. 2236.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (e), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in subsec. (e), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

AMENDMENTS

1993—Pub. L. 103–43 made technical amendment to directory language of Pub. L. 102–531, § 304, which enacted this section.

Subsec. (*o*)(2). Pub. L. 103–183, § 402(a), substituted ''subsection (q)'' for ''subsection (s)''.

Subsec. (q). Pub. L. 103–183, § 402(b)(1), substituted ''through 1998'' for ''and 1995''.

Subsec. (r)(2). Pub. L. 103–183, § 402(b)(2), substituted ''1998'' for ''1995''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 247d. Public health emergencies

(a) Determination of existence of emergency; authorization to act

If the Secretary determines, after consultation with the Director of the National Institutes of Health, the Administrator of the Substance Abuse and Mental Health Services Administration, the Commissioner of the Food and Drug Administration, the Administrator of Health Resources and Services, or the Director of the Centers for Disease Control and Prevention, that—

(1) a disease or disorder presents a public health emergency, or

(2) a public health emergency otherwise exists and the Secretary has the authority to take action with respect to such emergency,

the Secretary, acting through such Directors, Administrator, or Commissioner, may take such action as may be appropriate to respond to the public health emergency, including making grants and entering into contracts and conducting and supporting investigations into the cause, treatment, or prevention of a disease or disorder described in paragraph (1).

(b) Public Health Emergency Fund; authorization of appropriations; annual report to Congress

(1) There is established in the Treasury a fund designated the ''Public Health Emergency Fund'' to be available to the Secretary without fiscal year limitation to carry out subsection (a) of this section. There is authorized to be appropriated to the fund $30,000,000 for fiscal year 1984. For fiscal year 1985 and each fiscal year thereafter there is authorized to be appropriated to the fund such sums as may be necessary to have $45,000,000 in the fund at the beginning of such fiscal year.

(2) The Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than ninety days after the end of a fiscal year—

(A) on the expenditures made from the Public Health Emergency Fund in such fiscal year; and

(B) describing each public health emergency for which the expenditures were made and the activities undertaken with respect to each emergency which were conducted or supported by expenditures from the Fund.

(July 1, 1944, ch. 373, title III, § 319, as added Pub. L. 98–49, July 13, 1983, 97 Stat. 245; amended Pub. L. 100–607, title II, § 256(a), Nov. 4, 1988, 102 Stat. 3110; Pub. L. 102–321, title I, § 163(b)(2), July 10, 1992, 106 Stat. 376; Pub. L. 102–531, title III, § 312(d)(2), Oct. 27, 1992, 106 Stat. 3504.)

PRIOR PROVISIONS

A prior section 247d, act July 1, 1944, ch. 373, title III, § 319, formerly § 310, as added Sept. 25, 1962, Pub. L. 87–692, 76 Stat. 592, and amended and renumbered, which related to migrant health centers, was renumbered section 329 of act July 1, 1944, by Pub. L. 95–626, title I, § 102(a), Nov. 10, 1978, 92 Stat. 3551, and transferred to section 254b of this title, prior to being omitted in the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104–299, § 2.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'' in introductory provisions.

Pub. L. 102–321 substituted ''the Administrator of the Substance Abuse and Mental Health Services Administration'' for ''the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration'' in introductory provisions and ''Directors, Administrator'' for ''Director, Administrator'' in closing provisions.

1988—Subsec. (a). Pub. L. 100–607, § 256(a)(1), inserted ''the Administrator of Health Resources and Services,'' after ''and Drug Administration,''.

Subsec. (b)(1). Pub. L. 100–607, § 256(a)(2), substituted ''$45,000,000'' for second reference to ''$30,000,000''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 238m of this title.

PART C—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

AMENDMENTS

1978—Pub. L. 95–626, title I, § 113(a)(1), Nov. 10, 1978, 92 Stat. 3562, struck out heading ''Subpart I—General Provisions''.

1976—Pub. L. 94–484, title IV, § 407(a), Oct. 12, 1976, 90 Stat. 2268, added heading ''Subpart I—General Provisions''.

§ 247e. Gillis W. Long Hansen's Disease Center

(a) Care and treatment

(1) At or through the Gillis W. Long Hansen's Disease Center (located in the State of Louisiana), the Secretary shall without charge provide short-term care and treatment, including outpatient care, for Hansen's disease and related complications to any person determined by the Secretary to be in need of such care and treatment. The Secretary may not at or through such Center provide long-term care for any such disease or complication.

(2) The Center referred to in paragraph (1) shall conduct training in the diagnosis and man-

agement of Hansen's disease and related complications, and shall conduct and promote the coordination of research (including clinical research), investigations, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of Hansen's disease and other mycobacterial diseases and complications related to such diseases.

(3) Paragraph (1) is subject to section 211 of the Department of Health and Human Services Appropriations Act, 1998.

(b) Additional sites authorized

In addition to the Center referred to in subsection (a) of this section, the Secretary may establish sites regarding persons with Hansen's disease. Each such site shall provide for the outpatient care and treatment for Hansen's disease and related complications to any person determined by the Secretary to be in need of such care and treatment.

(c) Agency designated by Secretary

The Secretary shall carry out subsections (a) and (b) of this section acting through an agency of the Service. For purposes of the preceding sentence, the agency designated by the Secretary shall carry out both activities relating to the provision of health services and activities relating to the conduct of research.

(d) Payments to Board of Health of Hawaii

The Secretary shall make payments to the Board of Health of the State of Hawaii for the care and treatment (including outpatient care) in its facilities of persons suffering from Hansen's disease at a rate determined by the Secretary. The rate shall be approximately equal to the operating cost per patient of such facilities, except that the rate may not exceed the comparable costs per patient with Hansen's disease for care and treatment provided by the Center referred to in subsection (a) of this section. Payments under this subsection are subject to the availability of appropriations for such purpose.

(July 1, 1944, ch. 373, title III, § 320, formerly § 331, 58 Stat. 698; June 25, 1948, ch. 654, § 4, 62 Stat. 1018; June 25, 1952, ch. 460, 66 Stat. 157; Pub. L. 86–624, § 29(b), July 12, 1960, 74 Stat. 419; renumbered § 339, Pub. L. 94–484, title IV, § 407(b)(2), Oct. 12, 1976, 90 Stat. 2268; renumbered § 320, and amended Pub. L. 95–626, title I, § 105(a), Nov. 10, 1978, 92 Stat. 3560; Pub. L. 96–32, § 7(b), July 10, 1979, 93 Stat. 84; Pub. L. 99–117, § 2(a), Oct. 7, 1985, 99 Stat. 491; Pub. L. 105–78, title II, § 211(h), Nov. 13, 1997, 111 Stat. 1494.)

REFERENCES IN TEXT

Section 211 of the Department of Health and Human Services Appropriations Act, 1998, referred to in subsec. (a)(3), is section 211 of Pub. L. 105–78, which enacted this section and provisions set out as notes below.

CODIFICATION

Section was classified to section 255 of this title prior to its renumbering by Pub. L. 95–626.

AMENDMENTS

1997—Pub. L. 105–78 amended section catchline and text generally, substituting present provisions for former provisions which related to: in subsec. (a), care and treatment; and in subsec. (b), payments to Board of Health of Hawaii.

1985—Pub. L. 99–117 substituted "Hansen's disease program" for "Receipt, apprehension, detention, treatment, and release of lepers" in section catchline.

Subsec. (a). Pub. L. 99–117 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under subsection (b) of this section or section 264 of this title, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes, including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service, the Surgeon General is authorized and directed to make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana."

Subsec. (b). Pub. L. 99–117 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy."

1979—Subsec. (a). Pub. L. 96–32 substituted "apprehended under subsection (b) of this section or section 264 of this title" for "apprehended under section 256 or 264 of this title".

1978—Pub. L. 95–626 designated existing provisions as subsec. (a) and added subsec. (b).

1960—Pub. L. 86–624 struck out ", Territory, or the District of Columbia" after "proper health authority of any State", and substituted "Board of Health of Hawaii" for "Board of Health of the Territory of Hawaii".

1952—Act June 25, 1952, provided for payments to Hawaiian Board of Health for expenditures made by them in care and treatment of patients.

1948—Act June 25, 1948, authorized payment of travel expenses of indigent leper patients.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–624 effective Aug. 21, 1959, see section 47(f) of Pub. L. 86–624, set out as a note under section 201 of this title.

RELOCATION OF GILLIS W. LONG HANSEN'S DISEASE CENTER

Section 211(a)–(g) of Pub. L. 105–78 provided that:

"(a) The Secretary of Health and Human Services may in accordance with this section provide for the relocation of the Federal facility known as the Gillis W. Long Hansen's Disease Center (located in the vicinity of Carville, in the State of Louisiana), including the relocation of the patients of the Center.

"(b)(1) Subject to paragraph (2), in relocating the Center the Secretary may on behalf of the United States transfer to the State of Louisiana, without charge, title to the real property and improvements that as of the date of the enactment of this Act [Nov. 13, 1997] constitute the Center. Such real property is a

parcel consisting of approximately 330 acres. The exact acreage and legal description used for purposes of the transfer shall be in accordance with a survey satisfactory to the Secretary.

''(2) Any conveyance under paragraph (1) is not effective unless the deed or other instrument of conveyance contains the conditions specified in subsection (d); the instrument specifies that the United States and the State of Louisiana agree to such conditions; and the instrument specifies that, if the State engages in a material breach of the conditions, title to the real property and improvements involved reverts to the United States at the election of the Secretary.

''(c)(1) With respect to Federal equipment and other items of Federal personal property that are in use at the Center as of the date of the enactment of this Act [Nov. 13, 1997], the Secretary may, subject to paragraph (2), transfer to the State such items as the Secretary determines to be appropriate, if the Secretary makes the transfer under subsection (b).

''(2) A transfer of equipment or other items may be made under paragraph (1) only if the State agrees that, during the 30-year period beginning on the date on which the transfer under subsection (b) is made, the items will be used exclusively for purposes that promote the health or education of the public, except that the Secretary may authorize such exceptions as the Secretary determines to be appropriate.

''(d) For purposes of subsection (b)(2), the conditions specified in this subsection with respect to a transfer of title are the following:

''(1) During the 30-year period beginning on the date on which the transfer is made, the real property and improvements referred to in subsection (b)(1) (referred to in this subsection as the 'transferred property') will be used exclusively for purposes that promote the health or education of the public, with such incidental exceptions as the Secretary may approve.

''(2) For purposes of monitoring the extent to which the transferred property is being used in accordance with paragraph (1), the Secretary will have access to such documents as the Secretary determines to be necessary, and the Secretary may require the advance approval of the Secretary for such contracts, conveyances of real or personal property, or other transactions as the Secretary determines to be necessary.

''(3) The relocation of patients from the transferred property will be completed not later than 3 years after the date on which the transfer is made, except to the extent the Secretary determines that relocating particular patients is not feasible. During the period of relocation, the Secretary will have unrestricted access to the transferred property, and after such period will have such access as may be necessary with respect to the patients who pursuant to the preceding sentence are not relocated.

''(4)(A) With respect to projects to make repairs and energy-related improvements at the transferred property, the Secretary will provide for the completion of all such projects for which contracts have been awarded and appropriations have been made as of the date on which the transfer is made.

''(B) If upon completion of the projects referred to in subparagraph (A) there are any unobligated balances of amounts appropriated for the projects, and the sum of such balances is in excess of $100,000—

''(i) the Secretary will transfer the amount of such excess to the State; and

''(ii) the State will expend such amount for the purposes referred to in paragraph (1), which may include the renovation of facilities at the transferred property.

''(5)(A) The State will maintain the cemetery located on the transferred property, will permit individuals who were long-term-care patients of the Center to be buried at the cemetery, and will permit members of the public to visit the cemetery.

''(B) The State will permit the Center to maintain a museum on the transferred property, and will permit members of the public to visit the museum.

''(C) In the case of any waste products stored at the transferred property as of the date of the transfer, the Federal Government will after the transfer retain title to and responsibility for the products, and the State will not require that the Federal Government remove the products from the transferred property.

''(6) In the case of each individual who as of the date of the enactment of this Act [Nov. 13, 1997] is a Federal employee at the transferred property with facilities management or dietary duties:

''(A) The State will offer the individual an employment position with the State, the position with the State will have duties similar to the duties the individual performed in his or her most recent position at the transferred property, and the position with the State will provide compensation and benefits that are similar to the compensation and benefits provided for such most recent position, subject to the concurrence of the Governor of the State.

''(B) If the individual becomes an employee of the State pursuant to subparagraph (A), the State will make payments in accordance with subsection (e)(2)(B) (relating to disability), as applicable with respect to the individual.

''(7) The Federal Government may, consistent with the intended uses by the State of the transferred property, carry out at such property activities regarding at-risk youth.

''(8) Such additional conditions as the Secretary determines to be necessary to protect the interests of the United States.

''(e)(1) This subsection applies if the transfer under subsection (b) is made.

''(2) In the case of each individual who as of the date of the enactment of this Act [Nov. 13, 1997] is a Federal employee at the Center with facilities management or dietary duties, and who becomes an employee of the State pursuant to subsection (d)(6)(A):

''(A) The provisions of subchapter III of chapter 83 of title 5, United States Code, or of chapter 84 of such title, whichever are applicable, that relate to disability shall be considered to remain in effect with respect to the individual (subject to subparagraph (C)) until the earlier of—

''(i) the expiration of the 2-year period beginning on the date on which the transfer under subsection (b) is made; or

''(ii) the date on which the individual first meets all conditions for coverage under a State program for payments during retirement by reason of disability.

''(B) The payments to be made by the State pursuant to subsection (d)(6)(B) with respect to the individual are payments to the Civil Service Retirement and Disability Fund, if the individual is receiving Federal disability coverage pursuant to subparagraph (A). Such payments are to be made in a total amount equal to that portion of the normal-cost percentage (determined through the use of dynamic assumptions) of the basic pay of the individual that is allocable to such coverage and is paid for service performed during the period for which such coverage is in effect. Such amount is to be determined in accordance with chapter 84 of such title 5, is to be paid at such time and in such manner as mutually agreed by the State and the Office of Personnel Management, and is in lieu of individual or agency contributions otherwise required.

''(C) In the determination pursuant to subparagraph (A) of whether the individual is eligible for Federal disability coverage (during the applicable period of time under such subparagraph), service as an employee of the State after the date of the transfer under subsection (b) shall be counted toward the service requirement specified in the first sentence of section 8337(a) or 8451(a)(1)(A) of such title 5 (whichever is applicable).

''(3) In the case of each individual who as of the date of the enactment of this Act is a Federal employee with a position at the Center and is, for duty at the Center,

receiving the pay differential under section 208(e) of the Public Health Service Act [section 210(e) of this title] or under section 5545(d) of title 5, United States Code:

''(A) If as of the date of the transfer under subsection (b) the individual is eligible for an annuity under section 8336 or 8412 of title 5, United States Code, then once the individual separates from the service and thereby becomes entitled to receive the annuity, the pay differential shall be included in the computation of the annuity if the individual separated from the service not later than the expiration of the 90-day period beginning on the date of the transfer.

''(B) If the individual is not eligible for such an annuity as of the date of the transfer under subsection (b) but subsequently does become eligible, then once the individual separates from the service and thereby becomes entitled to receive the annuity, the pay differential shall be included in the computation of the annuity if the individual separated from the service not later than the expiration of the 90-day period beginning on the date on which the individual first became eligible for the annuity.

''(C) For purposes of this paragraph, the individual is eligible for the annuity if the individual meets all conditions under such section 8336 or 8412 to be entitled to the annuity, except the condition that the individual be separated from the service.

''(4) With respect to individuals who as of the date of the enactment of this Act are Federal employees with positions at the Center and are not, for duty at the center, receiving the pay differential under section 208(e) of the Public Health Service Act [section 210(e) of this title] or under section 5545(d) of title 5, United States Code:

''(A) During the calendar years 1997 and 1998, the Secretary may in accordance with this paragraph provide to any such individual a voluntary separation incentive payment. The purpose of such payments is to avoid or minimize the need for involuntary separations under a reduction in force with respect to the Center.

''(B) During calendar year 1997, any payment under subparagraph (A) shall be made under section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104–208) [5 U.S.C. 5597 note], except that, for purposes of this subparagraph, subsection (b) of such section 663 does not apply.

''(C) During calendar year 1998, such section 663 applies with respect to payments under subparagraph (A) to the same extent and in the same manner as such section applied with respect to the payments during fiscal year 1997, and for purposes of this subparagraph, the reference in subsection (c)(2)(D) of such section 663 to December 31, 1997, is deemed to be a reference to December 31, 1998.

''(f) The following provisions apply if under subsection (a) the Secretary makes the decision to relocate the Center:

''(1) The site to which the Center is relocated shall be in the vicinity of Baton Rouge, in the State of Louisiana.

''(2) The facility involved shall continue to be designated as the Gillis W. Long Hansen's Disease Center.

''(3) The Secretary shall make reasonable efforts to inform the patients of the Center with respect to the planning and carrying out of the relocation.

''(4) In the case of each individual who as of October 1, 1996, was a patient of the Center and is considered by the Director of the Center to be a long-term-care patient (referred to in this subsection as an 'eligible patient'), the Secretary shall continue to provide for the long-term care of the eligible patient, without charge, for the remainder of the life of the patient.

''(5)(A) For purposes of paragraph (4), an eligible patient who is legally competent has the following options with respect to support and maintenance and other nonmedical expenses:

''(i) For the remainder of his or her life, the patient may reside at the Center.

''(ii) For the remainder of his or her life, the patient may receive payments each year at an annual rate of $33,000 (adjusted in accordance with subparagraphs (C) and (D)), and may not reside at the Center. Payments under this clause are in complete discharge of the obligation of the Federal Government under paragraph (4) for support and maintenance and other nonmedical expenses of the patient.

''(B) The choice by an eligible patient of the option under clause (i) of subparagraph (A) may at any time be revoked by the patient, and the patient may instead choose the option under clause (ii) of such subparagraph. The choice by an eligible patient of the option under such clause (ii) is irrevocable.

''(C) Payments under subparagraph (A)(ii) shall be made on a monthly basis, and shall be pro rated as applicable. In 1999 and each subsequent year, the monthly amount of such payments shall be increased by a percentage equal to any percentage increase taking effect under section 215(i) of the Social Security Act [section 415(i) of this title] (relating to a cost-of-living increase) for benefits under title II of such Act [section 401 et seq. of this title] (relating to Federal old-age, survivors, and disability insurance benefits). Any such percentage increase in monthly payments under subparagraph (A)(ii) shall take effect in the same month as the percentage increase under such section 215(i) takes effect.

''(D) With respect to the provision of outpatient and inpatient medical care for Hansen's disease and related complications to an eligible patient:

''(i) The choice the patient makes under subparagraph (A) does not affect the responsibility of the Secretary for providing to the patient such care at or through the Center.

''(ii) If the patient chooses the option under subparagraph (A)(ii) and receives inpatient care at or through the Center, the Secretary may reduce the amount of payments under such subparagraph, except to the extent that reimbursement for the expenses of such care is available to the provider of the care through the program under title XVIII of the Social Security Act [section 1395 et seq. of this title] or the program under title XIX of such Act [section 1396 et seq. of this title]. Any such reduction shall be made on the basis of the number of days for which the patient received the inpatient care.

''(6) The Secretary shall provide to each eligible patient such information and time as may be necessary for the patient to make an informed decision regarding the options under paragraph (5)(A).

''(7) After the date of the enactment of this Act [Nov. 13, 1997], the Center may not provide long-term care for any individual who as of such date was not receiving such care as a patient of the Center.

''(8) If upon completion of the projects referred to in subsection (d)(4)(A) there are unobligated balances of amounts appropriated for the projects, such balances are available to the Secretary for expenses relating to the relocation of the Center, except that, if the sum of such balances is in excess of $100,000, such excess is available to the State in accordance with subsection (d)(4)(B). The amounts available to the Secretary pursuant to the preceding sentence are available until expended.

''(g) For purposes of this section:

''(1) The term 'Center' means the Gillis W. Long Hansen's Disease Center.

''(2) The term 'Secretary' means the Secretary of Health and Human Services.

''(3) The term 'State' means the State of Louisiana.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title.

§ 248. Control and management of hospitals; furnishing prosthetic and orthopedic devices; transfer of patients; disposal of articles produced by patients; disposal of money and effects of deceased patients; payment of burial expenses

The Surgeon General, pursuant to regulations, shall—

(a) Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c) Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station.

(July 1, 1944, ch. 373, title III, § 321, 58 Stat. 695; June 25, 1948, ch. 654, § 2, 62 Stat. 1017; Pub. L. 95–622, title II, § 266, Nov. 9, 1978, 92 Stat. 3437.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–622 struck out ‘‘, and tobacco’’ after ‘‘orthopedic devices’’.

1948—Subsec. (a). Act June 25, 1948, § 2(a), amended subsec. (a) generally, continuing authority of Service to furnish tobacco to patients being treated by it.

Subsec. (e). Act June 25, 1948, § 2(b), added subsec. (e).

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254e, 260a 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 248b of this title.

§ 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-suffi-

cient 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. 14, 1986, 100 Stat. 3905; Pub. L. 100–456, div. A, title VI, § 645, Sept. 29, 1988, 102 Stat. 1988; Pub. L. 101–510, div. A, title VII, § 718(a), (b), Nov. 5, 1990, 104 Stat. 1586, 1587; Pub. L. 102–25, title VII, § 705(h), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103–160, div. A, title VII, § 717(a), Nov. 30, 1993, 107 Stat. 1693; Pub. L. 104–106, div. A, title VII, §§ 721, 722, 727, title XV, § 1502(c)(8), Feb. 10, 1996, 110 Stat. 377, 380, 508, related to Public Health Service facilities providing medical care for dependents, members, and former members of uniformed services.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1997, see section 727(b) of Pub. L. 104–201, set out in an Inclusion of Certain Designated Providers in Uniformed Services Health Care Delivery System note under section 1073 of Title 10, Armed Forces.

EQUITABLE IMPLEMENTATION OF UNIFORM COST SHARING REQUIREMENTS FOR UNIFORMED SERVICES TREATMENT FACILITIES

Pub. L. 104–106, div. A, title VII, § 726, Feb. 10, 1996, 110 Stat. 379, provided that the uniform managed care benefit fee and copayment schedule developed by Secretary of Defense for use in all managed care initiatives of military health service system be extended to managed care program of Uniformed Services Treatment Facility only after the later of the implementation of the TRICARE regional program covering service area of Facility or Oct. 1, 1996, and provided for evaluation of such extension by Comptroller General, prior to repeal by Pub. L. 104–201, div. A, title VII, § 727(a)(4), Sept. 23, 1996, 110 Stat. 2596.

MANAGED-CARE DELIVERY AND REIMBURSEMENT MODEL FOR THE UNIFORMED SERVICES TREATMENT FACILITIES

Section 718(c) of Pub. L. 101–510, as amended by Pub. L. 102–484, div. A, title VII, § 716, Oct. 23, 1992, 106 Stat. 2438; Pub. L. 103–160, div. A, title VII, § 718, Nov. 30, 1993, 107 Stat. 1694; Pub. L. 104–106, div. A, title VII, §§ 724(a), 725, Feb. 10, 1996, 110 Stat. 378, provided that not later than Nov. 5, 1990, the Secretary of Defense was to begin operation of a managed-care delivery and reimbursement model to continue to use Uniformed Services Treatment Facilities in the military health services system, prior to repeal by Pub. L. 104–201, div. A, title VII, § 727(a)(3), Sept. 23, 1996, 110 Stat. 2596.

§ 249. Medical care and treatment of quarantined and detained persons

(a) Persons entitled to treatment

Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

(b) Temporary treatment in emergency cases

Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted thereto for temporary treatment and care in case of emergency.

(c) Authorization for outside treatment

Persons whose care and treatment is authorized by subsection (a) of this section may, in accordance with regulations, receive such care and treatment at the expense of the Service from

public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made.

(July 1, 1944, ch. 373, title III, § 322, 58 Stat. 696; June 25, 1948, ch. 654, § 3, 62 Stat. 1018; Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1120; Pub. L. 88–424, Aug. 13, 1964, 78 Stat. 398; Pub. L. 90–174, § 10(c), Dec. 5, 1967, 81 Stat. 541; Pub. L. 97–35, title IX, § 986(a), (b)(1), (2), Aug. 13, 1981, 95 Stat. 603.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–35, § 986(a), (b)(2), redesignated subsec. (c) as (a). Former subsec. (a), which related to persons entitled to medical, etc., treatment and hospitalization, was struck out.

Subsec. (b). Pub. L. 97–35, § 986(a), (b)(2), redesignated subsec. (d) as (b). Former subsec. (b), which related to treatment for seamen on foreign-flag vessels, was struck out.

Subsec. (c). Pub. L. 97–35, § 986(b)(1), (2), redesignated subsec. (e) as (c), substituted ''subsection (a)'' for ''subsection (c)'', and struck out ''entitled to care and treatment under subsection (a) of this section and persons'' after ''Persons''. Former subsec. (c) redesignated (a).

Subsecs. (d), (e). Pub. L. 97–35, § 986(b)(2), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

1967—Subsec. (a)(7). Pub. L. 90–174 substituted provision for entitlement to treatment and hospitalization of seamen-trainees, while participating in maritime training programs to develop or enhance their employability in maritime industry, for provision for such entitlement of employees and noncommissioned officers in field service of Public Health Service when injured or taken sick in line of duty.

1964—Subsec. (a)(8). Pub. L. 88–424 added par. (8).

1948—Subsec. (e). Act June 25, 1948, permitted Service to provide for care and treatment of individuals detained in accordance with our quarantine laws.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 986(c) of Pub. L. 97–35 provided that: ''The amendments and repeals made by this section [amending this section and sections 201 and 254e of this title] shall take effect on October 1, 1981.''

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 all other officers of Department of Justice and functions of all agencies and employees of such Department transferred, with a few exceptions, to Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by sections 1 and 2 of Reorg. Plan No. 2 of 1950, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, which were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662. Immigration and Naturalization Service, referred to in this section, is a bureau in Department of Justice.

CONTINUED CARE FOR MERCHANT SEAMEN HOSPITALIZED IN PUBLIC HEALTH SERVICE HOSPITALS

Section 988 of Pub. L. 97–35 provided that:

''(a) The Secretary shall provide, by contract or other arrangement with a Federal entity and without charge but subject to subsection (b), for the continuation of inpatient hospital services (and outpatient services related to the condition of hospitalization) to any individual who—

''(1) on September 30, 1981, is receiving inpatient hospital services at a Public Health Service hospital on the basis of the entitlement contained in section 322(a) of the Public Health Service Act (42 U.S.C. 249(a)), as such section was in effect on such date, for treatment of a condition,

''(2) requires continued hospitalization after such date for treatment of that condition (or requires outpatient services related to such condition), and

''(3) the Secretary determines has no other source of inpatient hospital services available for continued treatment of that condition.

''(b) Services may not be provided under subsection (a) to an individual after the earlier of—

''(1) September 30, 1982,

''(2) the end of the first 60-day consecutive period (beginning after September 30, 1981) during the entire period of which the individual is not an inpatient of a hospital.

''(c) Notwithstanding any other provision of law, the head of any Federal department or agency which provides, under other authority of law and through federal facilities, inpatient hospital services or outpatient services, or both, is authorized to provide inpatient hospital services (and related outpatient services) to individuals under contract or other arrangement with the Secretary pursuant to this section.''

FOREIGN SEAMEN

Section 810(c), formerly § 710(c), of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, which gave foreign seamen the same benefits as accorded seamen employed on United States vessels under subsec. (a)(1) of this section, was repealed effective Jan. 25, 1948, by Joint Res. July 25, 1947, ch. 327, § 2(b), 61 Stat. 451.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, except for treatment of seamen, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238a, 238m, 254e, 2651 of this title; title 24 section 168b.

§ 250. Medical care and treatment of Federal prisoners

The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by section 4005 of title 18, in penal and correctional institutions of the United States.

(July 1, 1944, ch. 373, title III, § 323, 58 Stat. 697.)

CODIFICATION

''Section 4005 of title 18'' substituted in text for ''the Act of May 13, 1930, as amended (U.S.C., 1940 edition, title 18, secs. 751, 752)'' on authority of act June 25, 1948, ch. 645, 62 Stat. 684, the first section of which enacted Title 18, Crimes and Criminal Procedure.

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.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

Transfer of appropriations for Federal Prison System to Public Health Service for expenditure for medical relief for inmates, see section 250a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title.

§ 250a. Transfer of appropriations

The Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

(Pub. L. 105–277, div. A, § 101(b) [title I], Oct. 21, 1998, 112 Stat. 2681–50, 2681–60.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Public Health Service Act which comprises this chapter.

Section was formerly classified to section 341h of title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 105–119, title I, Nov. 26, 1997, 111 Stat. 2449.

Pub. L. 104–208, div. A, title I, § 101(a) [title I], Sept. 30, 1996, 110 Stat. 3009, 3009–11.

Pub. L. 104–134, title I, § 101[(a)] [title I], Apr. 26, 1996, 110 Stat. 1321, 1321–9; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–317, title I, Aug. 26, 1994, 108 Stat. 1732.

Pub. L. 103–121, title I, Oct. 27, 1993, 107 Stat. 1161.

Pub. L. 102–395, title I, Oct. 6, 1992, 106 Stat. 1836.

Pub. L. 102–140, title I, Oct. 28, 1991, 105 Stat. 790.

Pub. L. 101–515, title II, Nov. 5, 1990, 104 Stat. 2114.

Pub. L. 101–162, title II, Nov. 21, 1989, 103 Stat. 1000.

Pub. L. 100–459, title II, Oct. 1, 1988, 102 Stat. 2196.

Pub. L. 100–202, § 101(a) [title II], Dec. 22, 1987, 101 Stat. 1329, 1329–13.

Pub. L. 99–500, § 101(b) [title II], Oct. 18, 1986, 100 Stat. 1783–39, 1783–49, and Pub. L. 99–591, § 101(b) [title II], Oct. 30, 1986, 100 Stat. 3341–39, 3341–49.

Pub. L. 99–180, title II, Dec. 13, 1985, 99 Stat. 1144.

Pub. L. 98–411, title II, Aug. 30, 1984, 98 Stat. 1556.

Pub. L. 98–166, title II, Nov. 28, 1983, 97 Stat. 1084.

Pub. L. 97–377, § 101(d) [S. 2956, title II], Dec. 21, 1982, 96 Stat. 1866.

Pub. L. 97–92, § 101(h) [incorporating Pub. L. 96–536, § 101*o*; H.R. 7584, title II], Dec. 15, 1981, 95 Stat. 1190.

Pub. L. 96–536, § 101*o* [H.R. 7584, title II], Dec. 16, 1980, 94 Stat. 3169.

Pub. L. 96–68, title II, Sept. 24, 1979, 93 Stat. 421.

Pub. L. 95–431, title II, Oct. 10, 1978, 92 Stat. 1028.

Pub. L. 95–86, title II, Aug. 2, 1977, 91 Stat. 427.

Pub. L. 94–362, title II, July 14, 1976, 90 Stat. 945.

Pub. L. 94–121, title II, Oct. 21, 1975, 89 Stat. 620.

Pub. L. 93–433, title II, Oct. 5, 1974, 88 Stat. 1194.

Pub. L. 93–162, title II, Nov. 27, 1973, 87 Stat. 643.

Pub. L. 92–544, title II, Oct. 25, 1972, 86 Stat. 1116.

Pub. L. 92–77, title II, Aug. 10, 1971, 85 Stat. 253.

Pub. L. 91–472, title II, Oct. 21, 1970, 84 Stat. 1047.

Pub. L. 91–153, title II, Dec. 24, 1969, 83 Stat. 410.

Pub. L. 90–470, title II, Aug. 9, 1968, 82 Stat. 675.

Pub. L. 90–133, title II, Nov. 8, 1967, 81 Stat. 418.

Pub. L. 89–797, title II, Nov. 8, 1966, 80 Stat. 1487.

Pub. L. 89–164, title II, Sept. 2, 1965, 79 Stat. 628.

Pub. L. 88–527, title II, Aug. 31, 1964, 78 Stat. 719.

Pub. L. 88–245, title II, Dec. 30, 1963, 77 Stat. 783.

Pub. L. 87–843, title II, Oct. 18, 1962, 76 Stat. 1088.

Pub. L. 87–264, title II, Sept. 21, 1961, 75 Stat. 553.

Pub. L. 86–678, title II, Aug. 31, 1960, 74 Stat. 563.

Pub. L. 86–84, title II, July 13, 1959, 73 Stat. 189.

Pub. L. 85–474, title II, June 30, 1958, 72 Stat. 252.

Pub. L. 85–49, title II, June 11, 1957, 71 Stat. 62.

June 20, 1956, ch. 414, title II, 70 Stat. 307.

July 7, 1955, ch. 279, title II, 69 Stat. 273.

§ 251. Medical examination and treatment of Federal employees; medical care at remote stations

(a) The Surgeon General is authorized to provide at institutions, hospitals, and station of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under subchapter I of Chapter 81 of title 5 and extensions thereof. The Surgeon General may also provide for making medical examinations of—

(1) employees of the Federal Government for retirement purposes;

(2) employees in the Federal classified service, and applicants for appointment, as requested by the Director of the Office of Personnel Management for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the Longshore and Harbor Workers' Compensation Act, as amended [33 U.S.C. 901 et seq.], as requested by any deputy commissioner thereunder.

(b) The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in section 8901(1) of title 5) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. Such employees and their dependents who are not entitled to this care and treatment under any other provision of law shall be charged for it at rates established by the Secretary to reflect the reasonable cost of providing the care and treatment. Any payments pursuant to the preceding sentence shall be credited to the applicable appropriation to the Public Health Service for the year in which such payments are received.

(July 1, 1944, ch. 373, title III, § 324, 58 Stat. 697; Pub. L. 90–174, § 10(a), (b), Dec. 5, 1967, 81 Stat. 540; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 97–468, title VI, § 615(b)(4), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 98–426, § 27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

REFERENCES IN TEXT

The Longshore and Harbor Workers' Compensation Act, as amended, referred to in subsec. (a)(4), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

CODIFICATION

In subsec. (a), ''subchapter I of chapter 81 of title 5'' substituted for ''United States Employees' Compensa-

tion Act'' 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

1984—Subsec. (a)(4). Pub. L. 98–426 substituted ''Longshore and Harbor Workers' Compensation Act'' for ''Longshoremen's and Harbor Workers' Compensation Act''.

1983—Subsec. (a)(1). Pub. L. 97–468 struck out ''employees of the Alaska Railroad and'' before ''employees of the Federal Government''.

1967—Subsec. (a). Pub. L. 90–174, § 10(a), designated existing provisions as subsec. (a) and redesignated cls. (a) to (d) as cls. (1) to (4), respectively.

Subsec. (b). Pub. L. 90–174, § 10(b), added subsec. (b).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(b) of Pub. L. 97–468.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec. (a)(2), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

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.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title; title 24 section 168b.

§ 252. Medical examination of aliens

The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Secretary.

(July 1, 1944, ch. 373, title III, § 325, 58 Stat. 697; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

The immigration laws, referred to in text, are classified generally to Title 8, Aliens and Nationality. See, also, section 1101(a)(17) of Title 8.

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title.

§ 253. Medical services to Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service

(a) Persons entitled to medical services

Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard on active duty, including those on shore duty and those on detached duty; and Regular, and temporary members of the United States Coast Guard Reserve when on active duty;

(2) commissioned officers, ships' officers, and members of the crews of vessels of the National Oceanic and Atmospheric Administration on active duty, including those on shore duty and those on detached duty; and

(3) commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty;

shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the National Oceanic and Atmospheric Administration.

(b) Health care for involuntarily separated officers and dependents

(1) The Secretary may provide health care for an officer of the Regular or Reserve Corps involuntarily separated from the Service, and for any dependent of such officer, if—

(A) the officer or dependent was receiving health care at the expense of the Service at the time of separation; and

(B) the Secretary finds that the officer or dependent is unable to obtain appropriate insurance for the conditions for which the officer or dependent was receiving health care.

(2) Health care may be provided under paragraph (1) for a period of not more than one year from the date of separation of the officer from the Service.

(c) Examination of personnel of Service assigned to Coast Guard or National Oceanic and Atmospheric Administration

The Service shall provide all services referred to in subsection (a) of this section required by the Coast Guard or National Oceanic and Atmospheric Administration and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion and retirement, and officers of the Service assigned to duty on Coast Guard or National Oceanic and Atmospheric Administration vessels may extend aid to the crews of American vessels engaged in deep-sea fishing.

(July 1, 1944, ch. 373, title III, § 326, 58 Stat. 697; June 7, 1956, ch. 374, § 306(3), 70 Stat. 254; Pub. L. 86–415, § 5(d), Apr. 8, 1960, 74 Stat. 34; Pub. L. 88–71, § 2, July 19, 1963, 77 Stat. 83; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 99–117, § 5, Oct. 7, 1985, 99 Stat. 492.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–117 added subsec. (b).

1963—Subsec. (b). Pub. L. 88–71, § 2(a), repealed subsec. (b) which provided for treatment of dependents of personnel. See section 253a(b) of this title.

Subsec. (c). Pub. L. 88–71, § 2(b), inserted ''or Coast and Geodetic Survey'' after ''Coast Guard'' in two places.

1960—Subsec. (a). Pub. L. 86–415 struck out provisions which authorized medical, surgical, and dental care and hospitalization for retired personnel of Coast Guard, Coast and Geodetic Survey, and Public Health Service.

1956—Subsec. (b). Act June 7, 1956, repealed subsec. (b) except insofar as it related to dependent members of families of ships' officers and members of crews of vessels of Coast and Geodetic Survey.

CHANGE OF NAME

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished Environmental Science Services Administration, established National Oceanic and Atmospheric Administration, and redesignated Commissioned Officer Corps of ESSA as Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 7, 1956, effective six months after June 7, 1956, see section 307 of act June 7, 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 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

CROSS REFERENCES

Members of Coast Guard Reserve entitled to benefits of subsecs. (a) and (b) of this section, see section 705 of Title 14, Coast Guard.

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254e of this title; title 14 section 705.

§ 253a. Medical services to retired personnel of National Oceanic and Atmospheric Administration

(a) Eligibility

Subject to regulations of the President, retired ships' officers and retired members of the crews of vessels of the National Oceanic and Atmospheric Administration shall be entitled to medical, surgical, and dental treatment and hospitalization by the Public Health Service if the ships' officer or crew member, (1) was on active duty as a vessel employee of the National Oceanic and Atmospheric Administration on July 1, 1963, or on July 19, 1963, whichever is later, and his employment as a vessel employee was continuous from that date until retirement, or (2) was retired as a vessel employee of the National Oceanic and Atmospheric Administration on or before July 1, 1963, or on July 19, 1963, whichever is later.

(b) Treatment of dependents of personnel

Subject to regulations of the President, dependent members of families (as defined in such regulations) of ships' officers and members of crews of vessels of the National Oceanic and Atmospheric Administration, whether such, ships' officers and members of crew are on active duty or retired, shall be furnished medical advice and outpatient treatment by the Public Health Service and, if suitable accommodations are available, they shall also be furnished hospitalization by the Public Health Service if the ships' officer or crew member (1) was on active duty as a vessel employee of the National Oceanic and Atmospheric Administration on July 1, 1963, or on July 19, 1963, whichever is later, and his employment as a vessel employee has been continuous from that time, or (2) was on active duty as a vessel employee of the National Oceanic and Atmospheric Administration on July 1, 1963, or on July 19, 1963, whichever is later, and his employment as a vessel employee was continuous from that time until retirement, or (3) was retired as a vessel employee of the National Oceanic and Atmospheric Administration on or before July 1, 1963, or on July 19, 1963, whichever is later. When dependent members of families are hospitalized, a per diem charge, at such uniform rate as may be prescribed from time to time for the hospitalization of dependents of members of the uniformed services at hospitals of the uniformed services pursuant to section 1078(a) of title 10 shall be made.

(c) Identification

The National Oceanic and Atmospheric Administration shall furnish proper identification to those persons entitled to medical treatment under the provisions of this section.

(Pub. L. 88–71, §1, July 19, 1963, 77 Stat. 83; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 98–498, title III, §310(b), (c), Oct. 19, 1984, 98 Stat. 2306, 2307.)

CODIFICATION

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

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–498, §310(b), substituted ''by the Public Health Service if'' for ''at facilities of the Public Health Service: *Provided*, That''.

Subsec. (b). Pub. L. 98–498, §310(c), struck out ''at its hospitals and relief stations'' before ''and, if suitable accommodations'' and substituted ''by the Public Health Service if'' for ''at hospitals of the Public Health Service: *Provided*, That''.

CHANGE OF NAME

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished Environmental Science Services Administration, established National Oceanic and Atmospheric Administration, and redesignated Commissioned Officer Corps of ESSA as Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 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 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.

EX. ORD. NO. 11160. REGULATIONS RELATING TO MEDICAL CARE FOR RETIRED PERSONNEL OF COAST AND GEODETIC SURVEY [NOW NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION] AND THEIR DEPENDENTS

Ex. Ord. No. 11160, July 6, 1964, 29 F.R. 9315, provided:

By virtue of the authority vested in me by the first section of the Act of July 19, 1963 (Public Law 88–71, 77 Stat. 83, 42 U.S.C. 253a) [this section], and as President of the United States, I hereby prescribe the following regulations relating to the medical care of certain retired personnel of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] and dependents of Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] ships' officers and crew members, both active and retired.

SECTION 1. *Definitions*. As used in these regulations, the term:

(1) ''Retired ships' officer and retired crew member'' means a noncommissioned ships' officer or crew member of a vessel of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] who either was on active duty as a vessel employee on July 19, 1963, and whose employment as such vessel employee was continuous from that date until the date of his retirement, or who had retired as a vessel employee on or before July 19, 1963.

(2) ''Active duty ships' officer and active duty crew member'' means a noncommissioned ships' officer or crew member on active duty as a vessel employee of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration] on July 19, 1963, and whose employment as such vessel employee has been continuous from that time.

(3) ''Dependent members of families'', with respect to active duty or retired ships' officers or crew members, means:

(A) the lawful wife;

(B) the unmarried legitimate child, including an adopted child or stepchild, who has not passed his twenty-first birthday; and

(C) the father or mother, if in fact dependent upon such active duty or retired ships' officer or crew member for over one-half of his or her support.

(4) ''Relief stations'' means Public Health Service outpatient clinics and outpatient offices.

(5) ''Outpatient clinic'' means a full-time outpatient medical facility, operated in Federally owned or leased space under the supervision of a commissioned medical officer or a full-time civil service medical officer (formerly known as a Second-Class Relief Station).

(6) ''Outpatient office'' means a part-time outpatient facility serving all classes of legal beneficiaries, located in other than Federal space, and in the charge of a local private physician under contract to the Service to provide medical care on an annual or fee basis (formerly known as a Third-Class Relief Station).

SEC. 2. *Persons entitled to treatment*. The following persons shall be entitled to medical care under these regulations:

(1) Retired ships' officers and retired crew members of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration];

(2) Dependent members of families of persons described in paragraph (1) of this section;

(3) Dependent members of families of active duty ships' officers and crew members of the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration].

SEC. 3. *Application for treatment; evidence of eligibility*. Persons entitled to medical care under Section 2 of these regulations, when applying to Public Health Service medical care facilities for medical care, shall produce proper identification, as issued to them by the Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration], and such identification shall be accepted as evidence of eligibility for such medical care by the Service.

SEC. 4. *Extent of treatment; retired ships' officers and crew members*. Subject to the limitation imposed by paragraph (2) of this section, retired ships' officers and crew members entitled to medical care under these regulations shall be furnished:

(1) Medical, surgical, and dental treatment at hospitals, outpatient clinics, and outpatient offices of the Service, and hospitalization at hospitals of the Service. The Service will not be responsible for defraying the cost of hospitalization, medical services, and supplies procured elsewhere.

(2) Dental treatment shall be furnished to the extent that facilities and services at hospitals and outpatient clinics of the Service having full-time dental officers on duty are available to provide such treatment. At other Service facilities, dental treatment shall be limited to emergency measures necessary to relieve pain.

SEC. 5. *Extent of treatment; dependent members of families; charges*. (a) Dependent members of families shall be furnished medical advice and outpatient treatment at hospitals, outpatient clinics, and outpatient offices of the Service and, if suitable accommodations are available, shall be furnished hospitalization at hospitals of the Service. The Service will not be responsible for defraying the cost of hospitalization, medical services, and supplies procured elsewhere.

(b) For the purpose of this section—

(1) Medical advice and outpatient treatment may include such services and supplies as the Medical Officer in Charge may deem to be necessary for reasonable and adequate treatment.

(2) Hospitalization shall be furnished when, in the opinion of the Medical Officer in Charge, suitable accommodations are available and the condition of the patient is such as to require hospitalization. When hospitalization is authorized, it may include such services and supplies as the Medical Officer in Charge may deem to be necessary for reasonable and adequate treatment.

(c) Charges shall be made for hospitalization of dependent members of families at the same per diem rate as is prescribed for dependents of members of the uniformed services pursuant to section 1078(a) of Title 10 of the United States Code.

(d) Dental treatment may be furnished to the extent that facilities and services at hospitals and outpatient clinics of the Service having full-time dental officers are available to provide such treatment. Dental care will not be furnished under any circumstances in private facilities at the expense of the Service.

SEC. 6. *Prior orders*. Executive Order No. 9703 of March 12, 1946, prescribing regulations relating to medical care of certain personnel of the Coast Guard, Coast and Geodetic Survey [now National Oceanic and Atmospheric Administration], Public Health Service, and former Lighthouse Service, is hereby amended to the extent necessary to conform it to the provisions of this order.

LYNDON B. JOHNSON.

§ 253b. Former Lighthouse Service employees; medical service eligibility

Subject to regulations of the President, lightkeepers, assistant lightkeepers, and officers and crews of vessels of the former Lighthouse Service, including any such persons who subsequent to June 30, 1939, were involuntarily assigned to other civilian duty in the Coast Guard, who were entitled to medical relief at hospitals and other stations of the Public Health Service prior to July 1, 1944, and who retired under the provisions of section 763 of title 33, shall be entitled to medical, surgical, and dental treatment and hospitalization at hospitals and other stations of the Public Health Service.

(Pub. L. 93–353, title I, § 108(a), July 23, 1974, 88 Stat. 371.)

CODIFICATION

Section was enacted as a part of Health Services Research, Health Statistics, and Medical Libraries Act of 1974, and also as a part of Health Services Research and Evaluation and Health Statistics Act of 1974, and not as a part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section 108(b) of Pub. L. 93–353 provided that: ''Subsection (a) [enacting this section] shall be effective from December 28, 1973.''

§ 254. Interdepartmental work

Nothing contained in this part shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work of services, requested in accordance with sections 1535 and 1536 of title 31, or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Department of Health and Human Services for the Service in accordance with that section.

(July 1, 1944, ch. 373, title III, § 327, 58 Stat. 697; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CODIFICATION

''Sections 1535 and 1536 of title 31'' substituted in text for ''section 7 of the Act of May 21, 1920, as amended (U.S.C., 1940 edition, title 31, sec. 686)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

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.

§ 254a. Sharing of medical care facilities and resources

(a) Definitions

For purposes of this section—

(1) the term ''specialized health resources'' means health care resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the health care community or are subject to maximum utilization only through mutual use;

(2) the term ''hospital'', unless otherwise specified, includes (in addition to other hospitals) any Federal hospital.

(b) Statement of purpose; agreements or arrangements; reciprocity; reimbursement; credits

For the purpose of maintaining or improving the quality of care in Public Health Service facilities and to provide a professional environment therein which will help to attract and retain highly qualified and talented health personnel, to encourage mutually beneficial relationships between Public Health Service facilities and hospitals and other health facilities in the health care community, and to promote the full utilization of hospitals and other health facilities and resources, the Secretary may—

(1) enter into agreements or arrangements with schools of medicine, schools of osteopathic medicine, and with other health professions schools, agencies, or institutions, for such interchange or cooperative use of facilities and services on a reciprocal or reimbursable basis, as will be of benefit to the training or research programs of the participating agencies; and

(2) enter into agreements or arrangements with hospitals and other health care facilities for the mutual use or the exchange of use of

specialized health resources, and providing for reciprocal reimbursement.

Any reimbursement pursuant to any such agreement or arrangement shall be based on charges covering the reasonable cost of such utilization, including normal depreciation and amortization costs of equipment. Any proceeds to the Government under this subsection shall be credited to the applicable appropriation of the Public Health Service for the year in which such proceeds are received.

(July 1, 1944, ch. 373, title III, § 327A, formerly § 328, as added Pub. L. 90–174, § 7, Dec. 5, 1967, 81 Stat. 539; renumbered § 327A, Pub. L. 95–626, title I, § 113(a)(2), Nov. 10, 1978, 92 Stat. 3562; amended Pub. L. 100–607, title VI, § 629(a)(1), Nov. 4, 1988, 102 Stat. 3146.)

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100–607 inserted ''schools of osteopathic medicine,'' after ''schools of medicine,'' and ''professions'' after ''health''.

AVAILABILITY OF APPROPRIATIONS FOR EXPENSES OF SHARING MEDICAL CARE FACILITIES AND RESOURCES

Pub. L. 102–394, title II, § 204, Oct. 6, 1992, 106 Stat. 1811, provided that: ''Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act [42 U.S.C. 254a].''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–170, title II, § 204, Nov. 26, 1991, 105 Stat. 1126.

Pub. L. 101–517, title II, § 204, Nov. 5, 1990, 104 Stat. 2208.

Pub. L. 101–166, title II, § 205, Nov. 21, 1989, 103 Stat. 1177.

Pub. L. 100–202, § 101(h) [title II, § 205], Dec. 22, 1987, 101 Stat. 1329–256, 1329–274.

Pub. L. 99–500, § 101(i) [H.R. 5233, title II, § 205], Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, § 101(i) [H.R. 5233, title II, § 205], Oct. 30, 1986, 100 Stat. 3341–287.

Pub. L. 99–178, title II, § 205, Dec. 12, 1985, 99 Stat. 1119.

Pub. L. 98–619, title II, § 205, Nov. 8, 1984, 98 Stat. 3321.

Pub. L. 98–139, title II, § 205, Oct. 31, 1983, 97 Stat. 887.

Pub. L. 97–377, title I, § 101(e)(1) [title II, § 205], Dec. 21, 1982, 96 Stat. 1878, 1894.

PART D—PRIMARY HEALTH CARE

SUBPART I—HEALTH CENTERS

AMENDMENTS

1996—Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626, substituted ''Health Centers'' for ''Primary Health Centers'' in subpart heading.

1978—Pub. L. 95–626, title I, § 113(a)(3), Nov. 10, 1978, 92 Stat. 3562, added heading ''Part D—Primary Health Care'' and, immediately under it, heading ''Subpart I—Primary Health Centers''.

§ 254b. Health centers

(a) "Health center" defined

(1) In general

For purposes of this section, the term ''health center'' means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

(A) required primary health services (as defined in subsection (b)(1) of this section); and

(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2) of this section) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the ''catchment area'').

(2) Limitation

The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (g), (h), or (i) of this section.

(b) Definitions

For purposes of this section:

(1) Required primary health services

(A) In general

The term ''required primary health services'' means—

(i) basic health services which, for purposes of this section, shall consist of—

(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

(II) diagnostic laboratory and radiologic services;

(III) preventive health services, including—

(aa) prenatal and perinatal services;

(bb) screening for breast and cervical cancer;

(cc) well-child services;

(dd) immunizations against vaccine-preventable diseases;

(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

(gg) voluntary family planning services; and

(hh) preventive dental services;

(IV) emergency medical services; and

(V) pharmaceutical services as may be appropriate for particular centers;

(ii) referrals to providers of medical services and other health-related services (including substance abuse and mental health services);

(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to

assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services;

(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

(B) Exception

With respect to a health center that receives a grant only under subsection (g) of this section, the Secretary, upon a showing of good cause, shall—

(i) waive the requirement that the center provide all required primary health services under this paragraph; and

(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

(2) Additional health services

The term ''additional health services'' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the health center involved. Such term may include—

(A) environmental health services, including—

(i) the detection and alleviation of unhealthful conditions associated with water supply;

(ii) sewage treatment;

(iii) solid waste disposal;

(iv) rodent and parasitic infestation;

(v) field sanitation;

(vi) housing; and

(vii) other environmental factors related to health; and

(B) in the case of health centers receiving grants under subsection (g) of this section, special occupation-related health services for migratory and seasonal agricultural workers, including—

(i) screening for and control of infectious diseases, including parasitic diseases; and

(ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

(3) Medically underserved populations

(A) In general

The term ''medically underserved population'' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

(B) Criteria

In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

(i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

(ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

(C) Limitation

The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

(i) the chief executive officer of such State;

(ii) local officials in such State; and

(iii) the organization, if any, which represents a majority of health centers in such State.

(D) Permissible designation

The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.

(c) Planning grants

(1) In general

(A) Centers

The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

(i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;

(ii) the design of a health center program for such population based on such assessment;

(iii) efforts to secure, within the proposed catchment area of such center, fi-

nancial and professional assistance and support for the project;

(iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and

(v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

(B) Comprehensive service delivery networks and plans

The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

(i) the center has received grants under subsection (e)(1)(A) of this section for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and

(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

Any such grant may include the acquisition and lease of buildings and equipment which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans), and providing training and technical assistance related to the provision of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.

(2) Limitation

Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

(d) Managed care loan guarantee program

(1) Establishment

(A) In general

The Secretary shall establish a program under which the Secretary may, in accordance with this subsection and to the extent that appropriations are provided in advance for such program, guarantee the principal and interest on loans made by non-Federal lenders to health centers funded under this section for the costs of developing and operating managed care networks or plans.

(B) Use of funds

Loan funds guaranteed under this subsection may be used—

(i) to establish reserves for the furnishing of services on a pre-paid basis; or

(ii) for costs incurred by the center or centers, otherwise permitted under this section, as the Secretary determines are necessary to enable a center or centers to develop, operate, and own the network or plan.

(C) Publication of guidance

Prior to considering an application submitted under this subsection, the Secretary shall publish guidelines to provide guidance on the implementation of this section. The Secretary shall make such guidelines available to the universe of parties affected under this subsection, distribute such guidelines to such parties upon the request of such parties, and provide a copy of such guidelines to the appropriate committees of Congress.

(2) Protection of financial interests

(A) In general

The Secretary may not approve a loan guarantee for a project under this subsection unless the Secretary determines that—

(i) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any center asset that is, or may be, needed by the center or centers involved to provide health services;

(ii) the loan would not be available on reasonable terms and conditions without the guarantee under this subsection; and

(iii) amounts appropriated for the program under this subsection are sufficient to provide loan guarantees under this subsection.

(B) Recovery of payments

(i) In general

The United States shall be entitled to recover from the applicant for a loan guarantee under this subsection the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining available to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this clause shall be credited as

reimbursements to the financing account of the program.

(ii) Modification of terms and conditions

To the extent permitted by clause (iii) and subject to the requirements of section 504(e) of the Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this subsection (including terms and conditions imposed under clause (iv)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

(iii) Incontestability

Any loan guarantee made by the Secretary under this subsection shall be incontestable—

(I) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

(II) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(iv) Further terms and conditions

Guarantees of loans under this subsection shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

(3) Loan origination fees

(A) In general

The Secretary shall collect a loan origination fee with respect to loans to be guaranteed under this subsection, except as provided in subparagraph (C).

(B) Amount

The amount of a loan origination fee collected by the Secretary under subparagraph (A) shall be equal to the estimated long term cost of the loan guarantees involved to the Federal Government (excluding administrative costs), calculated on a net present value basis, after taking into account any appropriations that may be made for the purpose of offsetting such costs, and in accordance with the criteria used to award loan guarantees under this subsection.

(C) Waiver

The Secretary may waive the loan origination fee for a health center applicant who demonstrates to the Secretary that the applicant will be unable to meet the conditions of the loan if the applicant incurs the additional cost of the fee.

(4) Defaults

(A) In general

Subject to the requirements of the Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this subsection, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a health center or centers shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

(B) Foreclosure

The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this subsection, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with paragraph (2)(A)(i).

(5) Limitation

Not more than one loan guarantee may be made under this subsection for the same network or plan, except that upon a showing of good cause the Secretary may make additional loan guarantees.

(6) Annual report

Not later than April 1, 1998, and each April 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning loan guarantees provided under this subsection. Such report shall include—

(A) a description of the number, amount, and use of funds received under each loan guarantee provided under this subsection;

(B) a description of any defaults with respect to such loans and an analysis of the reasons for such defaults, if any; and

(C) a description of the steps that may have been taken by the Secretary to assist an entity in avoiding such a default.

(7) Program evaluation

Not later than June 30, 1999, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing an evaluation of the program authorized under this subsection. Such evaluation shall include a recommendation with respect to whether or not the loan guarantee program under this subsection should be continued and, if so, any modifications that should be made to such program.

(8) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

(e) Operating grants

(1) Authority

(A) In general

The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

(B) Entities that fail to meet certain requirements

The Secretary may make grants, for a period of not to exceed 2 years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection (j)(3) of this section.

(2) Use of funds

The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring and leasing buildings and equipment (including the costs of amortizing the principal of, and paying interest on, loans), and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

(3) Construction

The Secretary may award grants which may be used to pay the costs associated with expanding and modernizing existing buildings or constructing new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) for projects approved prior to October 1, 1996.

(4) Limitation

Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

(5) Amount

(A) In general

The amount of any grant made in any fiscal year under paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

(i) State, local, and other operational funding provided to the center; and

(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

(B) Payments

Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

(C) Use of nongrant funds

Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

(f) Infant mortality grants

(1) In general

The Secretary may make grants to health centers for the purpose of assisting such centers in—

(A) providing comprehensive health care and support services for the reduction of—

(i) the incidence of infant mortality; and

(ii) morbidity among children who are less than 3 years of age; and

(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

(2) Priority

In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

(3) Requirements

The Secretary may make a grant under this subsection only if the health center involved agrees that—

(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

(B) such services will be continuous for each such recipient;

(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

(g) Migratory and seasonal agricultural workers

(1) In general

The Secretary may award grants for the purposes described in subsections (c), (e), and (f) of this section for the planning and delivery of services to a special medically underserved population comprised of—

(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (3) because of age or

disability and members of the families of such individuals who are within such catchment area.

(2) Environmental concerns

The Secretary may enter into grants or contracts under this subsection with public and private entities to—

(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migratory agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and members of their families are exposed.

(3) Definitions

For purposes of this subsection:

(A) Migratory agricultural worker

The term ''migratory agricultural worker'' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

(B) Seasonal agricultural worker

The term ''seasonal agricultural worker'' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

(C) Agriculture

The term ''agriculture'' means farming in all its branches, including—

(i) cultivation and tillage of the soil;

(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

(h) Homeless population

(1) In general

The Secretary may award grants for the purposes described in subsections (c), (e), and (f) of this section for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and children at risk of homelessness.

(2) Required services

In addition to required primary health services (as defined in subsection (b)(1) of this section), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

(3) Supplement not supplant requirement

A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

(4) Definitions

For purposes of this section:

(A) Homeless individual

The term ''homeless individual'' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.

(B) Substance abuse

The term ''substance abuse'' has the same meaning given such term in section 290cc–34(4) of this title.

(C) Substance abuse services

The term ''substance abuse services'' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.

(i) Residents of public housing

(1) In general

The Secretary may award grants for the purposes described in subsections (c), (e), and (f) of this section for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 1437a(b)(1) of this title) and individuals living in areas immediately accessible to such public housing.

(2) Supplement not supplant

A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

(3) Consultation with residents

The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

(A) has consulted with the residents in the preparation of the application for the grant; and

(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

(j) Applications

(1) Submission

No grant may be made under this section unless an application therefore is submitted to,

and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) Description of need

An application for a grant under subparagraph (A) or (B) of subsection (e)(1) of this section for a health center shall include—

(A) a description of the need for health services in the catchment area of the center;

(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) of this section or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (e)(1) of this section, the Secretary may require as a condition to the approval of such application an assurance that the applicant will provide any health service defined under paragraphs (1) and (2) of subsection (b) of this section that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

(3) Requirements

Except as provided in subsection (e)(1)(B) of this section, the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (e)(1) of this section unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a) of this section) and that—

(A) the required primary health services of the center will be available and accessible in the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

(B) the center has made and will continue to make every reasonable effort to establish and maintain collaborative relationships with other health care providers in the catchment area of the center;

(C) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

(D) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(E) the center—

(i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; or

(ii) has made or will make every reasonable effort to enter into such an arrangement;

(F) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.], or to assistance for medical expenses under any other public assistance program or private health insurance program;

(G) the center—

(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

(ii) has made and will continue to make every reasonable effort—

(I) to secure from patients payment for services in accordance with such schedules; and

(II) to collect reimbursement for health services to persons described in subparagraph (F) on the basis of the full amount of fees and payments for such services without application of any discount; and

(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

(H) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or an urban Indian organization under the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.)—

(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (g), (h), (i), or (p) of this section;

(I) the center has developed—

(i) an overall plan and budget that meets the requirements of the Secretary; and

(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

(I) the costs of its operations;

(II) the patterns of use of its services;

(III) the availability, accessibility, and acceptability of its services; and

(IV) such other matters relating to operations of the applicant as the Secretary may require;

(J) the center will review periodically its catchment area to—

(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

(K) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

(L) the center, has developed an ongoing referral relationship with one or more hospitals.

For purposes of subparagraph (H), the term ''public center'' means a health center funded (or to be funded) through a grant under this section to a public agency.

(4) Approval of new or expanded service applications

The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (e)(1) of this section for health centers which—

(A) have not received a previous grant under such subsection; or

(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

(k) Technical and other assistance

The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (j)(2) of this section.

(*l*) Authorization of appropriations

(1) In general

For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d) of this section, there are authorized to be appropriated $802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

(2) Special provisions

(A) Public centers

The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (j)(3) of this section) the governing boards of which (as described in subsection (j)(3)(G)(ii)[1] of this section) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term ''public centers'' shall not include health centers that receive grants pursuant to subsection (h) or (i) of this section.

(B) Distribution of grants

(i) Fiscal year 1997

For fiscal year 1997, the Secretary, in awarding grants under this section shall ensure that the amounts made available under each of subsections (g), (h), and (i) of

[1] So in original. Probably should be subsection ''(j)(3)(H)(ii)''.

this section in such fiscal year bears the same relationship to the total amount appropriated for such fiscal year under paragraph (1) as the amounts appropriated for fiscal year 1996 under each of sections 254b, 256, and 256a of this title (as such sections existed one day prior to October 11, 1996) bears to the total amount appropriated under sections 256b, 256c, 256, and 256a of this title (as such sections existed one day prior to October 11, 1996) for such fiscal year.

(ii) Fiscal years 1998 and 1999

For each of the fiscal years 1998 and 1999, the Secretary, in awarding grants under this section shall ensure that the proportion of the amounts made available under each of subsections (g), (h), and (i) of this section is equal to the proportion of amounts made available under each such subsection for the previous fiscal year, as such amounts relate to the total amounts appropriated for the previous fiscal year involved, increased or decreased by not more than 10 percent.

(3) Funding report

The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

(m) Memorandum of agreement

In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

(1) analyze the need for primary health services for medically underserved populations within such State;

(2) assist in the planning and development of new health centers;

(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

(5) share information and data relevant to the operation of new and existing health centers.

(n) Records

(1) In general

Each entity which receives a grant under subsection (e) of this section shall establish and maintain such records as the Secretary shall require.

(2) Availability

Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

(*o*) Delegation of authority

The Secretary may delegate the authority to administer the programs authorized by this section to any office, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

(p) Special consideration

In making grants under this section, the Secretary shall give special consideration to the unique needs of sparsely populated rural areas, including giving priority in the awarding of grants for new health centers under subsections (c) and (e) of this section, and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (j)(3)(G)[2] of this section.

(q) Audits

(1) In general

Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

[2] So in original. Probably should be a reference to subsection (j)(3)(H).

(2) Records

Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

(3) Availability of records

Each entity which is required to establish and maintain records or to provide for and[3] audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

(4) Waiver

The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.

(July 1, 1944, ch. 373, title III, § 330, as added Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626.)

REFERENCES IN TEXT

The Credit Reform Act of 1990, referred to in subsec. (d)(4)(A), probably means the Federal Credit Reform Act of 1990, title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Social Security Act, referred to in subsec. (j)(3)(E)(i), (F), 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.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Indian Self-Determination Act, referred to in subsec. (j)(3)(H), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (j)(3)(H), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

Sections 254b and 254c of this title, referred to in subsec. (*l*)(2)(B)(i), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of this subpart by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to this section and section 254c of this title.

Sections 256 and 256a of this title, referred to in subsec. (*l*)(2)(B)(i), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

[3] So in original. Probably should be ''an''.

CODIFICATION

October 11, 1996, referred to in subsec. (*l*)(2)(B)(i), was in the original ''the date of enactment of this section'', which was translated as meaning the date of enactment of Pub. L. 104–299, which amended this subpart generally.

PRIOR PROVISIONS

A prior section 254a–1, act July 1, 1944, ch. 373, title III, § 328, as added Nov. 10, 1978, Pub. L. 95–626, title I, § 114, 92 Stat. 3563; amended Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, related to hospital-affiliated primary care centers, prior to repeal by Pub. L. 99–117, § 12(c), Oct. 7, 1985, 99 Stat. 495.

A prior section 254b, act July 1, 1944, ch. 373, title III, § 329, formerly § 310, as added Sept. 25, 1962, Pub. L. 87–692, 76 Stat. 592; amended Aug. 5, 1965, Pub. L. 89–109, § 3, 79 Stat. 436; Oct. 15, 1968, Pub. L. 90–574, title II, § 201, 82 Stat. 1006; Mar. 12, 1970, Pub. L. 91–209, 84 Stat. 52; June 18, 1973, Pub. L. 93–45, title I, § 105, 87 Stat. 91; renumbered § 319, July 23, 1974, Pub. L. 93–353, title I, § 102(d), 88 Stat. 362; amended July 29, 1975, Pub. L. 94–63, title IV, § 401(a), title VII, § 701(c), 89 Stat. 334, 352; Apr. 22, 1976, Pub. L. 94–278, title VIII, § 801(a), 90 Stat. 414; Aug. 1, 1977, Pub. L. 95–83, title III, § 303, 91 Stat. 388; renumbered § 329 and amended Nov. 10, 1978, Pub. L. 95–626, title I, §§ 102(a), 103(a)–(g)(1)(B), (2), (h), (i), 92 Stat. 3551–3555; July 10, 1979, Pub. L. 96–32, § 6(a), 93 Stat. 83; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695; Aug. 13, 1981, Pub. L. 97–35, title IX, § 930, 95 Stat. 569; Dec. 21, 1982, Pub. L. 97–375, title I, § 107(b), 96 Stat. 1820; Apr. 24, 1986, Pub. L. 99–280, §§ 6, 7, 100 Stat. 400, 401; Aug. 10, 1988, Pub. L. 100–386, § 2, 102 Stat. 919; Nov. 6, 1990, Pub. L. 101–527, § 9(b), 104 Stat. 2333; Oct. 27, 1992, Pub. L. 102–531, title III, § 309(a), 106 Stat. 3499, related to migrant health centers, prior to the general amendment of this subpart by Pub. L. 104–299, § 2.

Another prior section 254b, act July 1, 1944, ch. 373, title III, § 329, as added Dec. 31, 1970, Pub. L. 91–623, § 2, 84 Stat. 1868; amended Nov. 18, 1971, Pub. L. 92–157, title II, § 203, 85 Stat. 462; Oct. 27, 1972, Pub. L. 92–585, § 2, 86 Stat. 1290; July 29, 1975, Pub. L. 94–63, title VIII, §§ 801–803, 89 Stat. 353, 354; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(b), 90 Stat. 2244, related to establishment of National Health Service Corps, assignment of personnel and statement of purpose, prior to repeal by Pub. L. 94–484, title IV, § 407(b)(1), Oct. 12, 1976, 90 Stat. 2268. See section 254d et seq. of this title.

A prior section 330 of act July 1, 1944, was classified to section 254c of this title prior to the general amendment of this subpart by Pub. L. 104–299.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 5 of Pub. L. 104–299, as amended, set out as an Effective Date of 1996 Amendment note under section 233 of this title.

SAVINGS PROVISION FOR CURRENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Section 3(b) of Pub. L. 104–299 provided that: ''The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act [Oct. 11, 1996]), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.''

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Section 4(c) of Pub. L. 104–299 provided that: ''Whenever any reference is made in any provision of law, reg-

ulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center.''

LEGISLATIVE PROPOSAL FOR CHANGES CONFORMING TO PUB. L. 104–299

Section 4(e) of Pub. L. 104–299 provided that: ''After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act [see Short Title of 1996 Amendments note set out under section 201 of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 256c, 297q, 1396d, 1397ee of this title; title 29 section 774.

§ 254c. Rural health outreach, network development, and telemedicine grant program

(a) Administration

The rural health services outreach demonstration grant program established under section 241 of this title shall be administered by the Office of Rural Health Policy (of the Health Resources and Services Administration), in consultation with State rural health offices or other appropriate State governmental entities.

(b) Grants

Under the program referred to in subsection (a) of this section, the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.

(c) Eligible networks

(1) Outreach networks

To be eligible to receive a grant under this section, an entity shall—

(A) be a rural public or nonprofit private entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services; and

(B) in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(i) a description of the activities which the applicant intends to carry out using amounts provided under the grant;

(ii) a plan for continuing the project after Federal support is ended;

(iii) a description of the manner in which the activities funded under the grant will meet health care needs of underserved rural populations within the State; and

(iv) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network.

(2) For-profit entities

An eligible network may include for-profit entities so long as the network grantee is a nonprofit entity.

(3) Telemedicine networks

(A) In general

An entity that is a health care provider and a member of an existing or proposed telemedicine network, or an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network shall be eligible for a grant under this section.

(B) Requirement

A telemedicine network referred to in subparagraph (A) shall, at a minimum, be composed of—

(i) a multispecialty entity that is located in an urban or rural area, which can provide 24-hour a day access to a range of specialty care; and

(ii) at least two rural health care facilities, which may include rural hospitals, rural physician offices, rural health clinics, rural community health clinics, and rural nursing homes.

(d) Preference

In awarding grants under this section, the Secretary shall give preference to applicant networks that include—

(1) a majority of the health care providers serving in the area or region to be served by the network;

(2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region;

(3) outpatient mental health providers serving in the area or region; or

(4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program, to improve access to and coordination of health care services.

(e) Use of funds

(1) In general

Amounts provided under grants awarded under this section shall be used—

(A) for the planning and development of integrated self-sustaining health care networks; and

(B) for the initial provision of services.

(2) Expenditures in rural areas

(A) In general

In awarding a grant under this section, the Secretary shall ensure that not less than 50 percent of the grant award is expended in a rural area or to provide services to residents of rural areas.

(B) Telemedicine networks

An entity described in subsection (c)(3) of this section may not use in excess of—

(i) 40 percent of the amounts provided under a grant under this section to carry

out activities under paragraph (3)(A)(iii); and

(ii) 20 percent of the amounts provided under a grant under this section to pay for the indirect costs associated with carrying out the purposes of such grant.

(3) Telemedicine networks

(A) In general

An entity described in subsection (c)(3) of this section, may use amounts provided under a grant under this section to—

(i) demonstrate the use of telemedicine in facilitating the development of rural health care networks and for improving access to health care services for rural citizens;

(ii) provide a baseline of information for a systematic evaluation of telemedicine systems serving rural areas;

(iii) purchase or lease and install equipment; and

(iv) operate the telemedicine system and evaluate the telemedicine system.

(B) Limitations

An entity described in subsection (c)(3) of this section, may not use amounts provided under a grant under this section—

(i) to build or acquire real property;

(ii) purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment); or

(iii) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment;[1]

(f) Term of grants

Funding may not be provided to a network under this section for in excess of a 3-year period.

(g) Authorization of appropriations

For the purpose of carrying out this section there are authorized to be appropriated $36,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

(July 1, 1944, ch. 373, title III, § 330A, as added Pub. L. 104–299, § 3(a), Oct. 11, 1996, 110 Stat. 3642.)

PRIOR PROVISIONS

A prior section 254c, act July 1, 1944, ch. 373, title III, § 330, as added July 29, 1975, Pub. L. 94–63, title V, § 501(a), 89 Stat. 342; amended Apr. 22, 1976, Pub. L. 94–278, title VIII, § 801(b), 90 Stat. 415; Aug. 1, 1977, Pub. L. 95–83, title III, § 304, 91 Stat. 388; Nov. 10, 1978, Pub. L. 95–626, title I, § 104(a)–(d)(3)(B), (4), (5), (e), (f), 92 Stat. 3556–3559; July 10, 1979, Pub. L. 96–32, §§ 6(b)–(d), 7(c), 93 Stat. 83, 84; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695; Oct. 19, 1980, Pub. L. 96–470, title I, § 106(e), 94 Stat. 2238; Aug. 13, 1981, Pub. L. 97–35, title IX, §§ 903(a), 905, 906, 95 Stat. 561, 562; Jan. 4, 1983, Pub. L. 97–414, § 8(e), 96 Stat. 2060; Apr. 24, 1986, Pub. L. 99–280, §§ 2–4, 100 Stat. 399, 400; Aug. 10, 1988, Pub. L. 100–386, §§ 3, 4, 102 Stat. 921, 923; Nov. 4, 1988, Pub. L. 100–607, title I, § 163(3), 102 Stat. 3062; Dec. 19, 1989, Pub. L. 101–239, title VI, § 6103(e)(5), 103 Stat. 2207; Nov. 6, 1990, Pub. L. 101–527, § 9(a), 104 Stat. 2332; Oct. 27, 1992, Pub. L. 102–531, title III, § 309(b), 106 Stat. 3500, related to community health centers, prior to the general amendment of this subpart by Pub. L. 104–299, § 2.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 5 of Pub. L. 104–299, as amended, set out as an Effective Date of 1996 Amendment note under section 233 of this title.

§ 254c–1. Grants for health services for Pacific Islanders

(a) Grants

The Secretary of Health and Human Services (hereafter in this section referred to as the ''Secretary'') shall provide grants to, or enter into contracts with, public or private nonprofit agencies that have demonstrated experience in serving the health needs of Pacific Islanders living in the Territory of American Samoa, the Commonwealth of Northern Mariana Islands, the Territory of Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia.

(b) Use of grants or contracts

Grants or contracts made or entered into under subsection (a) of this section shall be used, among other items—

(1) to continue, as a priority, the medical officer training program in Pohnpei, Federated States of Micronesia;

(2) to improve the quality and availability of health and mental health services and systems, with an emphasis therein on preventive health services and health promotion programs and projects, including improved health data systems;

(3) to improve the quality and availability of health manpower, including programs and projects to train new and upgrade the skills of existing health professionals by—

(A) establishing dental officer, dental assistant, nurse practitioner, or nurse clinical specialist training programs;

(B) providing technical training of new auxiliary health workers;

(C) upgrading the training of currently employed health personnel in special areas of need;

(D) developing long-term plans for meeting health profession needs;

(E) developing or improving programs for faculty enhancement or post-doctoral training; and

(F) providing innovative health professions training initiatives (including scholarships) targeted toward ensuring that residents of the Pacific Basin attend and graduate from recognized health professional programs;

(4) to improve the quality of health services, including laboratory, x-ray, and pharmacy, provided in ambulatory and inpatient settings through quality assurance, standard setting, and other culturally appropriate means;

(5) to improve facility and equipment repair and maintenance systems;

(6) to improve alcohol, drug abuse, and mental health prevention and treatment services and systems;

[1] So in original. The semicolon probably should be a period.

(7) to improve local and regional health planning systems; and

(8) to improve basic local public health systems, with particular attention to primary care and services to those most in need.

No funds under subsection (b) of this section shall be used for capital construction.

(c) Advisory Council

The Secretary of Health and Human Services shall establish a ''Pacific Health Advisory Council'' which shall consist of 12 members and shall include—

(1) the Directors of the Health Departments for the entities identified in subsection (a) of this section; and

(2) 6 members, including a representative of the Rehabilitation Hospital of the Pacific, representing organizations in the State of Hawaii actively involved in the provision of health services or technical assistance to the entities identified in subsection (a) of this section. The Secretary shall solicit the advice of the Governor of the State of Hawaii in appointing the 5 Council members in addition to the representative of the Rehabilitation Hospital of the Pacific from the State of Hawaii.

The Secretary shall be responsible for providing sufficient staff support to the Council.

(d) Advisory Council functions

The Council shall meet at least annually to—

(1) recommend priority areas of need for funding by the Public Health Service under this section; and

(2) review progress in addressing priority areas and make recommendations to the Secretary for needed program modifications.

(e) Report

The Secretary, in consultation with the Council, shall annually prepare and submit to the appropriate committees of Congress a report describing the expenditure of the funds authorized to be appropriated under this section and any recommendations that the Secretary may have.

(f) Authorization of appropriation

There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1991 through 1993.

(Pub. L. 101–527, § 10, Nov. 6, 1990, 104 Stat. 2333.)

CODIFICATION

Section was enacted as part of the Disadvantaged Minority Health Improvement Act of 1990, and not as part of the Public Health Service Act which comprises this chapter.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 254c–2. Special diabetes programs for type I diabetes

(a) In general

The Secretary, directly or through grants, shall provide for research into the prevention and cure of Type[1] I diabetes.

(b) Funding

Notwithstanding section 1397dd(a) of this title, from the amounts appropriated in such section for each of fiscal years 1998 through 2002, $30,000,000 is hereby transferred and made available in such fiscal year for grants under this section.

(July 1, 1944, ch. 373, title III, § 330B, as added Pub. L. 105–33, title IV, § 4921, Aug. 5, 1997, 111 Stat. 574; amended Pub. L. 105–34, title XVI, § 1604(f)(1)(B), (C), Aug. 5, 1997, 111 Stat. 1098.)

AMENDMENTS

1997—Pub. L. 105–34, § 1604(f)(1)(B), amended directory language of Pub. L. 105–33, § 4921, which enacted this section.

Pub. L. 105–34, § 1604(f)(1)(C)(i), struck out ''children with'' before ''type I diabetes'' in section catchline.

Subsec. (a). Pub. L. 105–34, § 1604(f)(1)(C)(ii), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary shall make grants for services for the prevention and treatment of type I diabetes in children, and for research in innovative approaches to such services. Such grants may be made to children's hospitals; grantees under section 254b of this title and other federally qualified health centers; State and local health departments; and other appropriate public or nonprofit private entities.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1604(f)(4) of Pub. L. 105–34 provided that: ''The provisions of, and amendments made by, this subsection [amending this section and provisions set out as a note under section 5701 of Title 26, Internal Revenue Code] shall take effect immediately after the sections referred to in this subsection [sections 4921, 9302, 11104, and 11201 of Pub. L. 105–33] take effect.''

REPORT ON DIABETES GRANT PROGRAMS

Section 4923 of title IV of Pub. L. 105–33 provided that:

''(a) EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation of the diabetes grant programs established under the amendments made by this chapter [chapter 3 (§§ 4921–4923) of subtitle J of title IV of Pub. L. 105–33, enacting this section and section 254c–3 of this title].

''(b) REPORTS.—The Secretary shall submit to the appropriate committees of Congress—

''(1) an interim report on the evaluation conducted under subsection (a) not later than January 1, 2000, and

''(2) a final report on such evaluation not later than January 1, 2002.''

§ 254c–3. Special diabetes programs for Indians

(a) In general

The Secretary shall make grants for providing services for the prevention and treatment of diabetes in accordance with subsection (b) of this section.

(b) Services through Indian health facilities

For purposes of subsection (a) of this section, services under such subsection are provided in

[1] So in original. Probably should not be capitalized.

accordance with this subsection if the services are provided through any of the following entities:

(1) The Indian Health Service.

(2) An Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(3) An urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.].

(c) Funding

Notwithstanding section 1397dd(a) of this title, from the amounts appropriated in such section for each of fiscal years 1998 through 2002, $30,000,000, to remain available until expended, is hereby transferred and made available in such fiscal year for grants under this section.

(July 1, 1944, ch. 373, title III, § 330C, as added Pub. L. 105–33, title IV, § 4922, Aug. 5, 1997, 111 Stat. 574; amended Pub. L. 105–174, title III, § 3001, May 1, 1998, 112 Stat. 82.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(2), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (b)(3), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended. Title V of the Act is classified generally to subchapter IV (§ 1651 et seq.) of chapter 18 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–174 inserted ‘‘, to remain available until expended,’’ after ‘‘fiscal years 1998 through 2002, $30,000,000’’.

SUBPART II—NATIONAL HEALTH SERVICE CORPS PROGRAM

AMENDMENTS

1976—Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2268, added heading ‘‘Subpart II—National Health Service Corps Program’’.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 242a, 295j, 1395ccc of this title.

§ 254d. National Health Service Corps

(a) Establishment; composition; purpose; definitions

(1) For the purpose of eliminating health manpower shortages in health professional shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—

(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

(B) such civilian employees of the United States as the Secretary may appoint, and

(C) such other individuals who are not employees of the United States.

(2) The Corps shall be utilized by the Secretary to provide primary health services in health professional shortage areas.

(3) For purposes of this subpart and subpart III:

(A) The term ‘‘Corps’’ means the National Health Service Corps.

(B) The term ‘‘Corps member’’ means each of the officers, employees, and individuals of which the Corps consists pursuant to paragraph (1).

(C) The term ‘‘health professional shortage area’’ has the meaning given such term in section 254e(a) of this title.

(D) The term ‘‘primary health services’’ means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.

(b) Recruitment and fellowship programs

(1) The Secretary may conduct at schools of medicine, osteopathic medicine, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps, the Scholarship Program, and the Loan Repayment Program. Such recruiting programs shall include efforts to recruit individuals who will serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program.

(2) In the case of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants who have an interest and a commitment to providing primary health care, the Secretary may establish fellowship programs to enable such health professionals to gain exposure to and expertise in the delivery of primary health services in health professional shortage areas. To the maximum extent practicable, the Secretary shall ensure that any such programs are established in conjunction with accredited residency programs, and other training programs, regarding such health professions.

(c) Travel expenses; persons entitled; reimbursement; limitation

The Secretary may reimburse applicants for positions in the Corps (including individuals considering entering into a written agreement pursuant to section 254n of this title) for actual and reasonable expenses incurred in traveling to and from their places of residence to a health professional shortage area (designated under section 254e of this title) in which they may be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

(d) Monthly pay adjustments of members directly engaged in delivery of health services in health professional shortage area; “monthly pay” defined; monthly pay adjustment of member with service obligation incurred under Scholarship Program or Loan Repayment Program; personnel system applicable

(1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly

pay of each member of the Corps (other than a member described in subsection (a)(1)(C) of this section) who is directly engaged in the delivery of health services in a health professional shortage area as follows:

(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay may be increased by an amount which when added to the member's monthly pay and allowances will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances are equal to or exceed the monthly income he received for the last of such 36 months, the member may receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

(C) For each month in which a member is directly engaged in the delivery of health services in a health professional shortage area in accordance with an agreement with the Secretary entered into under section 294n(f)(1)(C)[1] of this title, under which the Secretary is obligated to make payments in accordance with section 294n(f)(2)[1] of this title, the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term ''monthly pay'' includes special pay received under chapter 5 of title 37.

(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health professional shortage area in accordance with a service obligation incurred under the Scholarship Program or the Loan Repayment Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall, for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) of this section shall when assigned to an entity under section 254f of this title be subject to the personnel system of such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.

[1] See References in Text note below.

(e) Employment ceiling of Department not affected by Corps members

Corps members assigned under section 254f of this title to provide health services in health professional shortage areas shall not be counted against any employment ceiling affecting the Department.

(f) Assignment of personnel provisions inapplicable to members whose service obligation incurred under Scholarship Program or Loan Repayment Program

Sections 215 and 217 of this title shall not apply to members of the National Health Service Corps during their period of obligated service under the Scholarship Program or the Loan Repayment Program.

(g) Conversion from Corps member to commissioned officer; retirement credits

(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C) of this section, becomes a commissioned officer in the Regular or Reserve Corps of the Service.

(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this chapter which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C) of this section.

(h) Effective administration of program

The Secretary shall ensure that adequate staff is provided to the Service with respect to effectively administering the program for the Corps.

(i) Definitions

For the purposes of this subpart and subpart III:

(1) The term ''Department'' means the Department of Health and Human Services.

(2) The term ''Loan Repayment Program'' means the National Health Service Corps Loan Repayment Program established under section 254*l*–1 of this title.

(3) The term ''Scholarship Program'' means the National Health Service Corps Scholarship Program established under section 254*l* of this title.

(4) The term ''State'' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(July 1, 1944, ch. 373, title III, § 331, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2268; amended Pub. L. 97–35, title XXVII, § 2701, Aug. 13, 1981, 95 Stat. 902; Pub. L. 100–177, title II, § 202(b), title III, § 301, Dec. 1, 1987, 101 Stat. 996, 1003; Pub. L. 100–607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101–597, title I, § 101, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3013, 3035.)

REFERENCES IN TEXT

Section 294n of this title, referred to in subsec. (d)(1)(C), was in the original a reference to section 741

of act July 1, 1944. Section 741 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 776 of act July 1, 1944, relating to acquired immune deficiency syndrome, which was classified to section 294n of this title, and subsequently renumbered section 2692 and transferred to section 300ff–111 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in pars. (1), (2), and (3)(C).

Pub. L. 101–597, §101(a), designated existing provisions as par. (1), substituted ''For the purpose of eliminating health manpower shortages in health manpower shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—'' for ''There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') which (1) shall consist of—'', substituted ''States.'' for ''States,'' at end of subpar. (C), struck out closing provisions which read ''(such officers, employees, and individuals hereinafter in this subpart referred to as 'Corps members'), and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 254e(a) of this title.'', and added pars. (2) and (3).

Subsec. (b). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (2).

Pub. L. 101–597, §101(b), designated existing provision as par. (1), inserted at end ''Such recruiting programs shall include efforts to recruit individuals who will serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program.'', and added par. (2).

Subsec. (c). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (d)(1). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in introductory provisions and in subpar. (C).

Subsec. (d)(1)(A). Pub. L. 101–597, §101(c), struck out ''(not to exceed $1,000)'' after ''by an amount''.

Subsecs. (d)(2), (e). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (h). Pub. L. 101–597, §101(d), added subsec. (h) and struck out former subsec. (h) which read as follows: ''In assigning members of the Corps to health manpower shortage areas, to the extent practicable, the Secretary shall—

''(1) give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination Act (25 U.S.C. 450f et seq.); and

''(2) provide special consideration to the homeless populations who do not have access to primary health care services.''

Subsec. (i). Pub. L. 101–597, §101(e), substituted ''of this subpart and subpart III'' for ''of this subpart''.

1988—Subsec. (b). Pub. L. 100–607 substituted ''osteopathic medicine'' for ''osteopathy''.

1987—Subsec. (b). Pub. L. 100–177, §202(b)(1), inserted reference to Loan Repayment Program.

Subsec. (c). Pub. L. 100–177, §202(b)(2), made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

Subsecs. (d)(2), (f). Pub. L. 100–177, §202(b)(3), (4), inserted reference to Loan Repayment Program.

Subsec. (h). Pub. L. 100–177, §301(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 100–177, §§202(b)(5), 301(1), redesignated subsec. (h) as (i), added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1981—Subsec. (a)(1). Pub. L. 97–35, §2701(a), revised provisions and, as so revised, set out existing provisions in cls. (A) and (B), and added cl. (C).

Subsec. (b). Pub. L. 97–35, §2701(b), substituted ''may'' for ''shall''.

Subsec. (c). Pub. L. 97–35, §2701(c), inserted provisions respecting a written agreement under section 254n of this title.

Subsec. (d). Pub. L. 97–35, §2701(d), in par. (1) inserted reference to member described in subsec. (a)(1)(C) of this section, in subpars. (1)(A) and (B) substituted ''may'' for ''shall'', and added par. (3).

Subsec. (g). Pub. L. 97–35, §2701(e), substituted provisions relating to conversion from Corps member to commissioned officer and retirement credits, for provisions relating to school participation in development of administrative guidelines.

Subsec. (h). Pub. L. 97–35, §2701(f), in par. (1) substituted ''Health and Human Services'' for ''Health, Education, and Welfare'', in par. (2) substituted ''254*l*'' for ''294t'', and in par. (3) inserted reference to Commonwealth with respect to the Northern Mariana Islands.

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.

SPECIAL REPORT ON PRESENT AND FUTURE DIRECTION OF NATIONAL HEALTH SERVICE CORPS; SUBMISSION TO CONGRESS NOT LATER THAN FEBRUARY 1, 1979

Pub. L. 95–626, title I, §116(c), Nov. 10, 1978, 92 Stat. 3569, directed Secretary, not later than Feb. 1, 1979, in consultation with National Advisory Council of National Health Service Corps and National Advisory Council on Health Professions Education, to submit to Congress a report on the direction of the National Health Service Corps, particularly its role as a health manpower program and as a health services delivery program, the use of members of the Corps in health manpower shortage areas to meet urban and rural health needs, the types of health professions needed to meet urban and rural health needs, and the projected size, composition, and use of the Corps through 1985.

EFFECTIVE DATE; OTHER PROVISIONS: HEALTH MANPOWER SHORTAGE AREA; APPROVAL OF APPLICATIONS FOR ASSIGNMENT OF CORPS PERSONNEL; ASSIGNMENT PERIOD, COMMENCEMENT; CREDIT FOR MONTHS OF PRIOR HEALTH CARE AND SERVICES FOR ADDITIONAL PAY BENEFIT; NATIONAL ADVISORY COUNCIL ON THE NATIONAL HEALTH SERVICE CORPS, CONTINUATION OF COUNCIL AND APPOINTMENT OF MEMBERS

Section 407(c) of Pub. L. 94–484 provided that:

''(1) The amendment made by subsections (a) and (b) [enacting this subpart and repealing section 254b of this title] shall apply only with respect to fiscal years beginning after September 30, 1977, except that the Secretary of Health, Education, and Welfare [now Health and Human Services] shall carry out the activities described in section 332 of the Public Health Service Act (as added by such amendment) [section 254e of this title] after the date of enactment of this Act [Oct. 12, 1976].

''(2)(A) Any area for which a designation under section 329(b) of the Public Health Service Act (as in effect on September 30, 1977) [former section 254b(b) of this title] was in effect on such date and in which National Health Service Corps personnel were, on such date, providing, under an assignment made under such section (as so in effect), health care and services for persons residing in such area shall, effective October 1, 1977, be considered under subpart II of part C of title III of such Act (as added by subsection (b) of this section) [this subpart] to (i) be designated a health manpower shortage area (as defined by section 332 of such Act (as so added)) [section 254e of this title], and (ii) have had an

application approved under section 333 of such Act (as so added)) [section 254f of this title] for the assignment of Corps personnel unless, as determined under subparagraph (B) of this paragraph, the assignment period applicable to such area (within the meaning of section 334 (as so added)) [section 254g of this title] has expired.

''(B) The assignment period (within the meaning of such section 334) [section 254g of this title] applicable to an area described in subparagraph (A) of this paragraph shall be considered to have begun on the date Corps personnel were first assigned to such area under section 329 of such Act (as in effect on September 30, 1977) [former section 254b of this title].

''(C) In the case of any physician or dentist member of the Corps who was providing health care and services on September 30, 1977, under an assignment made under section 329(b) of such Act (as in effect on September 30, 1977) [former section 254b(b) of this title], the number of the months during which such member provided such care and services before October 1, 1977, shall be counted in determining the application of the additional pay provisions of section 331(d) of such Act (as added by subsection (b) of this section) [subsec. (d) of this section] to such number.

''(3) The amendment made by subsection (b) which established an Advisory Council previously established under section 329 of the Public Health Service Act [former section 254b of this title] shall not be construed as requiring the establishment of a new Advisory Council under such section 337 [section 254j of this title], and the amendment made by such subsection with respect to the composition of such Advisory Council shall apply with respect to appointments made to the Advisory Council after October 1, 1977, and the Secretary of Health, Education, and Welfare [now Health and Human Services] shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 254f, 254g, 254h, 254k, 254*l*, 254*l*–1, 254m, 11709 of this title; title 25 section 1616a.

§ 254e. Health professional shortage areas

(a) Designation by Secretary; removal from areas designated; "medical facility" defined

(1) For purposes of this subpart the term ''health professional shortage area'' means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage and which is not reasonably accessible to an adequately served area, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage. The Secretary shall not remove an area from the areas determined to be health professional shortage areas under subparagraph (A) of the preceding sentence until the Secretary has afforded interested persons and groups in such area an opportunity to provide data and information in support of the designation as a health professional shortage area or a population group described in subparagraph (B) of such sentence or a facility described in subparagraph (C) of such sentence, and has made a determination on the basis of the data and information submitted by such persons and groups and other data and information available to the Secretary.

(2) For purposes of this subsection, the term ''medical facility'' means a facility for the delivery of health services and includes—

(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, facility operated by a city or county health department, and community health center;

(B) such a facility of a State correctional institution or of the Indian Health Service, and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(C) such a facility used in connection with the delivery of health services under section 248 of this title (relating to hospitals), 249 of this title (relating to care and treatment of persons under quarantine and others), 250 of this title (relating to care and treatment of Federal prisoners), 251 of this title (relating to examination and treatment of certain Federal employees), 252 of this title (relating to examination of aliens), 253 of this title (relating to services to certain Federal employees), 247e of this title (relating to services for persons with Hansen's disease), or 256[1] of this title (relating to the provision of health services to homeless individuals); and

(D) a Federal medical facility.

(3) Homeless individuals (as defined in section 256(r)[1] of this title) may be a population group under paragraph (1).

(b) Criteria for designation of health professional shortage areas; promulgation of regulations

The Secretary shall establish by regulation criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health professional shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

(1) The ratio of available health manpower to the number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation, with special consideration to indicators of—

(A) infant mortality,

(B) access to health services,

(C) health status, and

(D) ability to pay for health services.

(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.

[1] See References in Text note below.

(c) Considerations in determination of designation

In determining whether to make a designation, the Secretary shall take into consideration the following:

(1) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

(2) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.], cannot obtain such services because of suspension of physicians from the programs under such titles.

(d) Designation; publication of descriptive lists

(1) In accordance with the criteria established under subsection (b) of this section and the considerations listed in subsection (c) of this section the Secretary shall designate health professional shortage areas in the States, publish a descriptive list of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

(2) For purposes of paragraph (1), a complete descriptive list shall be published in the Federal Register not later than July 1 of 1991 and each subsequent year.

(e) Notice of proposed designation of areas and facilities; time for comment

(1) Prior to the designation of a public facility, including a Federal medical facility, as a health professional shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

(2) Prior to the designation of a health professional shortage area under this section, the Secretary shall, to the extent practicable, give written notice of the proposed designation of such area to appropriate public or private nonprofit entities which are located or have a demonstrated interest in such area and request comments from such entities with respect to the proposed designation of such area.

(f) Notice of designation

The Secretary shall give written notice of the designation of a health professional shortage area, not later than 60 days from the date of such designation, to—

(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located; and

(2) appropriate public or nonprofit private entities which are located or which have a demonstrated interest in the area so designated.

(g) Recommendations to Secretary

Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health professional shortage area.

(h) Public information programs in designated areas

The Secretary may conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health professional shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this subchapter by virtue of the designation of such areas.

(July 1, 1944, ch. 373, title III, §332, as added Pub. L. 94–484, title IV, §407(b)(3), Oct. 12, 1976, 90 Stat. 2270; amended Pub. L. 95–142, §7(d), Oct. 25, 1977, 91 Stat. 1193; Pub. L. 96–32, §7(d), July 10, 1979, 93 Stat. 84; Pub. L. 97–35, title IX, §986(b)(4), title XXVII, §2702(a), (b), (c), Aug. 13, 1981, 95 Stat. 603, 903, 904; Pub. L. 100–77, title VI, §602, July 22, 1987, 101 Stat. 515; Pub. L. 100–177, title III, §302, Dec. 1, 1987, 101 Stat. 1003; Pub. L. 100–607, title VIII, §802(b)(2), Nov. 4, 1988, 102 Stat. 3169; Pub. L. 100–628, title VI, §602(b)(2), Nov. 7, 1988, 102 Stat. 3242; Pub. L. 101–597, title I, §102, title IV, §401(b)[(a)], Nov. 16, 1990, 104 Stat. 3014, 3035.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(2)(B), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Section 256 of this title, referred to in subsec. (a)(2)(C), (3), was repealed by Pub. L. 104–299, §4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

The Social Security Act, referred to in subsec. (c)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 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.

PRIOR PROVISIONS

A prior section 332 of act July 1, 1944, was renumbered section 340, and was classified to section 256 of this title prior to repeal by Pub. L. 95–626.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

Subsec. (a)(2)(A). Pub. L. 101–597, §102(b)(1), inserted ''facility operated by a city or county health department,'' before ''and community health center''.

Subsec. (a)(2)(B). Pub. L. 101–597, §102(b)(2), inserted before semicolon '', and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act''.

Subsec. (a)(2)(C). Pub. L. 101–597, §102(b)(3), substituted ''section'' for ''sections'' before ''248'', struck out ''or'' before ''253'' and ''or section'' before ''247e'', and inserted before semicolon '', or 256 of this title (relating to the provision of health services to homeless individuals)''.

Subsec. (b). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101–597, § 102(c)(1), struck out '', promulgated not later than May 1, 1977,'' after ''establish by regulation''.

Subsec. (c). Pub. L. 101–597, § 102(c)(2), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows:

''(A) The recommendations of each health systems agency (designated under section 300*l*–4 of this title) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

''(B) The recommendations of the State health planning and development agency (designated under section 300m of this title) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.''

Subsec. (d). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (1).

Pub. L. 101–597, § 102(a), (c)(3), designated existing provision as par. (1), struck out '', not later than November 1, 1977,'' after ''Secretary shall designate'', and added par. (2).

Subsec. (e). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

Subsec. (f). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101–597, § 102(c)(4), redesignated par. (3) as (2) and struck out former par. (2) which read as follows:

''(A) each health systems agency (designated under section 300*l*–4 of this title) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

''(B) the State health planning and development agency of the State (designated under section 300m of this title) if there is a part of such area, population group, medical facility, or other public facility within a health service area for which no health systems agency has been designated; and''.

Subsecs. (g), (h). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

1988—Subsec. (a)(3). Pub. L. 100–607 and Pub. L. 100–628 made identical amendments, substituting ''section 256(r)'' for ''section 256(q)(2)''.

1987—Subsec. (a)(1). Pub. L. 100–177, § 302(1), inserted sentence at end relating to removal of an area from areas determined to be health manpower shortage areas.

Subsec. (a)(3). Pub. L. 100–77 added par. (3).

Subsec. (b)(2)(D). Pub. L. 100–177, § 302(2), added subpar. (D).

1981—Subsec. (a)(1)(A). Pub. L. 97–35, § 2702(a), inserted provisions respecting reasonable accessibility to adequately served area.

Subsec. (a)(2)(C). Pub. L. 97–35, § 986(b)(4), substituted ''persons under quarantine'' for ''seamen''.

Subsec. (e). Pub. L. 97–35, § 2702(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 97–35, § 2702(b), substituted ''may'' for ''shall''.

1979—Subsec. (a)(2)(C). Pub. L. 96–32 substituted ''section 247e of this title'' for ''part D of subchapter II of this chapter''.

1977—Subsec. (c)(3). Pub. L. 95–142 added par. (3).

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 631 of title VI of Pub. L. 100–628 provided that: ''The amendments made by subsection (a) of section 601 [amending section 256 of this title] shall take effect in accordance with subsection (b) of such section [formerly set out as a note under section 256 of this title]. The amendments otherwise made by this title [amending this section and sections 256, 290bb–2, 290cc–21, 290cc–28, 290cc–29, 290cc–35, 290cc–36, 290dd, 290ee, and 290ee–1 of this title and amending provisions set out as a note under section 290aa–3 of this title] shall take effect October 1, 1988, or upon the date of the enactment of this Act [Nov. 7, 1988], whichever occurs later.''

Section 831 of title VIII of Pub. L. 100–607 provided that: ''The amendments made by subsection (a) of section 801 [amending section 256 of this title] shall take effect in accordance with subsection (b) of such section [formerly set out as a note under section 256 of this title]. The amendments otherwise made by this title [amending this section and sections 256, 290bb–2, 290cc–21, 290cc–28, 290cc–29, 290cc–35, 290cc–36, 290dd, 290ee, and 290ee–1 of this title and amending provisions set out as a note under section 290aa–3 of this title] shall take effect October 1, 1988, or upon the date of the enactment of this Act [Nov. 4, 1988], whichever occurs later.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 986(b)(4) of Pub. L. 97–35 effective Oct. 1, 1981, see section 986(c) of Pub. L. 97–35, set out as a note under section 249 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7(e)(1) of Pub. L. 95–142 provided that: ''The amendment made by subsection (d) [amending this section] shall apply with respect to determinations and designations made on and after the date of the enactment of this Act [Oct. 25, 1977].''

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 health center, or homeless health center, considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

EVALUATION OF CRITERIA USED TO DESIGNATE HEALTH MANPOWER SHORTAGE AREAS; REPORT TO CONGRESS

Section 2702(c) of Pub. L. 97–35 directed the Secretary of Health and Human Services, effective Oct. 1, 1981, to evaluate the criteria used under section 254e(b) of this title to determine if the use of the criteria resulted in areas which did not have a shortage of health professions personnel being designated as health manpower shortage areas, and to consider different criteria (including the actual use of health professions personnel in an area by the residents, taking into account their health status and indicators of unmet demand and likelihood that such demand would not be met in two years) which might be used to designate health manpower shortage areas. The Secretary was to report the results of his activities to Congress not later than Nov. 30, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254f, 254g, 254k, 254*l*, 254*l*–1, 254m, 254n, 254p, 295p, 296j, 297q, 1395*l*, 1395x, 9840, 11709 of this title; title 5 section 8902.

§ 254f. Corps personnel

(a) Conditions necessary for assignment of Corps personnel to area; contents of application for assignment; assignment to particular facility; approval of applications

(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health professional shortage area during the assignment period (specified in the agreement described in section 254g of this title) only if—

(A) a public or nonprofit private entity, which is located or has a demonstrated inter-

est in such area makes application to the Secretary for such assignment;

(B) such application has been approved by the Secretary;

(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 254g of this title; and

(D) the Secretary has (i) conducted an evaluation of the need and demand for health manpower for the area, the intended use of Corps members to be assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and the fiscal management capability of the entity to which Corps members would be assigned and (ii) on the basis of such evaluation has determined that—

(I) there is a need and demand for health manpower for the area;

(II) there has been appropriate and efficient use of any Corps members assigned to the entity for the area;

(III) there is general community support for the assignment of Corps members to the entity;

(IV) the area has made unsuccessful efforts to secure health manpower for the area; and

(V) there is a reasonable prospect of sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members assigned to such entity.

An application for assignment of a Corps member to a health professional shortage area shall include a demonstration by the applicant that the area or population group to be served by the applicant has a shortage of personal health services and that the Corps member will be located so that the member will provide services to the greatest number of persons residing in such area or included in such population group. Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under section 254e(b) of this title and on additional criteria which the Secretary shall prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.

(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this chapter.

(b) Corps member income assurances; grants respecting sufficiency of financial resources

(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 254d(a)(1) of this title to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 254d(a)(1) of this title, or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 254d(a)(1) of this title the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 254d(a)(1) of this title, the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) Assignment of members without regard to ability of area to pay for services

The Secretary shall assign Corps members to entities in health professional shortage areas without regard to the ability of the individuals in such areas, population groups, medical facilities, or other public facilities to pay for such services.

(d) Entities entitled to aid; forms of assistance; coordination of efforts; agreements for assignment of Corps members; qualified entity

(1) The Secretary may provide technical assistance to a public or nonprofit private entity which is located in a health professional shortage area and which desires to make an application under this section for assignment of a Corps member to such area. Assistance provided under this paragraph may include assistance to an entity in (A) analyzing the potential use of health professions personnel in defined health services delivery areas by the residents of such areas, (B) determining the need for such personnel in such areas, (C) determining the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice, and (D) determining the types of inpatient and other health services that should be provided by such personnel in such areas.

(2) The Secretary may provide, to public and nonprofit private entities which are located in a health professional shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

(3) The Secretary may provide, to health professional shortage areas to which no Corps mem-

ber has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

(4)(A) The Secretary shall undertake to demonstrate the improvements that can be made in the assignment of members of the Corps to health professional shortage areas and in the delivery of health care by Corps members in such areas through coordination with States, political subdivisions of States, agencies of States and political subdivisions, and other public and nonprofit private entities which have expertise in the planning, development, and operation of centers for the delivery of primary health care. In carrying out this subparagraph, the Secretary shall enter into agreements with qualified entities which provide that if—

(i) the entity places in effect a program for the planning, development, and operation of centers for the delivery of primary health care in health professional shortage areas which reasonably addresses the need for such care in such areas, and

(ii) under the program the entity will perform the functions described in subparagraph (B),

the Secretary will assign under this section members of the Corps in accordance with the program.

(B) For purposes of subparagraph (A), the term ''qualified entity'' means a State, political subdivision of a State, an agency of a State or political subdivision, or other public or nonprofit private entity operating solely within one State, which the Secretary determines is able—

(i) to analyze the potential use of health professions personnel in defined health services delivery areas by the residents of such areas;

(ii) to determine the need for such personnel in such areas and to recruit, select, and retain health professions personnel (including members of the National Health Service Corps) to meet such need;

(iii) to determine the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice;

(iv) to determine the types of inpatient and other health services that should be provided by such personnel in such areas;

(v) to assist such personnel in the development of their clinical practice and fee schedules and in the management of their practice;

(vi) to assist in the planning and development of facilities for the delivery of primary health care; and

(vii) to assist in establishing the governing bodies of centers for the delivery of such care and to assist such bodies in defining and carrying out their responsibilities.

(e) Practice within State by Corps member

Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathic medicine, dentistry, or any other health profession in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

(July 1, 1944, ch. 373, title III, § 333, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2272; amended Pub. L. 97–35, title XXVII, § 2703, Aug. 13, 1981, 95 Stat. 904; Pub. L. 100–177, title III, §§ 303, 304, Dec. 1, 1987, 101 Stat. 1004; Pub. L. 100–607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101–597, title I, § 103, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3015, 3035.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in introductory and closing provisions.

Subsec. (a)(1)(D)(ii)(II). Pub. L. 101–597, § 103(a), substituted ''has been'' and ''any Corps'' for ''will be'' and ''Corps'', respectively.

Subsec. (b). Pub. L. 101–597, § 103(b), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to approval of application for assignment of Corps personnel subject to review and comment on application by health service agencies in designated area.

Subsec. (c). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101–597, § 103(b), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to applications, consideration and approval by Secretary, priorities, cooperation with Corps members, and comments by health professionals and societies in designated areas.

Subsec. (d). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing in pars. (1) to (4)(A)(i).

Pub. L. 101–597, § 103(b)(2), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 101–597, § 103(b)(2), redesignated subsec. (i) as (e). Former subsec. (e) redesignated (c).

Subsec. (f). Pub. L. 101–597, § 103(b)(1), struck out subsec. (f) which provided for selection of Corps members for assignment upon basis of characteristics.

Subsec. (g). Pub. L. 101–597, § 103(b)(2), redesignated subsec. (g) as (d).

Subsec. (h). Pub. L. 101–597, § 103(b)(1), struck out subsec. (h) which related to study and contracts for study of methods of assignments of Corps members.

Subsec. (i). Pub. L. 101–597, § 103(b)(2), redesignated subsec. (i) as (e).

Subsecs. (j), (k). Pub. L. 101–597, § 103(b)(1), struck out subsecs. (j) and (k) which provided for placement of physicians in medically underserved areas and assignment of family physicians, respectively.

1988—Subsec. (i). Pub. L. 100–607 substituted ''osteopathic medicine'' for ''osteopathy''.

1987—Subsec. (j). Pub. L. 100–177, § 303, added subsec. (j).

Subsec. (k). Pub. L. 100–177, § 304, added subsec. (k).

1981—Subsec. (a). Pub. L. 97–35, § 2703(a), (b), amended par. (1)(D) generally and, among changes, made numerous changes in nomenclature, inserted at end of par. (1) provisions respecting application, and added par. (3).

Subsec. (c). Pub. L. 97–35, § 2703(c), struck out par. (2) which related to special considerations, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsecs. (d) to (f). Pub. L. 97–35, § 2703(d), added subsec. (d) and redesignated former subsecs. (d), (e), and (f) as (e), (f), and (g), respectively.

Subsec. (g). Pub. L. 97–35, § 2703(d), (e), redesignated former subsec. (f) as (g) and substituted ''may'' for ''shall'' in pars. (1) to (3), inserted provisions respecting health professions personnel in par. (1), added par. (4), and struck out requirement respecting demonstrated interest in pars. (1) and (2). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 97–35, § 2703(d), (f), redesignated former subsec. (g) as (h) and directed that ''may'' be substituted for ''shall'' which was executed by substituting ''may'' for ''shall'' in two places preceding par. (1). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 97–35, § 2703(d), (g), redesignated former subsec. (h) as (i) and inserted reference to other health profession.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2703(d) of Pub. L. 97–35 provided that the amendment made by that section is effective Oct. 1, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254f–1, 254g, 254h, 254h–1, 254i, 254k, 254l, 254l–1, 254m, 256o–1, 254q–1, 1396s, 11709 of this title.

§ 254f–1. Priorities in assignment of Corps personnel

(a) In general

In approving applications made under section 254f of this title for the assignment of Corps members, the Secretary shall—

(1) give priority to any such application that—

(A) is made regarding the provision of primary health services to a health professional shortage area with the greatest such shortage, as determined in accordance with subsection (b) of this section; and

(B) is made by an entity that—

(i) serves a health professional shortage area described in subparagraph (A);

(ii) coordinates the delivery of primary health services with related health and social services;

(iii) has a documented record of sound fiscal management; and

(iv) will experience a negative impact on its capacity to provide primary health services if a Corps member is not assigned to the entity;

(2) with respect to the geographic area in which the health professional shortage area is located, take into consideration the willingness of individuals in the geographic area, and of the appropriate governmental agencies or health entities in the area, to assist and cooperate with the Corps in providing effective primary health services; and

(3) take into consideration comments of medical, osteopathic, dental, or other health professional societies whose members deliver services to the health professional shortage area, or if no such societies exist, comments of physicians, dentists, or other health professionals delivering services to the area.

(b) Exclusive factors for determining greatest shortages

In making a determination under subsection (a)(1)(A) of this section of the health professional shortage areas with the greatest such shortages, the Secretary may consider only the following factors:

(1) The ratio of available health manpower to the number of individuals in the area or population group involved, or served by the medical facility or other public facility involved.

(2) Indicators of need as follows:

(A) The rate of low birthweight births.

(B) The rate of infant mortality.

(C) The rate of poverty.

(D) Access to primary health services, taking into account the distance to such services.

(c) Establishment of criteria for determining priorities

(1) In general

The Secretary shall establish criteria specifying the manner in which the Secretary makes a determination under subsection (a)(1)(A) of this section of the health professional shortage areas with the greatest such shortages. Such criteria shall specify the manner in which the factors described in subsection (b) of this section are implemented regarding such a determination.

(2) Publication of criteria

The criteria required in paragraph (1) shall be published in the Federal Register not later than July 1, 1991. Any revisions made in the criteria by the Secretary shall be effective upon publication in the Federal Register.

(d) Notifications regarding priorities

(1) Preparation of list for applicable period

For the purpose of carrying out paragraph (2), the Secretary shall prepare a list of health professional shortage areas that are receiving priority under subsection (a)(1) of this section in the assignment of Corps members for the period applicable under subsection (f) of this section. Such list—

(A) shall include a specification, for each such health professional shortage area, of the entities for which the Secretary has provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments; and

(B) shall, of the entities for which an authorization described in subparagraph (A) has been provided, specify—

(i) the entities provided such an authorization for the assignment of Corps members who are participating in the Scholarship Program;

(ii) the entities provided such an authorization for the assignment of Corps members who are participating in the Loan Repayment Program; and

(iii) the entities provided such an authorization for the assignment of Corps members who have become Corps members other than pursuant to contractual obligations under the Scholarship or Loan Repayment Programs.

The Secretary may set forth such specifications by medical specialty.

(2) Notification of affected parties

(A) Not later than 30 days after the preparation of each list under paragraph (1), the Secretary shall notify entities specified for purposes of subparagraph (A) of such paragraph of the fact that the entities have been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

(B) In the case of individuals with respect to whom a period of obligated service under the

Scholarship Program will begin during the period under subsection (f) of this section for which a list under paragraph (1) is prepared, the Secretary shall, not later than 30 days after the preparation of each such list, provide to such individuals the names of each of the entities specified for purposes of paragraph (1)(B)(i) that is appropriate to the medical specialty of the individuals.

(3) Revisions in list

If the Secretary makes a revision in a list under paragraph (1) during the period under subsection (f) of this section to which the list is applicable, and the revision alters the status of an entity with respect to the list, the Secretary shall notify the entity of the effect on the entity of the revision. Such notification shall be provided not later than 30 days after the date on which the revision is made.

(e) Limitation on number of entities offered as assignment choices in Scholarship Program

(1) Determination of available Corps members

The Secretary shall determine the number of participants in the Scholarship Program who are available for assignments under section 254f of this title for the period applicable under subsection (f) of this section.

(2) Availability of 500 or fewer members

If the number of participants for purposes of paragraph (1) is less than 500, the Secretary shall limit the number of entities specified under subsection (d)(1)(B)(i) of this section to the lesser of—

(A) 500 such entities; and

(B) a number of such entities constituting 300 percent of the number of such participants available for assignment under section 254f of this title.

(3) Availability of more than 500 members

If the number of participants for purposes of paragraph (1) is equal to or greater than 500, the Secretary shall determine the number of entities to be specified under subsection (d)(1)(B)(i) of this section, subject to ensuring that assignments of such participants are made to 500 entities that serve health professional shortage areas that have chronic difficulty in recruiting and retaining health professionals to provide primary health services.

(4) Adjustment in base number

The number 500, as used for purposes of paragraphs (2) and (3), may by regulation be adjusted by the Secretary to a greater or a lesser number.

(f) Applicable period regarding priorities

(1) In general

With respect to determinations under subsection (a)(1) of this section of the applications that are to be given priority regarding the assignment of Corps members, the Secretary shall make such a determination not less than once each fiscal year. The first determination shall be made not later than July 1 of the year preceding the year in which the period of obligated service begins. If the Secretary revises the determination before July 1 of the following year, the revised determination shall be applicable with respect to assignments of Corps members made during the period beginning on the date of the issuance of the revised determination and ending on July 1 of such year.

(2) Date certain for preparation of notification list

A list under subsection (d)(1) of this section shall be prepared for each of the periods decribed[1] in paragraph (1). Each such list shall be prepared not later than the date on which a determination of priorities under such paragraph is required to be made for the period involved.

(July 1, 1944, ch. 373, title III, § 333A, as added and amended Pub. L. 101–597, title I, § 104, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3015, 3035.)

AMENDMENTS

1990—Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing in subsecs. (a) to (c)(1), (d)(1), and (e)(3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254h–1, 254*l*, 254*l*–1, 254q–1, 11709 of this title.

§ 254g. Cost sharing

(a) Charges for services; collection of payments; payment to United States; calculation of payments; annual report

The Secretary shall require, as a condition to the approval of an application under section 254f of this title for the assignment of a member of the Corps, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

(1) the entity shall be responsible for charging, in accordance with subsection (d) of this section, for health services provided by Corps members assigned to the entity;

(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the collection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

(3) the entity, if not a small health center, shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

(A) an amount calculated by the Secretary to reflect the average salary (including

[1] So in original. Probably should be "described".

amounts paid in accordance with section 254d(d) of this title) and allowances of comparable Corps members for a calendar quarter (or other period);

(B) that portion of an amount calculated by the Secretary to reflect the average amount paid under the Scholarship Program or the Loan Repayment Program to or on behalf of comparable Corps members that bears the same ratio to the calculated amount as the number of days of service provided by the member during that quarter (or other period) bears to the number of days in his period of obligated service under the Scholarship Program or the Loan Repayment Program; and

(C) if such entity received a loan under section 254h(c) of this title or a grant under section 254f(d)(2)[1] of this title, an amount which bears the same ratio to the amount of such loan or grant as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan or grant;

(4) the entity, if a small health center, shall pay to the United States, in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, an amount determined by the Secretary in accordance with subsection (f) of this section; and

(5) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

(b) Waiver of payment; use of funds

(1) The Secretary may waive in whole or in part, on a prospective or retrospective basis, the application of the requirement of subsection (a)(3) of this section for an entity which is not a small health center if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members.

(2) The Secretary may waive in whole or in part, on a prospective or retrospective basis, the application of the requirement of subsection (a)(3) of this section for any entity which is not a small health center and which is located in a health professional shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3) of this section.

(3) In the event that the Secretary grants a waiver under paragraph (1) or (2), and does not, pursuant to paragraph (5), require payment by the entity in the amount described in subsection (f)(1) of this section, the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) of this section for the improvement of the capability of such entity to deliver health services to the individuals in, or served by, the health professional shortage area.

(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity.

(5)(A) If the Secretary determines that an entity which is not a small health center is eligible for a waiver under paragraph (1) or (2), the Secretary may waive the application of subsection (a)(3) of this section for such entity and require such entity to make payment in an amount equal to the amount described in subsection (f)(1) of this section that would be payable by such entity if such entity were a small health center.

(B) The Secretary may waive in whole or in part, on a prospective or retrospective basis, the application of the requirement of subparagraph (A) for any entity if the Secretary determines that the entity is financially unable to meet such requirement or that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members. Funds which would be paid to the United States but for a waiver under this subparagraph shall be used by an entity to—

(i) expand or improve its provision of health services;

(ii) increase the number of individuals served;

(iii) renovate or modernize facilities for its provision of health services;

(iv) improve the administration of its health service programs; or

(v) to establish a financial reserve to assure its ability to continue providing health services.

(c) Excess funds

The excess (if any) of the amount of funds collected by an entity which is not a small health center in accordance with subsection (a)(2) of this section over the amount paid to the United States in accordance with subsection (a)(3) of this section or subsection (b)(5)(A) of this section shall be used by the entity to expand and improve the provision of health services to the individuals in the health professional shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

(d) Charge for services; reduced rate; no charge

Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

(e) Deposit of funds in Treasury as miscellaneous receipts; appropriations unaffected

Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous

[1] See References in Text note below.

receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 254k of this title to carry out sections 254d through 254h and section 254j of this title.

(f) Small health centers

(1) An entity which is a small health center shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, an amount equal to the amount (prorated for a calendar quarter or other period) by which the revenues that the center may reasonably expect to receive during an annual period for the provision of health services exceeds the costs that the center may reasonably expect to incur in the provision of such services, except that the amount that an entity shall pay to the United States under this paragraph shall not exceed the amount such entity would pay to the United States under paragraph (3) of subsection (a) of this section if such paragraph applied to such entity.

(2)(A) To determine for purposes of paragraph (1) the revenues and costs which an entity that is a small health center may reasonably be expected to receive and incur in an annual period for the provision of health services, the entity shall submit to the Secretary before the beginning of such period a proposed budget which—

(i) describes the primary and supplemental health services (as defined in section 254c[2] of this title) which are needed by the area the entity serves in such period; and

(ii) states the revenues and costs which the entity expects to receive and incur in providing such health services in such period.

(B) From the submission under subparagraph (A) and other information available to the Secretary, the Secretary shall determine—

(i) the primary and supplemental health services (as defined in section 254c[2] of this title) needed in the area the entity serves;

(ii) the fees, premiums, third party reimbursements, and other revenues the entity making the submission may reasonably expect to receive from the provision of such services; and

(iii) the costs which the entity may reasonably expect to incur in providing such services.

The revenues and costs determined by the Secretary shall be the revenues and costs used in making the determination under paragraph (1).

(C)(i) A determination under subparagraph (B) regarding the revenues and costs of an entity in an annual period shall be made by the Secretary utilizing criteria specific to the entity and shall be made without regard to whether the entity is making progress toward collecting sufficient revenues to provide an adequate level of primary health services without the assignment of Corps members.

(ii) In making a determination referred to in clause (i)—

(I) the Secretary may consider whether the proposed budget submitted under subparagraph (A) provides a reasonable estimate regarding the revenues and costs of the entity; and

(II) may not consider the reasonableness of the amount of revenues collected, or the amount of costs incurred by the entity, except to the extent necessary to ensure that the entity is operating in good faith and is operating efficiently with respect to fiscal matters within the control of the entity.

(iii) A determination of whether an entity is eligible for a waiver under paragraph (3) shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).

(iv) A determination of whether an entity is a small health center shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).

(3) The Secretary may waive in whole or in part, on a prospective or retrospective basis, the application of paragraph (1) for an entity which is a small health center if the Secretary determines that the entity needs all or part of the amounts otherwise payable under such paragraph to—

(A) expand or improve its provision of health services;

(B) increase the number of individuals served;

(C) renovate or modernize facilities for its provision of health services;

(D) improve the administration of its health service programs; or

(E) establish a financial reserve to assure its ability to continue providing health services.

(4) The excess (if any) of the amount of funds collected by an entity which is a small health center in accordance with subsection (a)(2) of this section over the amount paid to the United States in accordance with paragraph (1) of this subsection shall be used by the center for the purposes set out in subparagraphs (A) through (E) of paragraph (3) of this subsection or to recruit and retain health manpower to provide health services to the individuals in the health professional shortage area for which the entity submitted an application.

(5) For purposes of this section, the term ''small health center'' means an entity other than—

(A) a hospital (or part of a hospital);

(B) a public entity; or

(C) an entity that is receiving a grant under section 254b[2] of this title or section 254c[2] of this title, except that such term includes an entity whose grant is less than the total of the amounts, calculated on an annual basis, specified in subparagraphs (A) and (B) of subsection (a)(3) of this section.

(July 1, 1944, ch. 373, title III, § 334, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2274; amended Pub. L. 97–35, title XXVII, § 2704, Aug. 13, 1981, 95 Stat. 906; Pub. L. 98–194, § 3, Dec. 1, 1983, 97 Stat. 1345; Pub. L. 100–177, title II, § 202(c), Dec. 1, 1987, 101 Stat. 996; Pub. L. 101–597, title I, § 105, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3018, 3035.)

[2] See References in Text note below.

REFERENCES IN TEXT

Section 254f(d) of this title, referred to in subsec. (a)(3)(C), was redesignated section 254f(b) of this title by Pub. L. 101–597, title I, § 103(b)(2), Nov. 16, 1990, 104 Stat. 3015.

Sections 254b and 254c of this title, referred to in subsec. (f)(2)(A)(i), (B)(i), (5)(C), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of subpart I (§ 254b et seq.) of this part by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

AMENDMENTS

1990—Subsecs. (b)(2), (3), (c). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (f)(2)(C). Pub. L. 101–597, § 105, added subpar. (C).

Subsec. (f)(4). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

1987—Subsec. (a)(3)(B). Pub. L. 100–177 inserted ''or the Loan Repayment Program'' after ''amount paid under the Scholarship Program'' and substituted ''service under the Scholarship Program or the Loan Repayment Program'' for ''service under the Program''.

1983—Subsec. (a)(3). Pub. L. 98–194, § 3(a)(1)(A), inserted '', if not a small health center,'' after ''the entity'' in provisions preceding subpar. (A).

Subsec. (a)(4), (5). Pub. L. 98–194, § 3(a)(1), (C), (D), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(1). Pub. L. 98–194, § 3(b)(1), (2), inserted '', on a prospective or retrospective basis,'' after ''in whole or in part'', and ''which is not a small health center'' after ''for an entity''.

Subsec. (b)(2). Pub. L. 98–194, § 3(b)(3), (4), inserted '', on a prospective or retrospective basis,'' after ''in whole or in part'', and ''is not a small health center and which'' after ''for any entity which''.

Subsec. (b)(3). Pub. L. 98–194, § 3(b)(5), inserted ''and does not, pursuant to paragraph (5), require payment by the entity in the amount described in subsection (f)(1) of this section,'' after ''paragraph (1) or (2),''.

Subsec. (b)(5). Pub. L. 98–194, § 3(b)(6), added par. (5).

Subsec. (c). Pub. L. 98–194, § 3(c), inserted ''which is not a small health center'' after ''an entity'', and ''or subsection (b)(5)(A) of this section'' before ''shall be used by the entity''.

Subsec. (f). Pub. L. 98–194, § 3(d), added subsec. (f).

1981—Subsec. (a). Pub. L. 97–35, § 2704(a)(1)–(3), in introductory provisions inserted reference to assignment of member of Corps, and in par. (3) revised method and criteria for calculation of sums.

Subsec. (b)(4). Pub. L. 97–35, § 2704(a)(4), added par. (4).

Subsec. (e). Pub. L. 97–35, § 2704(b), substituted reference to sections 254d to 254h, and 254j of this title, for reference to this subpart.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 4 of Pub. L. 98–194 provided that: ''The amendments made by section 3 [amending this section] shall apply with respect to agreements entered into under section 334 of the Public Health Service Act [this section] after the date of the enactment of this Act [Dec. 1, 1983], but, to the extent feasible, the Secretary of Health and Human Services shall revise agreements entered into under such section 334 before such date to reflect the amendments made by section 3.''

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 98–194 provided that: ''Congress finds and declares that—

''(1) rural health clinics are an important part of America's health care delivery system;

''(2) National Health Service Corps personnel assigned to rural health clinics located in health manpower shortage areas have provided valuable and needed staffing help for such clinics;

''(3) rural health clinics receiving assistance from National Health Service Corps personnel should be expected to reimburse the Federal Government for a reasonable share of the costs of such personnel; and

''(4) the criteria which should be applied to reimbursement by such clinics for use of such personnel should be a fair and equitable one which reflects the needs of such clinics and the populations served by such clinics, as well as the value of the services rendered by such personnel.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254f, 254i, 254k, 254*l*, 254*l*–1, 254m, 11709 of this title.

§ 254h. Provision of health services by Corps members

(a) Means of delivery of services; cooperation with other health care providers

In providing health services in a health professional shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in, or served by, such health professional shortage area regardless of their ability to pay for the services, and (2) in a manner which is cooperative with other health care providers serving such health professional shortage area.

(b) Utilization of existing health facilities; lease, acquisition, and use of equipment and supplies; permanent and temporary professional services

(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health professional shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

(2) If the individuals in or served by a health professional shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

(c) Loan; purposes; limitations

The Secretary may make one loan to any entity with an approved application under section 254f of this title to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; and (3) renovating buildings to establish health facilities. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any such loan shall be determined by the Secretary, except that no such loan may exceed $50,000.

(d) Property and equipment disposal; fair market value; sale at less than full market value

Upon the expiration of the assignment of all Corps members to a health professional shortage area, the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

(e) Admitting privileges denied to Corps member by hospital; notice and hearing; denial of Federal funds for violation; "hospital" defined

(1)(A) It shall be unlawful for any hospital to deny an authorized Corps member admitting privileges when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this chapter or under titles XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

(2) For purposes of this subsection, the term "hospital" includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

(July 1, 1944, ch. 373, title III, § 335, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2275; amended Pub. L. 97–35, title XXVII, § 2705, Aug. 13, 1981, 95 Stat. 907; Pub. L. 101–597, title I, § 106, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3018, 3035.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1990—Subsecs. (a), (b)(1)(A), (2), (d). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

Subsec. (e)(1)(A). Pub. L. 101–597, § 106, substituted "authorized Corps member admitting privileges" for "authorized physician or dentist member of the Corps admitting privileges".

1981—Subsec. (a)(2). Pub. L. 97–35, § 2705(a), substituted provisions respecting cooperation with other health care providers, for provisions respecting direct health services programs.

Subsec. (c)(4). Pub. L. 97–35, § 2705(b), struck out cl. (4) relating to appropriate continuing education programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 233, 254g, 254h–1, 254k, 254*l*, 254*l*–1, 254m, 11709 of this title.

§ 254h–1. Facilitation of effective provision of Corps services

(a) Consideration of individual characteristics of members in making assignments

In making an assignment of a Corps member to an entity that has had an application approved under section 254f of this title, the Secretary shall, subject to making the assignment in accordance with section 254f–1 of this title, seek to assign to the entity a Corps member who has (and whose spouse, if any, has) characteristics that increase the probability that the member will remain in the health professional shortage area involved after the completion of the period of service in the Corps.

(b) Counseling on service in Corps

(1) In general

The Secretary shall, subject to paragraph (3), offer appropriate counseling on service in the Corps to individuals during the period of membership in the Corps, particularly during the initial period of each assignment.

(2) Career advisor regarding obligated service

(A) In the case of individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, counseling under paragraph (1) shall include appropriate counseling on matters particular to such obligated service. The Secretary shall ensure that career advisors for providing such counseling are available to such individuals throughout the period of participation in the Scholarship or Loan Repayment Program.

(B) With respect to the Scholarship Program, counseling under paragraph (1) shall include counseling individuals during the period in which the individuals are pursuing an educational degree in the health profession involved, including counseling to prepare the individual for service in the Corps.

(3) Extent of counseling services

With respect to individuals who have entered into contracts for obligated service

under the Scholarship or Loan Repayment Program, this subsection shall be carried out regarding such individuals throughout the period of obligated service (and, additionally, throughout the period specified in paragraph (2)(B), in the case of the Scholarship Program). With respect to Corps members generally, this subsection shall be carried out to the extent practicable.

(c) Grants regarding preparation of students for practice

With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, the Secretary may make grants to, and enter into contracts with, public and nonprofit private entities (including health professions schools) for the conduct of programs designed to prepare such individuals for the effective provision of primary health services in the health manpower shortage areas to which the individuals are assigned.

(d) Assistance in establishing local professional relationships

The Secretary shall assist Corps members in establishing appropriate professional relationships between the Corps member involved and the health professions community of the geographic area with respect to which the member is assigned, including such relationships with hospitals, with health professions schools, with area health education centers under section 295g–1[1] of this title, with health education and training centers under such section, and with border health education and training centers under such section. Such assistance shall include assistance in obtaining faculty appointments at health professions schools.

(e) Temporary relief from Corps duties

(1) In general

The Secretary shall, subject to paragraph (4), provide assistance to Corps members in establishing arrangements through which Corps members may, as appropriate, be provided temporary relief from duties in the Corps in order to pursue continuing education in the health professions, to participate in exchange programs with teaching centers, to attend professional conferences, or to pursue other interests, including vacations.

(2) Assumption of duties of member

(A) Temporary relief under paragraph (1) may be provided only if the duties of the Corps member involved are assumed by another health professional. With respect to such temporary relief, the duties may be assumed by Corps members or by health professionals who are not Corps members, if the Secretary approves the professionals for such purpose. Any health professional so approved by the Secretary shall, during the period of providing such temporary relief, be deemed to be a Corps member for purposes of section 233 of this title (including for purposes of the remedy described in such section), section 254f(f) of this title, and section 254h(e) of this title.

(B) In carrying out paragraph (1), the Secretary shall provide for the formation and continued existence of a group of health professionals to provide temporary relief under such paragraph.

(3) Recruitment from general health professions community

In carrying out paragraph (1), the Secretary shall—

(A) encourage health professionals who are not Corps members to enter into arrangements under which the health professionals temporarily assume the duties of Corps members for purposes of paragraph (1); and

(B) with respect to the entities to which Corps members have been assigned under section 254f of this title, encourage the entities to facilitate the development of arrangements described in subparagraph (A).

(4) Limitation

In carrying out paragraph (1), the Secretary may not, except as provided in paragraph (5), obligate any amounts (other than for incidental expenses) for the purpose of—

(A) compensating a health professional who is not a Corps member for assuming the duties of a Corps member; or

(B) paying the costs of a vacation, or other interests that a Corps member may pursue during the period of temporary relief under such paragraph.

(5) Sole providers of health services

In the case of any Corps member who is the sole provider of health services in the geographic area involved, the Secretary may, from amounts appropriated under section 254k of this title, obligate on behalf of the member such sums as the Secretary determines to be necessary for purposes of providing temporary relief under paragraph (1).

(f) Determinations regarding effective service

In carrying out subsection (a) of this section and sections 254*l*(d) and 254*l*–1(d) of this title, the Secretary shall carry out activities to determine—

(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas after the completion of the period of service in the Corps;

(2) the characteristics of health manpower shortage areas, and of entities seeking assignments of Corps members, that are more likely to retain Corps members after the members have completed the period of service in the Corps; and

(3) the appropriate conditions for the assignment and utilization in health manpower shortage areas of certified nurse practitioners, certified nurse midwives, and physician assistants.

(July 1, 1944, ch. 373, title III, § 336, as added Pub. L. 97–35, title XXVII, § 2706(b), Aug. 13, 1981, 95 Stat. 907; amended Pub. L. 100–177, title II, § 202(d), Dec. 1, 1987, 101 Stat. 997; Pub. L. 101–597, title I, § 107, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3018, 3035.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 295g–1 of this title, referred to in subsec. (d), was in the original a reference to section 781 of act July 1, 1944. Section 781 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.

PRIOR PROVISIONS

A prior section 336 of act July 1, 1944, was renumbered section 336A by Pub. L. 97–35, § 2706(a), and is classified to section 254i of this title.

AMENDMENTS

1990—Pub. L. 101–597, § 107, amended section generally. Prior to amendment, section read as follows:

''(a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities for the conduct of programs which are designed to prepare individuals subject to a service obligation under the National Health Service Corps Scholarship Program or Loan Repayment Program to effectively provide health services in the health manpower shortage area to which they are assigned.

''(b) No grant may be made or contract entered into under subsection (a) of this section unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.''

Subsec. (a). Pub. L. 101–597, § 401(b)[(a)], substituted ''health professional shortage area'' for ''health manpower shortage area''.

1987—Subsec. (a). Pub. L. 100–177 substituted ''Scholarship Program or Loan Repayment Program'' for ''scholarship program''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11709 of this title.

§ 254i. Annual report to Congress; contents

The Secretary shall submit an annual report to Congress, and shall include in such report with respect to the previous calendar year—

(1) the number, identity, and priority of all health professional shortage areas designated in such year and the number of health professional shortage areas which the Secretary estimates will be designated in the subsequent year;

(2) the number of applications filed under section 254f of this title in such year for assignment of Corps members and the action taken on each such application;

(3) the number and types of Corps members assigned in such year to health professional shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health professional shortage area to which a Corps member was assigned during such year;

(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health professional shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for not making such election;

(7) the results of evaluations and determinations made under section 254f(a)(1)(D) of this title during such year; and

(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 254g of this title, and the amount which was paid to the Secretary in such year under such agreements.

(July 1, 1944, ch. 373, title III, § 336A, formerly § 336, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2277, renumbered § 336A, Pub. L. 97–35, title XXVII, § 2706(a), Aug. 13, 1981, 95 Stat. 907; amended Pub. L. 97–375, title II, § 206(a), Dec. 21, 1982, 96 Stat. 1823; Pub. L. 101–597, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035.)

AMENDMENTS

1990—Pars. (1), (3), (5), (6). Pub. L. 101–597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1982—Pub. L. 97–375 struck out ''on May 1 of each year'' after ''report to Congress''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254k, 11709 of this title.

§ 254j. National Advisory Council on National Health Service Corps

(a) Establishment; appointment of members

There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the ''Council''). The Council shall be composed of not more than 15 members appointed by the Secretary. The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart (other than section 254r[1] of this title), and shall review and comment upon regulations promulgated by the Secretary under this subpart.

(b) Term of members; compensation; expenses

(1) Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may not be reappointed to the Council.

(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving compensation at a rate fixed by the Secretary (but not to exceed the daily equivalent of the annual rate of basic pay in effect for grade

[1] See References in Text note below.

GS–18 of the General Schedule); and while so serving away from their homes or regular places of business all members 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.

(c) Termination

Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

(July 1, 1944, ch. 373, title III, § 337, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2277; amended Pub. L. 96–32, § 7(g), July 10, 1979, 93 Stat. 84; Pub. L. 97–35, title XXVII, § 2707, Aug. 13, 1981, 95 Stat. 907; Pub. L. 97–414, § 8(f), Jan. 4, 1983, 96 Stat. 2061; Pub. L. 103–183, title VII, § 706(b), Dec. 14, 1993, 107 Stat. 2241.)

REFERENCES IN TEXT

Section 254r of this title, referred to in subsec. (a), was in the original a reference to section 338G of act July 1, 1944, which was renumbered section 338I by Pub. L. 100–177, title II, § 201(1), Dec. 1, 1987, 101 Stat. 992, and repealed by Pub. L. 100–713, title I, § 104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (c), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–183 inserted ''compensation at a rate fixed by the Secretary (but not to exceed'' before ''the daily equivalent'' and substituted ''Schedule);'' for ''Schedule;''.

1983—Subsec. (a). Pub. L. 97–414 inserted ''(other than section 254r of this title)'' after ''carrying out this subpart''.

1981—Subsec. (a). Pub. L. 97–35, § 2707(a), amended subsec. (a) generally, striking out pars. (1) to (5) respecting required status and background of members appointed by the Secretary.

Subsec. (b)(1). Pub. L. 97–35, § 2707(b), inserted ''not'' before ''be reappointed''.

1979—Subsec. (b)(2). Pub. L. 96–32 substituted ''section 5703 of title 5'' for ''section 5703(b) of title 5''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254g, 254k, 254*l*, 254*l*–1, 254m, 11709 of this title.

§ 254k. Authorization of appropriations

(a)(1) For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 2000.

(2) In the case of individuals who serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program, the Secretary each fiscal year shall, to the extent practicable, make assignments under section 254f of this title of such individuals who are certified nurse midwives, certified nurse practitioners, or physician assistants.

(b) An appropriation under an authorization under subsection (a) of this section for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) of this section for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under sections 254d through 254h, section 254i, and section 254j of this title before the fiscal year for which such appropriation is authorized.

(July 1, 1944, ch. 373, title III, § 338, as added Pub. L. 94–484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2278; amended Pub. L. 95–626, title I, § 122, Nov. 10, 1978, 92 Stat. 3570; Pub. L. 96–76, title II, § 202(c), Sept. 29, 1979, 93 Stat. 582; Pub. L. 97–35, title XXVII, § 2708, Aug. 13, 1981, 95 Stat. 908; Pub. L. 100–177, title III, § 305, Dec. 1, 1987, 101 Stat. 1004; Pub. L. 101–597, title I, § 108, Nov. 16, 1990, 104 Stat. 3021.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–597 added subsec. (a) and struck out former subsec. (a) which read as follows: ''To carry out this subpart, there are authorized to be appropriated $65,000,000 for fiscal year 1988, $65,000,000 for fiscal year 1989, and $65,000,000 for fiscal year 1990.''

1987—Subsec. (a). Pub. L. 100–177 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''To carry out the purposes of this subpart, there are authorized to be appropriated $47,000,000 for the fiscal year ending September 30, 1978; $64,000,000 for the fiscal year ending September 30, 1979; $82,000,000 for the fiscal year ending September 30, 1980; $110,000,000 for the fiscal year ending September 30, 1982; $120,000,000 for the fiscal year ending September 30, 1983; and $130,000,000 for the fiscal year ending September 30, 1984.''

1981—Subsec. (a). Pub. L. 97–35, § 2708(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

Subsec. (b). Pub. L. 97–35, § 2708(b), substituted reference to sections 254d to 254h, 254i, and 254j of this title for reference to this subpart.

1979—Subsec. (a). Pub. L. 96–76 substituted ''$82,000,000'' for ''$70,000,000''.

1978—Subsec. (a). Pub. L. 95–626 substituted ''$64,000,000'' for ''$57,000,000'' as amount authorized to be appropriated for fiscal year ending Sept. 30, 1979.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254g, 254h–1, 254*l*, 254*l*–1, 254m, 254n, 254p, 11709 of this title.

SUBPART III—SCHOLARSHIP PROGRAM AND LOAN REPAYMENT PROGRAM

AMENDMENTS

1987—Pub. L. 100–177, title II, § 202(f), Dec. 1, 1987, 101 Stat. 999, inserted subpart III heading and redesignated former subpart III as IV.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 247b–7, 254d, 288–1, 288–2, 288–3, 293b of this title; title 21 section 395.

§ 254*l*. National Health Service Corps Scholarship Program

(a) Establishment

The Secretary shall establish the National Health Service Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—

(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

(2) if needed by the Corps, an adequate supply of other health professionals.

(b) Eligibility; application; written contract

To be eligible to participate in the Scholarship Program, an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession;

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

(3) submit an application to participate in the Scholarship Program; and

(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f) of this section) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health professional shortage area.

(c) Review and evaluation of information and forms by prospective applicant

(1) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 254*o*[1] of this title in the case of the individual's breach of the contract; and

(B) information respecting meeting a service obligation through private practice under an agreement under section 254n[1] of this title and such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps, including a statement of all factors considered in approving applications for participation in the Program and in making assignments for participants in the Program.

(2) The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

(3)(A) The Secretary shall distribute to health professions schools materials providing information on the Scholarship Program and shall encourage the schools to disseminate the materials to the students of the schools.

(B)(i) In the case of any health professional whose period of obligated service under the Scholarship Program is nearing completion, the Secretary shall encourage the individual to remain in a health professional shortage area and to continue providing primary health services.

(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Scholarship Program, the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health professional shortage area and is continuing to provide primary health services.

(C) In the case of entities to which participants in the Scholarship Program are assigned under section 254f of this title, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health professional shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Scholarship Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.

(d) Factors considered in providing contracts; priorities

(1) Subject to section 254f–1 of this title, in providing contracts under the Scholarship Program—

(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

(2) In providing contracts under the Scholarship Program, the Secretary shall give priority—

(A) first, to any application for such a contract submitted by an individual who has previously received a scholarship under this section or under section 294z[1] of this title;

(B) second, to any application for such a contract submitted by an individual who has characteristics that increase the probability that the individual will continue to serve in a health professional shortage area after the period of obligated service pursuant to subsection (f) of this section is completed; and

[1] See References in Text note below.

(C) third, subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.

(e) Commencement of participation in Scholarship Program; notice

(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) of this section and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4) of this section.

(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

(f) Written contract; contents

The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g) of this section) in each such school year or years for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B) of this section, and (ii) to accept (subject to the availability of appropriated funds for carrying out sections 254d through 254h and section 254j of this title) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (2), the individual agrees—

(i) to accept provision of such a scholarship to the individual;

(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) of this section until the individual completes the course of study;

(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study); and

(iv) to serve for a time period (hereinafter in the subpart referred to as the ''period of obligated service'') equal to—

(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

(II) two years,

whichever is greater, as a provider of primary health services in a health professional shortage area (designated under section 254e of this title) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart and to carry out the purposes of sections 254d through 254h and sections 254j and 254k of this title;

(3) a statement of the damages to which the United States is entitled, under section 254*o*[2] of this title, for the individual's breach of the contract; and

(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

(g) Scholarship provisions; contract with educational institution; increase in monthly stipend

(1) A scholarship provided to a student for a school year under a written contract under the Scholarship Program shall consist of—

(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 292k[2] of this title) of—

(i) the tuition of the student in such school year; and

(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3324(a) and (b) of title 31.

(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (under section 5303 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(h) Employment ceiling of Department unaffected

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

(i) Annual report to Congress; contents

Not later than March 1 of each year, the Secretary shall submit to the Congress a report pro-

[2] See References in Text note below.

viding, with respect to the preceding fiscal year—

(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program;

(2) the educational institutions at which such students are receiving their training;

(3) the number of applications filed under this section in the school year beginning in such year and in prior school years;

(4) the amount of scholarship payments made for each of tuition, stipends, and other expenses, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years;

(5)(A) the number, and type of health professions training, of individuals who have breached the contract under subsection (f) of this section through any of the actions specified in subsection (a) or (b) of section 254*o* of this title; and

(B) with respect to such individuals—

(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

(ii) the amounts for which the individuals are liable to the United States under section 254*o* of this title;

(iii) the extent of payment by the individuals of such amounts; and

(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f) of this section; and

(6) the effectiveness of the Secretary in recruiting health professionals to participate in the Scholarship Program, and in encouraging and assisting such professionals with respect to providing primary health services to health professional shortage areas after the completion of the period of obligated service under such Program.

(July 1, 1944, ch. 373, title III, § 338A, formerly title VII, § 751, as added Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281; amended Pub. L. 95–215, § 5, Dec. 19, 1977, 91 Stat. 1506; Pub. L. 95–623, § 12(c), Nov. 9, 1978, 92 Stat. 3457; Pub. L. 95–626, title I, § 113(b), Nov. 10, 1978, 92 Stat. 3563; Pub. L. 96–32, § 7(i), July 10, 1979, 93 Stat. 84; renumbered § 338A and amended Pub. L. 97–35, title XXVII, § 2709(a), (b), Aug. 13, 1981, 95 Stat. 908; Pub. L. 99–129, title II, § 210(b), Oct. 22, 1985, 99 Stat. 537; Pub. L. 100–607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(4)(K)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 101–597, title II, § 201, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3021, 3035.)

REFERENCES IN TEXT

Sections 254n and 254*o* of this title, referred to in subsecs. (c)(1) and (f)(3), were in the original references to sections 338C and 338D, respectively, of act July 1, 1944, which were renumbered sections 338D and 338E, respectively, by Pub. L. 100–177, title II, § 201(2), Dec. 1, 1987, 101 Stat. 992.

Section 294z of this title, referred to in subsec. (d)(2)(A), was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.

Section 292k of this title, referred to in subsec. (g)(1)(A), was in the original a reference to section 711 of act July 1, 1944. Section 711 of that Act was renumbered as section 710 by Pub. L. 97–35, title XXVII, § 2720(b), Aug. 13, 1981, 95 Stat. 915, and subsequently omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 710 of act July 1, 1944, relating to insurance accounts, a new section 711, relating to powers and responsibilities of the Secretary, and a new section 712, relating to participation by Federal credit unions, which are classified to sections 292i, 292j, and 292k, respectively, of this title.

CODIFICATION

In subsec. (g)(2), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 294t of this title prior to its renumbering by Pub. L. 97–35.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–597, § 201(a)(1), substituted ''Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—'' and pars. (1) and (2) for ''Corps Scholarship Program (hereinafter in this subpart referred to as the 'Scholarship Program') to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') and, if needed by the Corps, podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 296m of this title), and other health professionals.''

Subsec. (b)(4). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (c). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (3)(B), (C).

Pub. L. 101–597, § 201(b), inserted par. (1) designation, redesignated former pars. (1) and (2) as subpars. (A) and (B), inserted before period at end of subpar. (B) '', including a statement of all factors considered in approving applications for participation in the Program and in making assignments for participants in the Program'', inserted par. (2) designation, and added par. (3).

Subsec. (d). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (2)(B).

Pub. L. 101–597, § 201(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

''(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 294z of this title; and

''(2) second, to applications made (and contracts submitted)—

''(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year;

''(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year; and

''(C) for each school year thereafter, by individuals who are entering their first year of study in a

course of study or program described in subsection (b)(1)(B) of this section in such school year.''

Subsec. (f)(1)(B)(iv). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in closing provisions.

Pub. L. 101–597, § 201(a)(2), substituted ''as a provider of primary health services'' after ''whichever is greater,''.

Subsec. (g)(3). Pub. L. 101–509 substituted ''(under section 5303 of title 5)'' for ''(as set forth in the report transmitted to the Congress under section 5305 of title 5)''.

Subsec. (i). Pub. L. 101–597, § 201(d)(1), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''The Secretary shall report to Congress on March 1 of each year—''.

Subsec. (i)(4), (5). Pub. L. 101–597, § 201(d)(2), added pars. (4) and (5) and struck out former par. (4) which read as follows: ''the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.''

Subsec. (i)(6). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101–597, § 201(d)(2)(C), added par. (6).

1988—Subsec. (b)(1). Pub. L. 100–607 substituted ''osteopathic medicine'' for ''osteopathy''.

1985—Subsec. (g)(1). Pub. L. 99–129 struck out ''or under section 294z of this title (relating to scholarships for first-year students of exceptional financial need),'' after ''Scholarship Program''.

1981—Subsec. (a). Pub. L. 97–35, § 2709(b)(1), inserted reference to clinical psychologists.

Subsec. (c). Pub. L. 97–35, § 2709(b)(2), (3), substituted ''254*o*'' for ''294w'' in par. (1), and inserted provisions relating to information concerning meeting the service obligation in par. (2).

Subsec. (f). Pub. L. 97–35, § 2709(b)(4)–(6), in par. (1) substituted reference to sections 254d to 254h and 254j of this title, for reference to subpart II of part D of subchapter II of this chapter, in par. (2) substituted reference to sections 254d to 254h, 254j and 254k of this title, for reference to subpart II of part D of subchapter II of this chapter, and in par. (3) substituted ''254*o*'' for ''294w''.

Subsec. (j). Pub. L. 97–35, § 2709(b)(7), struck out subsec. (j) which related to consultation and participation of schools.

1979—Subsec. (g)(3). Pub. L. 96–32 substituted ''section 5305 of title 5'' for ''section 5303 of title 5''.

1978—Subsec. (f). Pub. L. 95–626 substituted ''subpart II of part D'' for ''subpart II of part C'' in pars. (1)(A) and (2).

Subsec. (i). Pub. L. 95–623 substituted March 1 for December 1 as the date for Secretary's annual report to Congress.

1977—Subsec. (d)(2). Pub. L. 95–215 substituted provisions relating to the school years beginning in calendar years 1978 and 1979 for provisions relating to the school year ending in the fiscal year beginning Oct. 1, 1977.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 228 of Pub. L. 99–129 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments and repeals made by this Act [enacting sections 294q–1 to 294q–3 of this title, amending this section and sections 292a, 292b, 292h, 292j, 293c, 294a, 294b, 294d, 294e, 294g, 294j, 294m to 294p, 294z, 295f to 295f–2, 295g, 295g–1, 295g–3, 295g–4, 295g–6 to 295g–8, 295g–8b, 295h, 295h–1a to 295h–1c, 296k, 296*l*, 296m, 297a, 298b–5, and 300aa–14 of this title, repealing sections 292c, 295 to 295e–5, 295g–2, 295g–5, 295g–8a, and 295g–9 of this title, enacting provisions set out as notes under sections 201, 292h, 293c, 294d, 294n, and 300aa–14 of this title and section 462 of the Appendix to Title 50, War and National Defense, and amending provisions set out as a note under section 298b–5 of this title] shall take effect on the date of enactment of this Act [Oct. 22, 1985].

''(b)(1) The amendments made by section 101(a) of this Act [amending section 294a of this title] shall take effect as of October 1, 1985.

''(2) The amendments made by section 208(e) of this Act [amending section 294e of this title] shall take effect nine months after the date of enactment of this Act [Oct. 22, 1985].

''(3) The amendment made by section 208(h) of this Act [amending section 294a of this title] shall take effect as of October 1, 1983.

''(4) The provisions of section 746 of the Public Health Service Act (as added by the amendment made by section 209(h)(2) of this Act) [section 294g–2 of this title] shall take effect as of June 30, 1984.

''(5) The amendments made by section 209(j) of this Act [amending sections 294m and 297a of this title] shall take effect as of June 30, 1984.

''(6) The amendments made by section 213(a) of this Act [amending section 295g–1 of this title] shall take effect as of October 1, 1985.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95–215 provided that the amendment made by that section is effective Oct. 1, 1977.

EFFECTIVE DATE

Section 408(b)(1) of Pub. L. 94–484 provided that the enactment of sections 254*l* to 254r of this title and repeal of section 234 of this title by Pub. L. 94–484 is effective Oct. 1, 1977.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

Section 408(b)(2) of Pub. L. 94–484, as amended, eff. Oct. 12, 1976, by Pub. L. 95–83, title III, § 307(p), Aug. 1, 1977, 91 Stat. 394, provided that:

''(A) Except as provided in subparagraphs (B) and (C), the amendment made by paragraph (1) of this subsection [enacting this section and sections 254*l*–1 to 254r of this title and repealing section 234 of this title] shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

''(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) [former section 234(f)(1) of this title] prescribing the financial obligation of a participant in the Public Health and National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program from appropriations for such Program for any fiscal year ending before October 1, 1977.

''(C) If an individual received a scholarship under the Public Health and National Health Service Corps Scholarship Program for any school year beginning before the date of the enactment of this Act [Oct. 12, 1976], periods of internship or residency served by such individual in a facility of the National Health Service Corps or other facility of the Public Health Service shall be creditable in satisfying such individual's service obligation incurred under that Program for such scholarship or for any scholarship received under the National Health Service Corps Scholarship Program for any subsequent school year. If an individual received a scholarship under the Public Health and National Health Service Corps Program for the first time from

appropriations for such Program for the fiscal year ending September 30, 1977, periods of internship or residency served by such individual in such a facility shall be creditable in satisfying such individual's service obligation incurred under that Program for such scholarship.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254h–1, 254m, 254n, 254*o*, 254*o*–1, 254q, 254q–1, 254s, 254t, 11709 of this title; title 25 sections 1613a, 1616m.

§ 254*l*–1. National Health Service Corps Loan Repayment Program

(a) Establishment

The Secretary shall establish a program to be known as the National Health Service Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—

(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

(2) if needed by the Corps, an adequate supply of other health professionals (including mental health professionals).

(b) Eligibility

To be eligible to participate in the Loan Repayment Program, an individual must—

(1)(A) must[1] have a degree in medicine, osteopathic medicine, dentistry, or other health profession, or be certified as a nurse midwife, nurse practioner,[2] or physician assistant;

(B) be enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, behavioral and mental health, or other health profession; or

(C) be enrolled as a full-time student—

(i) in an accredited (as determined by the Secretary) educational institution in a State; and

(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession;

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps; and

(3) submit to the Secretary an application for a contract described in subsection (f) of this section (relating to the payment by the Secretary of the educational loans of the individual in consideration of the individual serving for a period of obligated service).

(c) Information to be included with application and contract forms; understandability; availability

(1) Summary and information

In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms—

(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 254*o* of this title in the case of the individual's breach of the contract; and

(B) information respecting meeting a service obligation through private practice under an agreement under section 254n of this title and such other information as may be necessary for the individual to understand the individual's prospective participation in the Loan Repayment Program and service in the Corps.

(2) Understandability

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

(3) Availability

The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

(4) Recruitment and retention

(A) The Secretary shall distribute to health professions schools materials providing information on the Loan Repayment Program and shall encourage the schools to disseminate the materials to the students of the schools.

(B)(i) In the case of any health professional whose period of obligated service under the Loan Repayment Program is nearing completion, the Secretary shall encourage the individual to remain in a health professional shortage area and to continue providing primary health services.

(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Loan Repayment Program, the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health professional shortage area and is continuing to provide primary health services.

(C) In the case of entities to which participants in the Loan Repayment Program are assigned under section 254f of this title, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health professional shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Loan Repayment Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.

[1] So in original. The word ''must'' probably should not appear.

[2] So in original. Probably should be ''practitioner,''.

(d) Factors considered in providing contracts; priorities

(1) Subject to section 254f–1 of this title, in providing contracts under the Loan Repayment Program—

(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

(2) In providing contracts under the Loan Repayment Program, the Secretary shall give priority—

(A) to any application for such a contract submitted by an individual whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps;

(B) to any application for such a contract submitted by an individual who has (and whose spouse, if any, has) characteristics that increase the probability that the individual will continue to serve in a health professional shortage area after the period of obligated service pursuant to subsection (f) of this section is completed; and

(C) subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.

(e) Approval required for participation

(1) In general

An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f) of this section.

(2) Repealed. Pub. L. 101–597, title II, § 202(b)(2)(B), Nov. 16, 1990, 104 Stat. 3024

(f) Contents of contracts

The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

(A) subject to paragraph (3), the Secretary agrees—

(i) to pay on behalf of the individual loans in accordance with subsection (g) of this section; and

(ii) to accept (subject to the availability of appropriated funds for carrying out sections 254d through 254h of this title and section 254j of this title) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (3), the individual agrees—

(i) to accept loan payments on behalf of the individual;

(ii) in the case of an individual described in subsection (b)(1)(C) of this section, to maintain enrollment in a course of study or training described in such subsection until the individual completes the course of study or training;

(iii) in the case of an individual described in subsection (b)(1)(C) of this section, while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

(iv) to serve for a time period (hereinafter in this subpart referred to as the ''period of obligated service'') equal to 2 years or such longer period as the individual may agree to, as a provider of primary health services in a health professional shortage area (designated under section 254e of this title) to which such individual is assigned by the Secretary as a member of the Corps or released under section 254n of this title;

(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iv), including extensions resulting in an aggregate period of obligated service in excess of 4 years;

(3) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual that is conditioned thereon, is contingent on funds being appropriated for loan repayments under this subpart and to carry out the purposes of sections 254d through 254h of this title and sections 254j and 254k of this title;

(4) a statement of the damages to which the United States is entitled, under section 254*o* of this title for the individual's breach of the contract; and

(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this subpart.

(g) Payments

(1) In general

A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

(C) reasonable living expenses as determined by the Secretary.

(2) Payments for years served

(A) In general

For each year of obligated service that an individual contracts to serve under subsection (f) of this section the Secretary may pay up to $35,000 on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

(ii) provides an incentive to serve in health professional shortage areas with the greatest such shortages; and

(iii) provides an incentive with respect to the health professional involved remaining in a health professional shortage area, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

(B) Repayment schedule

Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

(3) Tax liability

For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

(4) Payment schedule

The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

(h) Employment ceiling

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic or other training, shall not be counted against any employment ceiling affecting the Department.

(i) Reports

Not later than March 1 of each year, the Secretary shall submit to the Congress a report providing, with respect to the preceding fiscal year—

(1) the total amount of loan payments made under the Loan Repayment Program;

(2) the number of applications filed under this section;

(3) the number, and type of health profession training, of individuals receiving loan repayments under such Program;

(4) the educational institution at which such individuals received their training;

(5) the total amount of the indebtedness of such individuals for educational loans as of the date on which the individuals become participants in such Program;

(6) the number of years of obligated service specified for such individuals in the initial contracts under subsection (f) of this section, and, in the case of individuals whose period of such service has been completed, the total number of years for which the individuals served in the Corps (including any extensions made for purposes of paragraph (2) of such subsection);

(7)(A) the number, and type of health professions training, of such individuals who have breached the contract under subsection (f) of this section through any of the actions specified in subsection (a) or (b) of section 254*o* of this title; and

(B) with respect to such individuals—

(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

(ii) the amounts for which the individuals are liable to the United States under section 254*o* of this title;

(iii) the extent of payment by the individuals of such amounts; and

(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f) of this section; and

(8) the effectiveness of the Secretary in recruiting health professionals to participate in the Loan Repayment Program, and in encouraging and assisting such professionals with respect to providing primary health services to health professional shortage areas after the completion of the period of obligated service under such Program.

(July 1, 1944, ch. 373, title III, § 338B, as added Pub. L. 100–177, title II, § 201(3), Dec. 1, 1987, 101 Stat. 992; amended Pub. L. 100–607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101–597, title II, § 202(a)–(g)(1), (h), title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3023–3026, 3035; Pub. L. 105–392, title I, § 109, Nov. 13, 1998, 112 Stat. 3562.)

PRIOR PROVISIONS

A prior section 338B of act July 1, 1944, was renumbered section 338C by section 201(2) of Pub. L. 100–177 and is classified to section 254m of this title.

AMENDMENTS

1998—Subsec. (b)(1)(B). Pub. L. 105–392 substituted ''behavioral and mental health, or other health profession'' for ''or other health profession''.

1990—Subsec. (a). Pub. L. 101–597, § 202(a)(1), substituted ''Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—'' and pars. (1) and (2) for ''Corps Loan Repayment Program (hereinafter in this subpart referred to as the 'Loan Repayment Program') in order to assure—

''(1) an adequate supply of trained physicians, dentists, and nurses for the Corps; and

''(2) if needed by the Corps, an adequate supply of podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 296m of this title), and other health professionals.''

Subsec. (b)(1). Pub. L. 101–597, § 202(b)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

''(A) be enrolled—

''(i) as a full-time student—

''(I) in an accredited (as determined by the Secretary) educational institution in a State; and

''(II) in the final year of a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession; or

''(ii) in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

''(B) have—

''(i) a degree in medicine, osteopathic medicine, dentistry, or other health profession;

''(ii) completed an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

''(iii) a license to practice medicine, osteopathic medicine, dentistry, or other health profession in a State;''.

Subsec. (b)(2) to (4). Pub. L. 101–597, §202(b)(2)(A), inserted ''and'' at end of par. (2), added par. (3), and struck out former pars. (3) and (4) which read as follows:

''(3) submit an application to participate in the Loan Repayment Program; and

''(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (f) of this section) to accept repayment of educational loans and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.''

Subsec. (c)(4). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in subpars. (B) and (C).

Pub. L. 101–597, §202(c), added par. (4).

Subsec. (d). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (2)(B).

Pub. L. 101–597, §202(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In determining which applications under the Loan Repayment Program to approve (and which contracts to accept), the Secretary shall give priority to applications made by—

''(1) individuals whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps; and

''(2) individuals who are committed to service in medically underserved areas.''

Subsec. (e). Pub. L. 101–597, §202(b)(2)(B), substituted ''only upon the Secretary and the individual entering into a written contract described in subsection (f) of this section.'' for ''only on the Secretary's approval of the individual's application submitted under subsection (b)(3) of this section and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4) of this section.'' in par. (1) and struck out par. (2) which read as follows: ''The Secretary shall provide written notice to an individual promptly on—

''(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

''(B) the Secretary's disapproving an individual's participation in such Program.''

Subsec. (f)(1)(B)(ii), (iii). Pub. L. 101–597, §202(b)(1)(B), substituted ''subsection (b)(1)(C)'' for ''subsection (b)(1)(A)''.

Subsec. (f)(1)(B)(iv). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101–597, §202(a)(2), inserted ''as a provider of primary health services'' before ''in a health''.

Subsec. (f)(2). Pub. L. 101–597, §202(e), inserted before semicolon at end '', including extensions resulting in an aggregate period of obligated service in excess of 4 years''.

Subsec. (g)(1). Pub. L. 101–597, §202(f)(1), inserted ''regarding the undergraduate or graduate education of the individual (or both), which loans were made'' after ''loans received by the individual''.

Subsec. (g)(2)(A). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in cls. (ii) and (iii).

Pub. L. 101–597, §202(f)(2)(A), substituted ''For each year'' for ''Except as provided in subparagraph (B) and paragraph (3), for each year'' and ''$35,000'' for ''$20,000'', inserted at end ''In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—'', and added immediately thereafter cls. (i) to (iii).

Subsec. (g)(2)(B), (C). Pub. L. 101–597, §202(f)(2)(B), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''For each year of obligated service that an individual contracts under subsection (f) of this section to serve in the Indian Health Service, or to serve in a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (25 U.S.C. 450f et seq.), the Secretary may pay up to $25,000 on behalf of the individual for loans described in paragraph (1).''

Subsec. (g)(3). Pub. L. 101–597, §202(g)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.''

Subsec. (i). Pub. L. 101–597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (8).

Pub. L. 101–597, §202(h), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: ''The Secretary shall, not later than March 1 of each year, submit to the Congress a report specifying—

''(1) the number, and type of health profession training, of individuals receiving loan payments under the Loan Repayment Program;

''(2) the educational institution at which such individuals are receiving their training;

''(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

''(4) the amount of loan payments made in the year reported on.''

1988—Subsec. (b)(1). Pub. L. 100–607 substituted ''osteopathic medicine'' for ''osteopathy'' wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 202(g)(2) of Pub. L. 101–597 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply only with respect to contracts under section 338B of the Public Health Service Act [this section] (relating to service in the National Health Service Corps) that are entered into on or after the effective date of this Act [Nov. 16, 1990].''

REGULATIONS

Section 205 of title II of Pub. L. 100–177 provided that: ''Not later than 180 days after the effective date of the amendments made by this title [Dec. 21, 1987], the Secretary of Health and Human Services shall issue regulations for the loan repayment programs established by the amendments [enacting this section and sections 254q and 254q–1 of this title, amending sections 242a, 254d, 254g, 254h–1, and 254*o* of this title, and repealing former section 254q of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254d, 254h–1, 254m, 254n, 254*o*, 254*o*–1, 254q–1, 288–2, 288–4, 288–5 of this title; title 25 section 1616a.

§ 254m. Obligated service under contract

(a) Service in full-time clinical practice

Except as provided in section 254n of this title, each individual who has entered into a written contract with the Secretary under section 254*l* or 254*l*–1 of this title shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

(b) Notice to individual; information for informed decision; eligibility; notice to Secretary; qualification and appointment as commissioned officer; appointment as civilian member; designation of non-United States employee as member; deferment of obligated service

(1) If an individual is required under subsection (a) of this section to provide service as specified in section 254*l*(f)(1)(B)(iv) or 254*l*–1(f)(1)(B)(iv) of this title (hereinafter in this subsection referred to as ''obligated service''), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.

(5)(A) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for such degree, except that—

(i) at the request of such an individual with whom the Secretary has entered into a contract under section 254*l* of this title prior to October 1, 1985, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 254*l* of this title on or after October 1, 1985, the Secretary may defer such date in accordance with clause (i).

(B)(i) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathic medicine, or dentistry, the number of years referred to in subparagraph (A)(i) shall be 3 years.

(ii) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be 1 year.

(C) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

(D) In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the academic training of the individual leading to such degree.

(E) In the case of the Loan Repayment Program, if an individual is required to provide obligated service under such Program, the date referred to in paragraphs (1) through (4)—

(i) shall be the date determined under subparagraph (A), (B), or (D) in the case of an individual who is enrolled in the final year of a course of study;

(ii) shall, in the case of an individual who is enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession, be the date the individual completes such training program; and

(iii) shall, in the case of an individual who has a degree in medicine, osteopathic medicine, dentistry, or other health profession and who has completed graduate training, be the date the individual enters into an agreement with the Secretary under section 254*l*–1 of this title.

(c) Obligated service period; commencement

An individual shall be considered to have begun serving a period of obligated service—

(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or is designated as a member of the Corps under subsection (b)(3) or (b)(4) of this section, or

(2) in the case of an individual who has entered into an agreement with the Secretary under section 254n of this title, on the date specified in such agreement,

whichever is earlier.

(d) Assignment of personnel

The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health professional shortage areas in accordance with sections 254d through 254h and sections 254j and 254k of this title. If the Secretary determines that there is no need in a health professional shortage area (designated under section 254e of this title) for a member of the profession in which an individual is obligated to provide service under a written contract and if such individual is an officer in the Service or a civilian employee of the United States, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

(e) Service under National Research Service Award program; credits against obligated service time

Notwithstanding any other provision of this subchapter, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 288(a)(1)[1] of this title shall be counted against the period of obligated service which the individual is required to perform under the Scholarship Program or under section 234[2] of this title as in effect on September 30, 1977.

(July 1, 1944, ch. 373, title III, § 338C, formerly title VII, § 752, as added Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2284; amended Pub. L. 95–626, title I, § 113(b), Nov. 10, 1978, 92 Stat. 3563; Pub. L. 96–76, title II, § 202(a), (b), Sept. 29, 1979, 93 Stat. 582; renumbered § 338B and amended Pub. L. 97–35, title XXVII, § 2709(a), (c), Aug. 13, 1981, 95 Stat. 908, 909; Pub. L. 97–414, § 8(g)(1), Jan. 4, 1983, 96 Stat. 2061; renumbered § 338C and amended Pub. L. 100–177, title II, § 201(2), title III, § 306, Dec. 1, 1987, 101 Stat. 992, 1004; Pub. L. 100–607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101–597, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035.)

REFERENCES IN TEXT

Section 234 of this title, referred to in subsec. (e), was repealed by Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

CODIFICATION

Section was formerly classified to section 294u of this title prior to its renumbering by Pub. L. 97–35.

[1] See Codification note below.

[2] See References in Text note below.

Section 288(a)(1) of this title, referred to in subsec. (e), in the original referred to section 472(a)(1), meaning section 472(a)(1) of the Public Health Service Act, which was classified to section 289*l*–1(a)(1) of this title. Title IV of the Public Health Service Act was amended generally by section 2 of Pub. L. 99–158, Nov. 20, 1985, 99 Stat. 822, and provisions formerly contained in section 472(a)(1) were restated in section 487(a)(1) of the Public Health Service Act, which is classified to section 288(a)(1) of this title.

PRIOR PROVISIONS

A prior section 338C of act July 1, 1944, was renumbered section 338D by section 201(2) of Pub. L. 100–177 and is classified to section 254n of this title.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1988—Subsec. (b)(5). Pub. L. 100–607 substituted ''osteopathic medicine'' for ''osteopathy'' wherever appearing.

1987—Subsec. (a). Pub. L. 100–177, § 306(1), inserted ''or 254*l*–1'', and made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(1). Pub. L. 100–177, § 306(2), inserted reference to section 254*l*–l(f)(1)(B)(iv).

Subsec. (b)(5). Pub. L. 100–177, § 306(3), substituted par. (5) consisting of subpars. (A) to (E) for former par. (5) consisting of subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 100–177, § 306(4), made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

1983—Subsec. (e). Pub. L. 97–414 inserted ''or under section 234 of this title as in effect on September 30, 1977'' after ''Scholarship Program''.

1981—Subsec. (a). Pub. L. 97–35, § 2709(c)(1), substituted ''254n'' for ''294v'' and ''254*l*'' for ''294t''.

Subsec. (b). Pub. L. 97–35, § 2709(c)(2), substituted provisions relating to notice, information, etc., for individuals required to give obligated service, for provisions relating to notice, information, etc., for individuals required to provide service under the Scholarship Program.

Subsec. (c). Pub. L. 97–35, § 2709(c)(3), (4), in par. (1) inserted reference to designation under subsec. (b)(3) or (4) of this section, and in par. (2) substituted ''254n'' for ''294v''.

Subsec. (d). Pub. L. 97–35, § 2709(c)(5), inserted provision relating to individuals who are officers in the Service or civilian employees of the United States, and substituted reference to sections 254d to 254h, 254j, and 254k of this title, for reference to subpart II of part D of subchapter II of this chapter.

Subsec. (e). Pub. L. 97–35, § 2709(c)(6), substituted provisions respecting mandatory determination of service requirement, for provisions respecting discretionary determination of service requirement.

1979—Subsec. (b)(5)(A). Pub. L. 96–76, § 202(a), (b)(1), (2), inserted provisions authorizing a greater period than three years for individuals receiving degrees from schools of medicine, osteopathy, and dentistry, and provisions respecting individuals receiving degrees from schools of veterinary medicine, optometry, podiatry, and pharmacy, and substituted ''No period'' for ''No such period''.

Subsec. (b)(5)(B). Pub. L. 96–76, § 202(b)(3), substituted ''referred to in subparagraph (A)'' for ''of medicine, osteopathy, or dentistry''.

1978—Subsec. (d). Pub. L. 95–626 substituted ''subpart II of part D'' for ''subpart II of part C''.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2709(h) of Pub. L. 97–35 provided that: ''The amendments made by paragraphs (2), (3), and (5)(B) of

subsection (c) [amending this section] shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act [section 294r et seq. of this title] after the date of the enactment of this Act [Aug. 13, 1981]. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.''

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94–484, set out in part as a note under section 254*l* of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94–484, set out as a note under section 254*l* of this title.

SPECIAL RETENTION PAY FOR REGULAR OR RESERVE OFFICERS FOR PERIOD OFFICER IS OBLIGATED UNDER THIS SECTION

Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1816, provided that: ''the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B [now 338C] of the Public Health Service Act [this section] and assigned and providing direct health services or serving the officer's obligation as a specialist''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–202, § 101(g) [title II], Dec. 22, 1987, 101 Stat. 1329–213, 1329–246.

Pub. L. 99–500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–277, and Pub. L. 99–591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–277.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 242a, 254n, 254*o*, 254q, 288–2, 288–5, 293b, 11709 of this title; title 25 sections 1613a, 1616e, 1621p.

§ 254n. Private practice

(a) Application for release of obligations; conditions

The Secretary shall, to the extent permitted by, and consistent with, the requirements of applicable State law, release an individual from all or part of his service obligation under section 254m(a) of this title or under section 234[1] of this title (as in effect on September 30, 1977) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

(1) in the case of an individual who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of his application for such a release, in the health professional shortage area in which such individual is serving on such date or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of the application of the individual for such a release, in the health professional shortage area selected by the Secretary; or

(2) in the case of any other individual, in a health professional shortage area (designated under section 254e of this title) selected by the Secretary.

(b) Written agreement; fee rates; ability to pay; health insurance; regulations; actions to ensure compliance

The written agreement described in subsection (a) of this section shall—

(1) provide that during the period of private practice by an individual pursuant to the agreement—

(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; and

(B) the individual in providing health services in connection with such practice (i) shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq. and 1395j et seq.] or under a State plan for medical assistance approved under title XIX of such Act [42 U.S.C. 1396 et seq.], and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act [42 U.S.C. 1395u(b)(3)(B)(ii)] for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan; and

(2) contain such additional provisions as the Secretary may require to carry out the purposes of this section.

For purposes of paragraph (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability. The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.

(c) Breach of service contract

If an individual breaches the contract entered into under section 254*l* or 254*l*–1 of this title by

[1] See References in Text note below.

failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) of this section or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

(d) Travel expenses

The Secretary may pay an individual who has entered into an agreement with the Secretary under subsection (a) of this section an amount to cover all or part of the individual's expenses reasonably incurred in transporting himself, his family, and his possessions to the location of his private clinical practice.

(e) Sale of equipment and supplies

Upon the expiration of the written agreement under subsection (a) of this section, the Secretary may (notwithstanding any other provision of law) sell to the individual who has entered into an agreement with the Secretary under subsection (a) of this section, equipment and other property of the United States utilized by such individual in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property, except that the Secretary may make such sales for a lesser value to the individual if he determines that the individual is financially unable to pay the full market value.

(f) Malpractice insurance

The Secretary may, out of appropriations authorized under section 254k of this title, pay to individuals participating in private practice under this section the cost of such individual's malpractice insurance and the lesser of—

(1)(A) $10,000 in the first year of obligated service;

(B) $7,500 in the second year of obligated service;

(C) $5,000 in the third year of obligated service; and

(D) $2,500 in the fourth year of obligated service; or

(2) an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.

(g) Technical assistance

The Secretary shall, upon request, provide to each individual released from service obligation under this section technical assistance to assist such individual in fulfilling his or her agreement under this section.

(July 1, 1944, ch. 373, title III, § 338D, formerly title VII, § 753, as added Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2285; amended Pub. L. 96–538, title IV, § 403, Dec. 17, 1980, 94 Stat. 3192; renumbered § 338C and amended Pub. L. 97–35, title XXVII, § 2709(a), (d), Aug. 13, 1981, 95 Stat. 908, 910; renumbered § 338D and amended Pub. L. 100–177, title II, § 201(2), title III, § 307, Dec. 1, 1987, 101 Stat. 992, 1005; Pub. L. 101–597, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035.)

REFERENCES IN TEXT

Section 234 of this title, referred to in subsec. (a), was repealed by Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

The Social Security Act, referred to in subsec. (b)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts A and B of title XVIII of the Social Security Act are classified generally to parts A (§ 1395c et seq.) and B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of this title. Title XIX of such Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

Section was formerly classified to section 294v of this title prior to its renumbering by Pub. L. 97–35.

PRIOR PROVISIONS

A prior section 338D of act July 1, 1944, was renumbered section 338E by section 201(2) of Pub. L. 100–177 and is classified to section 254*o* of this title.

AMENDMENTS

1990—Subsec. (a)(1), (2). Pub. L. 101–597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1987—Subsec. (a). Pub. L. 100–177, § 307(1)–(3), made technical amendment to reference to section 254m of this title to reflect renumbering of corresponding section of original act, in introductory provisions, in par. (1) inserted "who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and" after "individual" the first time it appeared as the probable intent of Congress, and inserted "or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of the application of the individual for such a release, in the health manpower shortage area selected by the Secretary", and in par. (2) inserted "selected by the Secretary".

Subsec. (b). Pub. L. 100–177, § 307(4), inserted at end "The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to."

Subsec. (c). Pub. L. 100–177, § 307(5), inserted reference to section 254*l*–1.

Subsec. (e). Pub. L. 100–177, § 307(b), designated par. (2) as entire subsection and struck out par. (1) which read as follows: "The Secretary may make such arrangements as he determines are necessary for the individual for the use of equipment and supplies and for the lease or acquisition of other equipment and supplies."

1981—Subsec. (a). Pub. L. 97–35, § 2709(d)(1), inserted provision respecting requirements of applicable State law, substituted references to sections 254m(a) and 234 of this title, for reference to section 294u(a) of this title, and in cl. (2) struck out priority requirement under section 254f(c) of this title.

Subsec. (b)(1)(B). Pub. L. 97–35, § 2709(d)(2), inserted "(i)" before "shall not" and added cl. (ii).

Subsecs. (c) to (g). Pub. L. 97–35, § 2709(d)(3), added subsecs. (c) to (g).

1980—Subsec. (a). Pub. L. 96–538 substituted in par. (2) "which has" for "which (A) has" and struck out subpar. (B) which referred to a health manpower shortage area which has a sufficient financial base to substain private practice and provide the individual with income of not less than the income of members of the Corps, and struck out provision following par. (2) which provided that in the case of an individual described in par. (1), the Secretary release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving met the requirements of cl. (B) of par. (2).

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94–484, set out in part as a note under section 254*l* of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94–484, set out as a note under section 254*l* of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242a, 254d, 254*l*, 254*l*–1, 254m, 254*o*, 254p, 294cc, 11709 of this title.

§ 254*o*. Breach of scholarship contract or loan repayment contract

(a) Failure to maintain academic standing; dismissal from institution; voluntary termination; liability; failure to accept payment

(1) An individual who has entered into a written contract with the Secretary under section 254*l* of this title and who—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(B) is dismissed from such educational institution for disciplinary reasons,

(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training, or

(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(2) An individual who has entered into a written contract with the Secretary under section 254*l*–1 of this title and who—

(A) in the case of an individual who is enrolled in the final year of a course of study, fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled (such level determined by the educational institution under regulations of the Secretary) or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study; or

(B) in the case of an individual who is enrolled in a graduate training program, fails to complete such training program and does not receive a waiver from the Secretary under section 254*l*–1(b)(1)(B)(ii) of this title,

in lieu of any service obligation arising under such contract shall be liable to the United States for the amount that has been paid on behalf of the individual under the contract.

(b) Failure to commence or complete service obligations; formula to determine liability; payment to United States; recovery of delinquent damages; disclosure to credit reporting agencies

(1)(A) Except as provided in paragraph (2), if an individual breaches his written contract by failing (for any reason not specified in subsection (a) of this section or section 254p(d)[1] of this title) either to begin such individual's service obligation under section 254*l* of this title in accordance with section 254m or 254n of this title or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which ''A'' is the amount the United States is entitled to recover, ''ϕ'' is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; ''t'' is the total number of months in the individual's period of obligated service; and ''s'' is the number of months of such period served by him in accordance with section 254m of this title or a written agreement under section 254n of this title.

(B)(i) Any amount of damages that the United States is entitled to recover under this subsection or under subsection (c) of this section shall, within the 1-year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary), be paid to the United States. Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of this title.

(ii) If damages described in clause (i) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

(I) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(II) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(iii) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31 shall apply to any such contract to the extent not inconsistent with this subsection.

(iv) To the extent not otherwise prohibited by law, the Secretary shall disclose to all appropriate credit reporting agencies information relating to damages of more than $100 that are entitled to be recovered by the United States under this subsection and that are delinquent by more than 60 days or such longer period as is determined by the Secretary.

(2) If an individual is released under section 254n[1] of this title from a service obligation under section 234[1] of this title (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under

[1] See References in Text note below.

section 254n[1] of this title, subsection (f) of such section 234[1] of this title shall apply to such individual in lieu of paragraph (1) of this subsection.

(c) Failure to commence or complete service obligations for other reasons; determination of liability; payment to United States; waiver of recovery for extreme hardship or good cause shown

(1) If (for any reason not specified in subsection (a) of this section or section 254p(d)[1] of this title) an individual breaches the written contract of the individual under section 254*l*–1 of this title by failing either to begin such individual's service obligation in accordance with section 254m or 254n of this title or to complete such service obligation, the United States shall be entitled to recover from the individual an amount equal to the sum of—

(A) in the case of a contract for a 2-year period of obligated service—

(i) the total of the amounts paid by the United States under section 254*l*–1(g)(2) of this title on behalf of the individual for any period of obligated service; and

(ii) an amount equal to the unserved obligation penalty;

(B) in the case of a contract for a period of obligated service of greater than 2 years, and the breach occurs before the end of the first 2 years of such period—

(i) the total of the amounts paid by the United States under section 254*l*–1(g)(2) of this title on behalf of the individual for any period of obligated service; and

(ii) an amount equal to the unserved obligation penalty; and

(C) in the case of a contract for a period of obligated service of greater than 2 years, and the breach occurs after the first 2 years of such period—

(i) the total of the amounts paid by the United States under section 254*l*–1(g)(2) of this title on behalf of the individual for any period of obligated service not served; and

(ii) if the individual breaching the contract failed to give the Secretary notice, that the individual intends to take action which constitutes a breach of the contract, at least 1 year (or such shorter period of time as the Secretary determines is adequate for finding a replacement) prior to the breach, $10,000.

(2) For purposes of paragraph (1), the term ''unserved obligation penalty'' means the amount equal to the product of the number of months of obligated service that were not completed by an individual, multiplied by $1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000.

(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

(4) Damages that the United States is entitled to recover shall be paid in accordance with subsection (b)(1)(B) of this section.

(d) Cancellation of obligation upon death of individual; waiver or suspension of obligation for impossibility, hardship, or unconscionability; release of debt by discharge in bankruptcy, time limitations

(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) or the Loan Repayment Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) or the Loan Repayment Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3)(A) Any obligation of an individual under the Scholarship Program (or a contract thereunder) or the Loan Repayment Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

(B)(i) Subparagraph (A) shall apply to any financial obligation of an individual under the provision of law specified in clause (ii) to the same extent and in the same manner as such subparagraph applies to any obligation of an individual under the Scholarship or Loan Repayment Program (or contract thereunder) for payment of damages.

(ii) The provision of law referred to in clause (i) is subsection (f) of section 234[2] of this title, as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94–484.

(July 1, 1944, ch. 373, title III, § 338E, formerly title VII, § 754, as added Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2286; amended Pub. L. 95–83, title III, § 307(g), Aug. 1, 1977, 91 Stat. 391; renumbered § 338D and amended Pub. L. 97–35, title XXVII, § 2709(a), (e)(1)–(4)(A), Aug. 13, 1981, 95 Stat. 908, 911; Pub. L. 97–414, § 8(g)(2), Jan. 4, 1983, 96 Stat. 2061; renumbered § 338E and amended Pub. L. 100–177, title II, §§ 201(2), 202(e), title III, § 308(a), Dec. 1, 1987, 101 Stat. 992, 997, 1006; Pub. L. 100–203, title IV, § 4052(b), Dec. 22, 1987, 101 Stat. 1330–97; Pub. L. 100–360, title IV, § 411(f)(10)(B), July 1, 1988, 102 Stat. 780; Pub. L. 101–597, title II, § 203(a), Nov. 16, 1990, 104 Stat. 3027.)

REFERENCES IN TEXT

Section 254p of this title, referred to in subsecs. (b)(1)(A) and (c)(1), was in the original a reference to section 338F of act July 1, 1944, which was renumbered section 338G by Pub. L. 101–597, title II, § 204, Nov. 16, 1990, 104 Stat. 3027.

Section 234 of this title, referred to in subsecs. (b)(2) and (d)(3)(B)(ii), was repealed by Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

[2] See References in Text note below.

Section 254n of this title, referred to in subsec. (b)(2), in the original referred to section 753, meaning section 753 of the Public Health Service Act, which was classified to section 294v of this title. Section 753 was redesignated section 338C of the Public Health Service Act by Pub. L. 97–35, title XXVII, § 2709(a), Aug. 13, 1981, 95 Stat. 908, and was transferred to section 254n of this title. Section 338C of the Public Health Service Act was renumbered section 338D by Pub. L. 100–177, title II, § 201(2), Dec. 1, 1987, 101 Stat. 992.

CODIFICATION

Section was formerly classified to section 294w of this title prior to its renumbering by Pub. L. 97–35.

PRIOR PROVISIONS

A prior section 338E of act July 1, 1944, was renumbered section 338F by Pub. L. 100–177 and classified to section 254p of this title, and subsequently renumbered 338G by Pub. L. 101–597.

AMENDMENTS

1990—Subsec. (d)(3). Pub. L. 101–597 designated existing provision as subpar. (A) and added subpar. (B).

1988—Subsec. (b)(1)(B)(i). Pub. L. 100–360 made technical amendment to directory language of Pub. L. 100–203, see 1987 Amendment note below.

1987—Pub. L. 100–177, § 202(e)(6), inserted ''or loan repayment contract'' in section catchline.

Subsec. (a). Pub. L. 100–177, § 202(e)(1), designated existing provisions as par. (1), and former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 100–177, § 202(e)(2), designated existing provisions as subpar. (A), made technical amendments to references to sections 254m, 254n, and 254p of this title wherever appearing to reflect renumbering of corresponding sections of original act, inserted ''under section 254*l* of this title'' after first reference to ''service obligation'' as the probable intent of Congress, struck out at end ''Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary for good cause shown), be paid to the United States.'', and added subpar. (B).

Subsec. (b)(1)(B)(i). Pub. L. 100–203, as amended by Pub. L. 100–360, inserted at end ''Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of this title.''

Subsec. (c). Pub. L. 100–177, § 202(e)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100–177, §§ 202(e)(3), (5), 308(a), redesignated subsec. (c) as (d), in pars. (1), (2), and (3), inserted ''or the Loan Repayment Program (or a contract thereunder'', and in par. (3) inserted '', and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable''.

1983—Subsec. (b)(1). Pub. L. 97–414 substituted ''section 254p(d)'' for ''section 254q(b)''.

1981—Subsec. (a). Pub. L. 97–35, § 2709(e)(1), (2), redesignated subsec. (b) as (a) and, as so redesignated, in introductory text substituted ''254*l*'' for ''294t'' and added par. (4). Former subsec. (a), which related to liability of individual upon failure to accept payment, was struck out.

Subsec. (b). Pub. L. 97–35, § 2709(e)(1), (3), redesignated subsec. (c) as (b) and, as so redesignated, designated existing provisions as par. (1) and made numerous changes to reflect renumbering of subpart sections, and added par. (2). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 97–35, § 2709(e)(1), (4)(A), redesignated subsec. (d) as (c) and, as so redesignated, in par. (2) inserted reference to partial or total waiver. Former subsec. (c) redesignated (b).

1977—Subsec. (c). Pub. L. 95–83 substituted '' 'ϕ' is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans'' for '' 'ϕ' is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 203(b) of Pub. L. 101–597 provided that: ''With respect to any financial obligation of an individual under subsection (f) of section 225 of the Public Health Service Act [former section 234 of this title], as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94–484, the amendment made by subsection (a) of this section [amending this section] applies to any backruptcy [sic] proceeding in which discharge of such an obligation has not been granted before the date that is 31 days after the date of the enactment of this Act [Nov. 16, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100–360, amendment by Pub. L. 100–360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, effective as if included in the enactment of that provision in Pub. L. 100–203, see section 411(a) of Pub. L. 100–360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94–484, set out in part as a note under section 254*l* of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94–484, set out as a note under section 254*l* of this title.

SPECIAL REPAYMENT PROVISIONS

Section 204 of Pub. L. 100–177 provided that an individual who breached a written contract entered into under section 254*l* of this title by failing either to begin such individual's service obligation in accordance with section 254m of this title or to complete such service obligation; or otherwise breached such a contract; and, as of Nov. 1, 1987, was liable to United States under subsec. (b) of this section was to be relieved of liability to United States under such section if the individual provided notice to Secretary and service in accordance with a written contract with the Secretary that obligated the individual to provide service in accordance with section and authorized Secretary to exclude an individual from relief from liability under this section for reasons related to the individual's professional competence or conduct.

EXISTING PROCEEDINGS

Section 308(b) of Pub. L. 100–177 provided that: ''The amendment made by subsection (a) [amending this section] applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act [subsec. (d)(3) of this section] (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date that is 31 days after the date of enactment of this Act [Dec. 1, 1987].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254*l*, 254*l*–1, 254*o*–1, 254p, 288–2, 288–4, 288–5, 1395ccc of this title.

§ 254*o*–1. Fund regarding use of amounts recovered for contract breach to replace services lost as result of breach

(a) Establishment of Fund

There is established in the Treasury of the United States a fund to be known as the National Health Service Corps Member Replacement Fund (hereafter in this section referred to as the ''Fund''). The Fund shall consist of such amounts as may be appropriated under subsection (b) of this section to the Fund. Amounts appropriated for the Fund shall remain available until expended.

(b) Authorization of appropriations to Fund

For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to the liability of individuals under section 254*o* of this title for the breach of contracts entered into under section 254*l* or 254*l*–1 of this title;

(2) the amount by which grants under section 254q–1 of this title have, for such preceding fiscal year, been reduced under subsection (g)(2)(B) of such section; and

(3) the aggregate of the amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) of this section and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

(c) Use of Fund

(1) Payments to certain health facilities

Amounts in the Fund and available pursuant to appropriations Act may, subject to paragraph (2), be expended by the Secretary to make payments to any entity—

(A) to which a Corps member has been assigned under section 254f of this title; and

(B) that has a need for a health professional to provide primary health services as a result of the Corps member having breached the contract entered into under section 254*l* or 254*l*–1 of this title by the individual.

(2) Purpose of payments

An entity receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ a health professional to provide primary health services to patients of the entity, or to enter into a contract with such a professional to provide the services to the patients.

(d) Investment

(1) In general

The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(July 1, 1944, ch. 373, title III, § 338F, as added Pub. L. 101–597, title II, § 204, Nov. 16, 1990, 104 Stat. 3027.)

PRIOR PROVISIONS

A prior section 338F of act July 1, 1944, was renumbered section 338G by Pub. L. 101–597 and is classified to section 254p of this title.

Another prior section 338F of act July 1, 1944, was renumbered section 338G by section 201(2) of Pub. L. 100–177 and classified to section 254q of this title, prior to repeal by Pub. L. 100–177, title II, § 203, Dec. 1, 1987, 101 Stat. 999.

§ 254p. Special loans for former Corps members to enter private practice

(a) Persons entitled; conditions

The Secretary may, out of appropriations authorized under section 254k of this title, make one loan to a Corps member who has agreed in writing—

(1) to engage in the private full-time clinical practice of the profession of the member in a health professional shortage area (designated under section 254e of this title) for a period of not less than 2 years which—

(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than 1 year after the date on which such individual completes such period of obligated service; and

(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

(2) to conduct such practice in accordance with section 254n(b)(1) of this title; and

(3) to such additional conditions as the Secretary may require to carry out this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

(b) Amount of loan; maximum interest rate

(1) The amount of a loan under subsection (a) of this section to an individual shall not exceed $25,000.

(2) The interest rate for any such loan shall not exceed an annual rate of 5 percent.

(c) Application for loan; submission and approval; interest rates and repayment terms

The Secretary may not make a loan under this section unless an application therefor has been submitted to, and approved by, the Secretary. The Secretary shall, by regulation, set interest rates and repayment terms for loans under this section.

(d) Breach of agreement; notice; determination of liability

If the Secretary determines that an individual has breached a written agreement entered into under subsection (a) of this section, he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 60 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual—

(1) in the case of an individual who has received a grant under this section (as in effect prior to October 1, 1984), an amount determined under section 254*o*(b) of this title, except that in applying the formula contained in such section ''ϕ'' shall be the sum of the amount of the grant made under subsection (a) of this section to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, ''t'' shall be the number of months that such individual agreed to practice his profession under such agreement, and ''s'' shall be the number of months that such individual practices his profession in accordance with such agreement; and

(2) in the case of an individual who has received a loan under this section, the full amount of the principal and interest owed by such individual under this section.

(July 1, 1944, ch. 373, title III, § 338G, formerly title VII, § 755, as added Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2287; renumbered § 338E and amended Pub. L. 97–35, title XXVII, § 2709(a), (f), Aug. 13, 1981, 95 Stat. 908, 911; Pub. L. 97–414, § 8(g)(3), Jan. 4, 1983, 96 Stat. 2061; renumbered § 338F and amended Pub. L. 100–177, title II, § 201(2), title III, § 309, Dec. 1, 1987, 101 Stat. 992, 1006; renumbered § 338G and amended Pub. L. 101–597, title II, § 204, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3027, 3035.)

CODIFICATION

Section was formerly classified to section 294x of this title prior to renumbering by Pub. L. 97–35.

PRIOR PROVISIONS

A prior section 338G of act July 1, 1944, was renumbered section 338H by Pub. L. 101–597 and is classified to section 254q of this title.

Another prior section 338G of act July 1, 1944, was renumbered section 338I by section 201(1) of Pub. L. 100–177 and classified to section 254r of this title, prior to repeal by Pub. L. 100–713, title I, § 104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

Another prior section 338G of act July 1, 1944, was classified to section 254q of this title prior to repeal by Pub. L. 100–177, title II, § 203, Dec. 1, 1987, 101 Stat. 999.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

1987—Subsec. (a). Pub. L. 100–177, § 309(1), substituted subsec. (a) consisting of pars. (1) to (3) for former subsec. (a) consisting of pars. (1) and (2).

Subsec. (b). Pub. L. 100–177, § 309(1), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The amount of the grant or loan under subsection (a) of this section to an individual shall be—

''(1) $12,500 if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years; or

''(2) $25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.''

Subsec. (c). Pub. L. 100–177, § 309(2), struck out ''grant or'' before ''loan'' in first sentence.

Subsec. (d)(1). Pub. L. 100–177, § 309(3), substituted ''under this section (as in effect prior to October 1, 1984)'' for ''under this section'', and made technical amendment to reference to section 254*o*(b) of this title to reflect renumbering of corresponding section of original act.

1983—Subsec. (d)(1). Pub. L. 97–414 substituted ''section 254*o*(b)'' for ''section 254*o*(c)''.

1981—Subsec. (a). Pub. L. 97–35, § 2709(f)(2)–(4), made numerous changes to reflect renumbering of subpart sections, among them inserting references to section 254k of this title and striking out references to section 294v of this title, and added applicability to loans.

Subsec. (b). Pub. L. 97–35, § 2709(f)(5), inserted applicability to loans.

Subsec. (c). Pub. L. 97–35, § 2709(f)(6), inserted provisions relating to loans and interest rates, etc.

Subsec. (d). Pub. L. 97–35, § 2709(f)(7), restructured and revised criteria determining amount of liability of individual within 60 days after the date of notice instead of within 120 days after the date of notice.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94–484, set out in part as a note under section 254*l* of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94–484, set out as a note under section 254*l* of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254*o*, 293b of this title.

§ 254q. Report and authorization of appropriations

(a) Report

The Secretary shall report on March 1 of each year to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives on—

(1) the number of providers of health care who will be needed for the Corps during the 5 fiscal years beginning after the date the report is filed; and

(2) the number—

(A) of scholarships the Secretary proposes to provide under the Scholarship Program during such 5 fiscal years;

(B) of individuals for whom the Secretary proposes to make loan repayments under the Loan Repayment Program during such 5 fiscal years; and

(C) of individuals who have no obligation under section 254m of this title and who the Secretary proposes to have as members of the Corps during such 5 fiscal years,

in order to provide such number of health care providers.

(b) Funding

(1) Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $63,900,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 2000.

(2) Reservation of amounts

(A) Scholarships for new participants

Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing contracts for scholarships under this subpart to individuals who have not previously received such scholarships.

(B) Scholarships for first-year study in certain fields

With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, of the amounts appropriated under paragraph (1) for a fiscal year, obligate not less than 10 percent for the purpose of providing contracts for scholarships under this subpart to individuals who are entering the first year of study in a course of study or program described in subsection[1] 254*l*(b)(1)(B) of this title that leads to such a certification. Amounts obligated under this subparagraph shall be in addition to amounts obligated under subparagraph (A).

(July 1, 1944, ch. 373, title III, § 338H, formerly § 338G, as added Pub. L. 100–177, title II, § 203, Dec. 1, 1987, 101 Stat. 999; renumbered § 338H and amended Pub. L. 101–597, title II, §§ 204, 205, Nov. 16, 1990, 104 Stat. 3027, 3028.)

PRIOR PROVISIONS

A prior section 254q, act July 1, 1944, ch. 373, title III, § 338G, formerly title VII, § 756, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2288; renumbered § 338F and amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2709(a), (g), 95 Stat. 908, 912; renumbered § 338G, Dec. 1, 1987, Pub. L. 100–177, title II, § 201(2), 101 Stat. 992, authorized appropriations for fiscal years 1978 to 1987, prior to repeal by Pub. L. 100–177, § 203.

A prior section 338H of act July 1, 1944, was renumbered section 338I by Pub. L. 101–597 and is classified to section 254q–1 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–597, § 205(a), substituted ''March 1'' for ''January 20'' and ''5 fiscal years'' for ''3 fiscal years'' wherever appearing.

Subsec. (b). Pub. L. 101–597, § 205(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There are authorized to be appropriated such sums as may be necessary for scholarships and loan repayments under this subpart.''

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

[1] So in original. Probably should be ''section''.

§ 254q–1. Grants to States for loan repayment programs

(a) In general

(1) Authority for grants

The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health services in health professional shortage areas.

(2) Loan repayment programs

The programs referred to in paragraph (1) are, subject to subsection (c) of this section, programs of entering into contracts under which the State involved agrees to pay all or part of the principal, interest, and related expenses of the educational loans of health professionals in consideration of the professionals agreeing to provide primary health services in health professional shortage areas.

(3) Direct administration by State agency

The Secretary may not make a grant under paragraph (1) unless the State involved agrees that the program operated with the grant will be administered directly by a State agency.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State agrees that, with respect to the costs of making payments on behalf of individuals under contracts made pursuant to paragraph (2) of such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

(c) Coordination with Federal program

(1) Assignments for health professional shortage areas under Federal program

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, in carrying out the program operated with the grant, the State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing health services in health professional shortage areas.

(2) Remedies for breach of contracts

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will provide remedies for any breach of the contracts by the health professionals involved.

(3) Limitation regarding contract inducements

(A) Except as provided in subparagraph (B), the Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will not be provided on terms that are more favorable to health professionals than the most favorable terms that the Secretary is authorized to provide for contracts under the Loan Repayment Program under section 254*l*–1 of this title, including terms regarding—

(i) the annual amount of payments provided on behalf of the professionals regarding educational loans; and

(ii) the availability of remedies for any breach of the contracts by the health professionals involved.

(B) With respect to the limitation established in subparagraph (A) regarding the annual amount of payments that may be provided to a health professional under a contract provided by a State pursuant to subsection (a)(2) of this section, such limitation shall not apply with respect to a contract if—

(i) the excess of such annual payments above the maximum amount authorized in section 254*l*–1(g)(2)(A) of this title for annual payments regarding contracts is paid solely from non-Federal contributions under subsection (b) of this section; and

(ii) the contract provides that the health professional involved will satisfy the requirement of obligated service under the contract solely through the provision of primary health services in a health professional shortage area that is receiving priority for purposes of section 254f–1(a)(1) of this title and that is authorized to receive assignments under section 254f of this title of individuals who are participating in the Scholarship Program under section 254*l* of this title.

(d) Restrictions on use of funds

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the grant will not be expended—

(1) to conduct activities for which Federal funds are expended—

(A) within the State to provide technical or other nonfinancial assistance under subsection (f) of section 254c of this title;

(B) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

(C) under a grant under section 254r of this title; or

(2) for any purpose other than making payments on behalf of health professionals under contracts entered into pursuant to subsection (a)(2) of this section.

(e) Reports

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees—

(1) to submit to the Secretary reports providing the same types of information regarding the program operated pursuant to such subsection as reports submitted pursuant to subsection (i) of section 254*l*–1 of this title provide regarding the Loan Repayment Program under such section; and

(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

(f) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

(g) Noncompliance

(1) In general

The Secretary may not make payments under subsection (a) of this section to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

(2) Reduction in grant relative to number of breached contracts

(A) Before making a grant under subsection (a) of this section to a State for a fiscal year, the Secretary shall determine the number of contracts provided by the State under paragraph (2) of such subsection with respect to which there has been an initial breach by the health professionals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

(B) Subject to paragraph (3), in the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) of this section to the State for the fiscal year involved by an amount equal to the sum of the expenditures of Federal funds made regarding the contracts involved and an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

(3) Waiver regarding reduction in grant

The Secretary may waive the requirement established in paragraph (2)(B) with respect to the initial breach of a contract if the Secretary determines that such breach by the health professional involved was attributable solely to the professional having a serious illness.

(h) "State" defined

For purposes of this section, the term ''State'' means each of the several States.

(i) Authorization of appropriations

(1) In general

For the purpose of making grants under subsection (a) of this section, there is authorized

to be appropriated $10,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

(2) Availability

Amounts appropriated under paragraph (1) shall remain available until expended.

(July 1, 1944, ch. 373, title III, § 338I, formerly § 338H, as added Pub. L. 100–177, title II, § 203, Dec. 1, 1987, 101 Stat. 999; renumbered § 338I and amended Pub. L. 101–597, title II, § 204, title III, § 301, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3027, 3029, 3035; Pub. L. 105–392, title IV, § 408, Nov. 13, 1998, 112 Stat. 3589.)

PRIOR PROVISIONS

A prior section 338I of act July 1, 1944, was classified to section 254r of this title prior to repeal by Pub. L. 100–713, title I, § 104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

AMENDMENTS

1998—Subsec. (i)(1). Pub. L. 105–392 inserted ‘‘, and such sums as may be necessary for each of the fiscal years 1998 through 2002’’ before period at end.

1990—Pub. L. 101–597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing in subsecs. (a)(1), (2) and (c)(1), (3)(B)(ii).

Pub. L. 101–597, § 301, amended section generally, substituting present provisions for provisions which related to: in subsec. (a), grants; in subsec. (b), applications; in subsec. (c), Federal share; and in subsec. (d), authorization of appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 254*o*–1, 254r, 293b of this title.

§ 254r. Grants to States for operation of offices of rural health

(a) In general

The Secretary, acting through the Director of the Office of Rural Health Policy (established in section 912 of this title), may make grants to States for the purpose of improving health care in rural areas through the operation of State offices of rural health.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than $1 for each $3 of Federal funds provided in the grant;

(B) for any second fiscal year of such payments, not less than $1 for each $1 of Federal funds provided in the grant; and

(C) for any third fiscal year of such payments, not less than $3 for each $1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

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

(B) The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that—

(i) for the first fiscal year of payments under the grant, 100 percent or less of the non-Federal contributions required in paragraph (1) will be provided in the form of in-kind contributions;

(ii) for any second fiscal year of such payments, not more than 50 percent of such non-Federal contributions will be provided in the form of in-kind contributions; and

(iii) for any third fiscal year of such payments, such non-Federal contributions will be provided solely in the form of cash.

(c) Certain required activities

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

(1) establishing and maintaining within the State a clearinghouse for collecting and disseminating information on—

(A) rural health care issues;

(B) research findings relating to rural health care; and

(C) innovative approaches to the delivery of health care in rural areas;

(2) coordinating the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

(3) identifying Federal and State programs regarding rural health, and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

(d) Requirement regarding annual budget for office

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) of this section will be provided with an annual budget of not less than $50,000.

(e) Certain uses of funds

(1) Restrictions

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that—

(A) if research with respect to rural health is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

(B) the grant will not be expended—

(i) to provide health care (including providing cash payments regarding such care);

(ii) to conduct activities for which Federal funds are expended—

(I) within the State to provide technical and other nonfinancial assistance under subsection (f) of section 254c[1] of this title;

(II) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

(III) under a grant under section 254q–1 of this title;

(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment;

(iv) to purchase or improve real property; or

(v) to carry out any activity regarding a certificate of need.

(2) Authorities

Activities for which a State may expend a grant under subsection (a) of this section include—

(A) paying the costs of establishing an office of rural health for purposes of subsection (a) of this section;

(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in rural areas of the State; and

(C) providing grants and contracts to public and nonprofit private entities to carry out activities authorized in this section.

(f) Reports

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees—

(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

(g) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

(h) Noncompliance

The Secretary may not make payments under subsection (a) of this section to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

(i) "State" defined

For purposes of this section, the term ''State'' means each of the several States.

[1] See References in Text note below.

(j) Authorization of appropriations

(1) In general

For the purpose of making grants under subsection (a) of this section, there are authorized to be appropriated $3,000,000 for fiscal year 1991, $4,000,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

(2) Availability

Amounts appropriated under paragraph (1) shall remain available until expended.

(k) Termination of program

No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) of this section are equal to $36,000,000.

(July 1, 1944, ch. 373, title III, § 338J, as added Pub. L. 101–597, title III, § 302, Nov. 16, 1990, 104 Stat. 3032; amended Pub. L. 105–392, title III, § 301, Nov. 13, 1998, 112 Stat. 3585.)

REFERENCES IN TEXT

Section 254c of this title, referred to in subsec. (e)(1)(B)(ii)(I), was in the original a reference to section 330, meaning section 330 of act July 1, 1944, which was omitted in the general amendment of subpart I (§ 254b et seq.) of this part by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

PRIOR PROVISIONS

A prior section 254r, act July 1, 1944, ch. 373, title III, § 338I, formerly title VII, § 757, as added Aug. 1, 1977, Pub. L. 95–83, title III, § 307(n)(1), 91 Stat. 392; amended Dec. 17, 1980, Pub. L. 96–537, § 3(d), 94 Stat. 3174; renumbered § 338G, Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2709(a), 95 Stat. 908; Oct. 30, 1984, Pub. L. 98–551, § 3, 98 Stat. 2817; renumbered § 338I, Dec. 1, 1987, Pub. L. 100–177, title II, § 201(1), 101 Stat. 992; Nov. 4, 1988, Pub. L. 100–607, title VI, § 629(a)(3), 102 Stat. 3146, which related to Indian Health Scholarships and was classified to section 294y–1 of this title prior to renumbering by Pub. L. 97–35, was repealed by Pub. L. 100–713, title I, § 104(b)(1), Nov. 23, 1988, 102 Stat. 4787. For provisions continuing scholarships provided on or before Nov. 23, 1988, see section 104(b)(2) of Pub. L. 100–713.

A prior section 338J of act July 1, 1944, was renumbered section 338K by Pub. L. 101–597 and is classified to section 254s of this title.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–392, § 301(1), struck out ''in cash'' after ''contributions'' in introductory provisions.

Subsec. (j)(1). Pub. L. 105–392, § 301(2), struck out ''and'' after ''1992,'' and inserted before period at end '', and such sums as may be necessary for each of the fiscal years 1998 through 2002''.

Subsec. (k). Pub. L. 105–392, § 301(3), substituted ''$36,000,000'' for ''$10,000,000''.

COMMUNICATIONS FOR RURAL HEALTH PROVIDERS

Pub. L. 102–538, title I, § 154, formerly § 134, Oct. 27, 1992, 106 Stat. 3541, renumbered § 154 by Pub. L. 103–66, title VI, § 6001(a)(2), Aug. 10, 1993, 107 Stat. 379, directed Secretary of Commerce, in conjunction with Secretary of Health and Human Services, to establish an advisory panel to develop recommendations for the improvement of rural health care through the collection of information needed by providers and the improvement in

the use of communications to disseminate such information and, not later than 1 year after establishment of Panel to prepare and submit to Congress a report summarizing the recommendations made by the Panel.

Similar provisions were contained in Pub. L. 101–555, § 3, Nov. 15, 1990, 104 Stat. 2760.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254q–1 of this title.

§ 254s. Native Hawaiian Health Scholarships

(a) Eligibility

Subject to the availability of funds appropriated under the authority of subsection (d) of this section, the Secretary shall provide funds to Kamehameha Schools/Bishop Estate for the purpose of providing scholarship assistance to students who—

(1) meet the requirements of section 254*l*(b) of this title, and

(2) are Native Hawaiians.

(b) Terms and conditions

(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 254*l* of this title.

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

(c) "Native Hawaiian" defined

For purposes of this section, the term ''Native Hawaiian'' means any individual who is—

(1) a citizen of the United States,

(2) a resident of the State of Hawaii, and

(3) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

(A) genealogical records,

(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(C) birth records of the State of Hawaii.

(d) Authorization of appropriations

There are authorized to be appropriated $1,800,000 for each of the fiscal years 1990, 1991, and 1992 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

(July 1, 1944, ch. 373, title III, § 338k, formerly § 338J, as added Pub. L. 100–713, title I, § 106, Nov. 23, 1988, 102 Stat. 4787; renumbered § 338K, Pub. L. 101–597, title III, § 302, Nov. 16, 1990, 104 Stat. 3032; amended Pub. L. 101–644, title IV, § 401, Nov. 29, 1990, 104 Stat. 4668.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–644, which directed the general amendment of subsec. (a) of section 338J of the Public Health Service Act, was executed to subsec. (a) of this section, to reflect the probable intent of Congress and the intervening renumbering of section 338J as 338K by Pub. L. 101–597. Prior to amendment, subsec. (a) read as follows: ''Subject to the availability of funds appropriated under the authority of subsection (d) of this section, the Secretary shall provide scholarship assistance, pursuant to a contract with the Kamehameha Schools/Bishop Estate, to students who—

''(1) meet the requirements of section 254*l*(b) of this title, and

''(2) are Native Hawaiians.''

§ 254t. Demonstration grants to States for community scholarship programs

(a) In general

The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration programs to increase the availability of primary health care in urban and rural health manpower shortage areas through assisting community organizations of such areas in educating individuals to serve as health professionals in such areas.

(b) Certain requirements for States

(1) Minimum qualifications

The Secretary may not make a grant under subsection (a) of this section unless the State involved will, under any provision of this chapter other than subsection (a) of this section, receive 1 or more grants, cooperative agreements, or contracts for the fiscal year for which the State is applying pursuant to subsection (h) of this section to receive a grant under subsection (a) of this section.

(2) Administration of program

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the program carried out by the State with the grant will be administered directly by a single State agency.

(c) Grants by States to community organizations for provision of scholarship contracts

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees, subject to subsections (d) and (e) of this section, to carry out the purpose described in subsection (a) of this section only through operating a program in which the State makes grants to community organizations located in health manpower[1] shortage areas in order to assist the organizations with the costs of entering into contracts under which—

(1) the community organizations agree to provide scholarships to individuals for attendance at health professions schools; and

(2) the individuals agree to provide, in the health manpower shortage areas in which the community organizations are located, primary health care for—

(A) a number of years equal to the number of years for which the scholarships are provided, or for a period of 2 years, whichever period is greater; or

(B) such greater period of time as the individuals and the community organizations may agree.

(d) Requirement of State and local matching funds

(1) In general

With respect to the costs of providing any scholarship pursuant to subsection (c) of this section, the Secretary may not make a grant

[1] So in original. Probably should be ''professional''.

under subsection (a) of this section unless the State involved agrees that—

(A) 40 percent of the costs of the scholarship will be paid from the grant made under subsection (a) of this section to the State; and

(B) 60 percent of such costs will be paid from non-Federal contributions made in cash by both the State and the community organization through which the scholarship is provided, subject to—

(i) the State making available through such contributions not less than 15 percent, nor more than 25 percent, of such costs; and

(ii) the community organization making available through such contributions not less than 35 percent, nor more than 45 percent, of such costs.

(2) Determination of amount of non-Federal contributions

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, in determining the amount of non-Federal contributions that have been provided in cash for purposes of paragraph (1), the State will not include any amounts provided by the Federal Government to the State or community organization involved, or to any other entity.

(3) Use of donations

Non-Federal contributions required in paragraph (1) may be provided directly by the State and community organization involved, and may be provided through donations from public and private entities.

(e) Specifications regarding scholarship contract

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the State will make a grant to a community organization for a contract described in subsection (c) of this section only if—

(1) the individual who is to receive the scholarship under the contract is a resident of the health manpower shortage area in which the community organization is located;

(2) the individual is enrolled or accepted for enrollment as a full-time student in a health professions school that is approved by the Secretary for purposes of this section;

(3) the individual agrees to maintain an acceptable level of academic standing at the school (as determined by the school in accordance with regulations issued by the Secretary for purposes of section 254*l*(f)(1)(B)(iii) of this title);

(4) the individual and the community organization agree that the scholarship provided pursuant to the contract—

(A) will be expended only for—

(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the school; and

(ii) payment to the individual of a monthly stipend of not more than the amount authorized for purposes of section 254*l*(g)(1)(B) of this title; and

(B) will not, for any year of such attendance for which the scholarship is provided, be in an amount exceeding the total amount required for the year for the purposes authorized in subparagraph (A);

(5) the individual agrees to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant; and

(6) the individual agrees that, in providing primary health care pursuant to the scholarship, the individual—

(A) will not, in the case of an individual seeking such care, discriminate against the individual on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or pursuant to the program established in title XIX of such Act [42 U.S.C. 1396 et seq.]; and

(B) will accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act [42 U.S.C. 1395u(b)(3)(B)(ii)] for all services for which payment may be made under part B of title XVIII of such Act [42 U.S.C. 1395j et seq.], and will enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

(f) Reports to Secretary

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees—

(1) for each fiscal year for which such a grant is received by the State, to submit to the Secretary a report—

(A) identifying the community organizations providing scholarships pursuant to subsection (c) of this section and the health manpower shortage areas in which the organizations are located;

(B) providing the names of individuals receiving the scholarships, the health professions in which the individuals will engage pursuant to the scholarships, the number of years of service the individuals are obligated to provide pursuant to the scholarships, and the extent of compliance with the contracts under subsection (c) of this section on the part of the individuals and the community organizations; and

(C) providing such information as the Secretary may determine to be necessary for carrying out this section; and

(2) to submit each such report not later than January 10 of the fiscal year immediately following the fiscal year for which the report is prepared.

(g) Estimates regarding allocations between urban and rural areas

The Secretary may not make a grant under subsection (a) of this section unless the State involved submits to the Secretary, as part of the application required in subsection (h) of this section, an estimate of the amount of the grant that will be expended regarding the provision of

primary health care in urban health manpower shortage areas of the State, and an estimate of the amount of the grant that will be expended regarding the provision of such care in rural health manpower shortage areas of the State.

(h) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(i) Noncompliance

(1) In general

The Secretary may not make payments under subsection (a) of this section to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

(2) Reduction in grant relative to number of breached contracts

(A) Before making a grant under subsection (a) of this section to a State for a fiscal year, the Secretary shall determine the number of contracts provided under subsection (c) of this section with respect to which there has been an initial breach by the community organizations or individuals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

(B) In the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) of this section to the State for the fiscal year involved by an amount equal to the sum of—

(i) an amount equal to the expenditures of Federal funds made regarding the contracts involved; and

(ii) an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

(C) If a State is not receiving a grant under subsection (a) of this section for a fiscal year for which a reduction under subparagraph (B) would have been made in the event that the State had received such a grant, the Secretary shall reduce the amount of payments due to the State under other grants, cooperative agreements, or contracts under this chapter by the amount specified in such subparagraph.

(D) With respect to contracts provided under subsection (c) of this section, the Secretary may carry out this paragraph on the basis of information submitted by the States involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

(j) Reports to Congress

(1) In general

Each fiscal year the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing information received by the Secretary under subsection (f) of this section for the preceding fiscal year.

(2) Date for submission

With respect to a fiscal year, the report required in paragraph (1) shall be submitted for purposes of such paragraph by not later than the date on which the report required in section 254*l*(i) of this title is required to be submitted for purposes of such section.

(k) Definitions

For purposes of this section:

(1) Community organization

The term ''community organization'' means a public or nonprofit private entity.

(2) Primary health care

The term ''primary health care'' means health services regarding family medicine, internal medicine, pediatrics, or obstetrics and gynecology, that are provided by physicians, certified nurse practitioners, certified nurse midwives, or physician assistants.

(3) State

The term ''State'' means each of the several States and the District of Columbia.

***(l)* Funding**

(1) Authorization of appropriations

For the purpose of making grants under subsection (a) of this section, there are authorized to be appropriated $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.

(2) Availability

Amounts appropriated under paragraph (1) shall remain available until expended.

(3) Allocations for rural areas

(A) In carrying out subsection (a) of this section, the Secretary shall, to the extent practicable, ensure that not less than 50 percent of the amounts appropriated under paragraph (1) are, in the aggregate, expended for making grants pursuant to subsection (c) of this section to community organizations that are located in rural health manpower shortage areas.

(B) Subparagraph (A) may not be construed to prohibit the Secretary from making grants under subsection (a) of this section to States in which no rural health manpower shortage areas are located.

(C) With respect to any fiscal year for which the Secretary is unable to comply with subparagraph (A), the Secretary shall, not later than April 1 of the subsequent fiscal year, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report stating the fact of such noncompliance and an explanation of the reasons underlying such noncompliance.

(July 1, 1944, ch. 373, title III, § 338L, as added Pub. L. 101–527, § 8, Nov. 6, 1990, 104 Stat. 2328.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(6), 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. Part B of title XVIII of the Act is classified generally to part B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SUBPART IV—HOME HEALTH SERVICES

AMENDMENTS

1987—Pub. L. 100–177, title II, § 202(f)(1), Dec. 1, 1987, 101 Stat. 999, substituted ''IV'' for ''III'' as subpart designation.

1983—Pub. L. 97–414, § 6(a), Jan. 4, 1983, 96 Stat. 2057, added heading ''Subpart III—Home Health Services''.

1978—Pub. L. 95–626, title I, § 105(b), title II, § 207(a), Nov. 10, 1978, 92 Stat. 3560, 3585, struck out heading ''Part D—Lepers'' and added heading ''Subpart III—Home Health Services''.

§ 255. Home health services

(a) Purpose; authorization of grants and loans; considerations; conditions on loans; appropriations

(1) For the purpose of encouraging the establishment and initial operation of home health programs to provide home health services in areas in which such services are inadequate or not readily accessible, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating such home health programs. Such grants and loans may include funds to provide training for paraprofessionals (including homemaker home health aides) to provide home health services.

(2) In making grants and loans under this subsection, the Secretary shall—

(A) consider the relative needs of the several States for home health services;

(B) give preference to areas in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or disabled; and

(C) give special consideration to areas with inadequate means of transportation to obtain necessary health services.

(3)(A) No loan may be made to a proprietary entity under this section unless the application of such entity for such loan contains assurances satisfactory to the Secretary that—

(i) at the time the application is made the entity is fiscally sound;

(ii) the entity is unable to secure a loan for the project for which the application is submitted from non-Federal lenders at the rate of interest prevailing in the area in which the entity is located; and

(iii) during the period of the loan, such entity will remain fiscally sound.

(B) Loans under this section shall be made at an interest rate comparable to the rate of interest prevailing on the date the loan is made with respect to the marketable obligations of the United States of comparable maturities, adjusted to provide for administrative costs.

(4) Applications for grants and loans under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

(5) There are authorized to be appropriated for grants and loans under this subsection $5,000,000 for each of the fiscal years ending on September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(b) Grants and contracts for training programs for paraprofessionals; considerations; applications; appropriations

(1) The Secretary may make grants to and enter into contracts with public and private entities to assist them in developing appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services.

(2) Any program established with a grant or contract under this subsection to train homemaker home health aides shall—

(A) extend for at least forty hours, and consist of classroom instruction and at least twenty hours (in the aggregate) of supervised clinical instruction directed toward preparing students to deliver home health services;

(B) be carried out under appropriate professional supervision and be designed to train students to maintain or enhance the personal care of an individual in his home in a manner which promotes the functional independence of the individual; and

(C) include training in—

(i) personal care services designed to assist an individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

(ii) household care services such as maintaining a safe living environment, light housekeeping, and assisting in providing good nutrition (by the purchasing and preparation of food).

(3) In making grants and entering into contracts under this subsection, special consideration shall be given to entities which establish or will establish programs to provide training for persons fifty years of age and older who wish to become paraprofessionals (including homemaker home health aides) to provide home health services.

(4) Applications for grants and contracts under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

(5) There are authorized to be appropriated for grants and contracts under this subsection $2,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(c) Report to Congress with respect to grants and loans and training of personnel

The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on or before January 1, 1984, with respect to—

(1) the impact of grants made and contracts entered into under subsections (a) and (b) of this section (as such subsections were in effect prior to October 1, 1981);

(2) the need to continue grants and loans under subsections (a) and (b) of this section (as such subsections are in effect on the day after January 4, 1983); and

(3) the extent to which standards have been applied to the training of personnel who provide home health services.

(d) "Home health services" defined

For purposes of this section, the term ''home health services'' has the meaning prescribed for the term by section 1395x(m) of this title.

(July 1, 1944, ch. 373, title III, § 339, as added Pub. L. 97–414, § 6(a), Jan. 4, 1983, 96 Stat. 2057; amended Pub. L. 98–555, § 6, Oct. 30, 1984, 98 Stat. 2856.)

REFERENCES IN TEXT

Subsections (a) and (b) of this section (as such subsections were in effect prior to October 1, 1981), referred to in subsec. (c)(1), mean subsections (a) and (b) of section 255 of this title prior to repeal of section 255 by Pub. L. 97–35, title IX, § 902(b), Aug. 13, 1981, 95 Stat. 559, effective Oct. 1, 1981.

PRIOR PROVISIONS

A prior section 255, act July 1, 1944, ch. 373, title III, § 339, as added Nov. 10, 1978, Pub. L. 95–626, title II, § 207(a), 92 Stat. 3585, related to grant authority, etc., for home health services, prior to repeal by Pub. L. 97–35, title IX, § 902(b), (h), Aug. 13, 1981, 95 Stat. 559, 561, eff. Oct. 1, 1981.

Another prior section 339 of act July 1, 1944, ch. 373, title III, formerly § 331, 58 Stat. 698; June 25, 1948, ch. 654, § 4, 62 Stat. 1018; June 25, 1952, ch. 460, 66 Stat. 157; July 12, 1960, Pub. L. 86–624, § 29(b), 74 Stat. 419; renumbered § 339, Oct. 12, 1976, Pub. L. 94–484, title IV, § 407(b)(2), 90 Stat. 2268, which related to reception of persons suffering from leprosy in any hospital, was renumbered section 320 of act July 1, 1944, and transferred to section 247e of this title.

AMENDMENTS

1984—Subsecs. (a)(5), (b)(5). Pub. L. 98–555 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

REPORT TO CONGRESS CONCERNING RESULTS OF STUDIES EVALUATING HOME AND COMMUNITY BASED HEALTH SERVICES; STUDIES OF REIMBURSEMENT METHODOLOGIES; INVESTIGATION OF FRAUD; DEMONSTRATION PROJECTS; HOME HEALTH SERVICES, DEFINED

Section 6(b)–(f) of Pub. L. 97–414 directed Secretary of Health and Human Services to report results of studies evaluating home and community based health services, and any recommendations for legislative action which might improve the provision of such services, to Congress prior to Jan. 1, 1985, to compile and analyze results of significant public or private studies relating to reimbursement methodologies for home health services and to report recommendations to Congress within 180 days after Jan. 4, 1983, to investigate methods available to stem medicare and medicaid fraud and abuse and extent to which such methods are applied and to report results to Congress within 18 months of Jan. 4, 1983, and to develop and carry out demonstration projects commencing no later than Jan. 1, 1984, to test methods for identifying patients at risk of institutionalization who could be treated more cost-effectively with home health services, and to test alternative reimbursement methodologies for home health agencies in order to determine most cost-effective way of providing home health services, and to report to Congress with regard to the demonstrations no later than Jan. 1, 1985; and defined ''home health services'' for purposes of this section.

SUBPART V—HEALTH SERVICES FOR THE HOMELESS

§ 256. Repealed. Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645

Section, act July 1, 1944, ch. 373, title III, § 340, as added July 22, 1987, Pub. L. 100–77, title VI, § 601, 101 Stat. 511; amended Nov. 4, 1988, Pub. L. 100–607, title VIII, §§ 801(a), (c), 802(a), (b)(1), 803, 804, 102 Stat. 3168, 3169; Nov. 7, 1988, Pub. L. 100–628, title VI, §§ 601(a), (c), 602(a), (b)(1), 603, 604, 102 Stat. 3241, 3242; Aug. 16, 1989, Pub. L. 101–93, § 5(t)(1), (3), 103 Stat. 615; Nov. 29, 1990, Pub. L. 101–645, title V, §§ 501–503, 104 Stat. 4724; Oct. 27, 1992, Pub. L. 102–531, title III, § 309(c), 106 Stat. 3501, related to grant program for certain health services for the homeless.

A prior section 256, act July 1, 1944, ch. 373, title III, § 340, as added Nov. 10, 1978, Pub. L. 95–626, title I, § 115(2), 92 Stat. 3567; amended Dec. 12, 1979, Pub. L. 96–142, title III, § 301(a), 93 Stat. 1073; Aug. 13, 1981, Pub. L. 97–35, title IX, § 903(b)(1), 95 Stat. 561; Jan. 4, 1983, Pub. L. 97–414, § 8(h), 96 Stat. 2061, related to primary care research and demonstration projects to serve medically underserved population, prior to repeal by Pub. L. 97–35, title IX, § 903(c), Aug. 13, 1981, 95 Stat. 561, eff. Oct. 1, 1982.

Another prior section 256, act July 1, 1944, ch. 373, title III, § 340, formerly § 332, 58 Stat. 698; renumbered § 340, Oct. 12, 1976, Pub. L. 94–484, title IV, § 407(b)(2), 90 Stat. 2268, related to apprehension, detention, treatment, and release of persons being treated for leprosy, prior to repeal by Pub. L. 95–626, title I, § 105(b), Nov. 10, 1978, 92 Stat. 3560.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 5 of Pub. L. 104–299, as amended, set out as an Effective Date of 1996 Amendment note under section 233 of this title.

SUBPART VI—HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING

§ 256a. Repealed. Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645

Section, act July 1, 1944, ch. 373, title III, § 340A, as added Nov. 6, 1990, Pub. L. 101–527, § 3, 104 Stat. 2314; amended Oct. 27, 1992, Pub. L. 102–531, title III, § 309(d), 106 Stat. 3502, related to health services for residents of public housing.

PRIOR PROVISIONS

A prior section 256a, act July 1, 1944, ch. 373, title III, § 340A, as added Nov. 10, 1978, Pub. L. 95–626, title I, § 106(a), 92 Stat. 3560, related to technical assistance demonstration grants and contracts, prior to repeal by Pub. L. 100–77, title VI, § 601, July 22, 1987, 101 Stat. 511.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 5 of Pub. L. 104–299, as amended, set out as an Effective Date of 1996 Amendment note under section 233 of this title.

SUBPART VII—DRUG PRICING AGREEMENTS

§ 256b. Limitation on prices of drugs purchased by covered entities

(a) Requirements for agreement with Secretary

(1) In general

The Secretary shall enter into an agreement with each manufacturer of covered drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after the first day of the first month that begins after November 4, 1992, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2).

(2) "Rebate percentage" defined

(A) In general

For a covered outpatient drug purchased in a calendar quarter, the ''rebate percentage'' is the amount (expressed as a percentage) equal to—

(i) the average total rebate required under section 1927(c) of the Social Security Act [42 U.S.C. 1396r–8(c)] with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

(ii) the average manufacturer price for such a unit of the drug during such quarter.

(B) Over the counter drugs

(i) In general

For purposes of subparagraph (A), in the case of over the counter drugs, the ''rebate percentage'' shall be determined as if the rebate required under section 1927(c) of the Social Security Act [42 U.S.C. 1396r–8(c)] is based on the applicable percentage provided under section 1927(c)(4) of such Act.

(ii) "Over the counter drug" defined

The term ''over the counter drug'' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

(3) Drugs provided under State medicaid plans

Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(4) "Covered entity" defined

In this section, the term ''covered entity'' means an entity that meets the requirements described in paragraph (5) and is one of the following:

(A) A Federally-qualified health center (as defined in section 1905(*l*)(2)(B) of the Social Security Act [42 U.S.C. 1396d(*l*)(2)(B)]).

(B) An entity receiving a grant under section 256a[1] of this title.

(C) A family planning project receiving a grant or contract under section 300 of this title.

(D) An entity receiving a grant under subpart II of part C of subchapter XXIV of this chapter (relating to categorical grants for outpatient early intervention services for HIV disease).

(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under subchapter XXIV of this chapter.

(F) A black lung clinic receiving funds under section 937(a) of title 30.

(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act [42 U.S.C. 701(a)(2)].

(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.

(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.].

(J) Any entity receiving assistance under subchapter XXIV of this chapter (other than a State or unit of local government or an entity described in subparagraph (D)), but only if the entity is certified by the Secretary pursuant to paragraph (7).

(K) An entity receiving funds under section 247c of this title (relating to treatment of sexually transmitted diseases) or section 247b(j)(2)[1] of this title (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).

(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act [42 U.S.C. 1395ww(d)(1)(B)]) that—

(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or eligible for assistance under the State plan under this subchapter;

(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act [42 U.S.C. 1395ww(d)(5)(F)]) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act [42 U.S.C. 1395ww(d)(5)(F)(i)(II)]; and

(iii) does not obtain covered outpatient drugs through a group purchasing organi-

[1] See References in Text note below.

zation or other group purchasing arrangement.

(5) Requirements for covered entities

(A) Prohibiting duplicate discounts or rebates

(i) In general

A covered entity shall not request payment under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for medical assistance described in section 1905(a)(12) of such Act [42 U.S.C. 1396d(a)(12)] with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act [42 U.S.C. 1396r–8].

(ii) Establishment of mechanism

The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism within 12 months under the previous sentence, the requirements of section 1927(a)(5)(C) of the Social Security Act [42 U.S.C. 1396r–8(a)(5)(C)] shall apply.

(B) Prohibiting resale of drugs

With respect to any covered outpatient drug that is subject to an agreement under this subsection, a covered entity shall not resell or otherwise transfer the drug to a person who is not a patient of the entity.

(C) Auditing

A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraphs[2] (A) or (B) with respect to drugs of the manufacturer.

(D) Additional sanction for noncompliance

If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraphs[2] (A) or (B), the covered entity shall be liable to the manufacturer of the covered outpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the entity and the manufacturer under this paragraph.

(6) Treatment of distinct units of hospitals

In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity under this paragraph unless the hospital is otherwise a covered entity under this subsection.

(7) Certification of certain covered entities

(A) Development of process

Not later than 60 days after November 4, 1992, the Secretary shall develop and implement a process for the certification of entities described in subparagraphs (J) and (K) of paragraph (4).

(B) Inclusion of purchase information

The process developed under subparagraph (A) shall include a requirement that an entity applying for certification under this paragraph submit information to the Secretary concerning the amount such entity expended for covered outpatient drugs in the preceding year so as to assist the Secretary in evaluating the validity of the entity's subsequent purchases of covered outpatient drugs at discounted prices.

(C) Criteria

The Secretary shall make available to all manufacturers of covered outpatient drugs a description of the criteria for certification under this paragraph.

(D) List of purchasers and dispensers

The certification process developed by the Secretary under subparagraph (A) shall include procedures under which each State shall, not later than 30 days after the submission of the descriptions under subparagraph (C), prepare and submit a report to the Secretary that contains a list of entities described in subparagraphs (J) and (K) of paragraph (4) that are located in the State.

(E) Recertification

The Secretary shall require the recertification of entities certified pursuant to this paragraph on a not more frequent than annual basis, and shall require that such entities submit information to the Secretary to permit the Secretary to evaluate the validity of subsequent purchases by such entities in the same manner as that required under subparagraph (B).

(8) Development of prime vendor program

The Secretary shall establish a prime vendor program under which covered entities may enter into contracts with prime vendors for the distribution of covered outpatient drugs. If a covered entity obtains drugs directly from a manufacturer, the manufacturer shall be responsible for the costs of distribution.

(9) Notice to manufacturers

The Secretary shall notify manufacturers of covered outpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act [42 U.S.C. 1396a(a)(5)] of the identities of covered entities under this paragraph, and of entities that no longer meet the requirements of paragraph (5) or that are no longer certified pursuant to paragraph (7).

(10) No prohibition on larger discount

Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

(b) Other definitions

In this section, the terms ''average manufacturer price'', ''covered outpatient drug'', and

[2] So in original. Probably should be ''subparagraph''.

''manufacturer'' have the meaning given such terms in section 1927(k) of the Social Security Act [42 U.S.C. 1396r–8(k)].

(c) References to Social Security Act

Any reference in this section to a provision of the Social Security Act [42 U.S.C. 301 et seq.] shall be deemed to be a reference to the provision as in effect on November 4, 1992.

(d) Compliance with requirements

A manufacturer is deemed to meet the requirements of subsection (a) of this section if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after November 4, 1992), as applied by the Secretary, and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section (or the application of this section) after November 4, 1992.

(July 1, 1944, ch. 373, title III, § 340B, as added Pub. L. 102–585, title VI, § 602(a), Nov. 4, 1992, 106 Stat. 4967; amended Pub. L. 103–43, title XX, § 2008(i)(1)(A), June 10, 1993, 107 Stat. 212.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (3), (4)(L)(i), (5)(A)(i), and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of this title. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 256a of this title, referred to in subsec. (a)(4)(B), was repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

The Native Hawaiian Health Care Act of 1988, referred to in subsec. (a)(4)(H), was Pub. L. 100–579, Oct. 31, 1988, 102 Stat. 2916, and subtitle D of title II of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4222, which were classified generally to chapter 122 (§ 11701 et seq.) of this title prior to being amended generally and renamed the Native Hawaiian Health Care Improvement Act by Pub. L. 102–396. For complete classification of this Act to the Code, see Tables.

The Indian Health Care Improvement Act, referred to in subsec. (a)(4)(I), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended. Title V of the Act is classified generally to subchapter IV (§ 1651 et seq.) of chapter 18 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

Section 247b(j)(2) of this title, referred to in subsec. (a)(4)(K), was repealed and section 247b(j)(1)(B) was redesignated section 247b(j)(2) by Pub. L. 103–183, title III, § 301(b)(1)(A), (C), Dec. 14, 1993, 107 Stat. 2235.

CODIFICATION

Another section 340B of act July 1, 1944, was renumbered section 340C and is classified to section 256c of this title.

AMENDMENTS

1993—Pub. L. 103–43 made technical amendment to directory language of Pub. L. 102–585, § 602(a), which enacted this section.

STUDY OF TREATMENT OF CERTAIN CLINICS AS COVERED ENTITIES ELIGIBLE FOR PRESCRIPTION DRUG DISCOUNTS

Section 602(b) of Pub. L. 102–585 directed Secretary of Health and Human Services to conduct a study of feasibility and desirability of including specified entities receiving funds from a State as covered entities eligible for limitations on prices of covered outpatient drugs under 42 U.S.C. 256b(a) and, not later than 1 year after Nov. 4, 1992, to submit a report to Congress on the study, including in the report a description of the entities that were the subject of the study, an analysis of the extent to which such entities procured prescription drugs, and an analysis of the impact of the inclusion of such entities as covered entities on the quality of care provided to and the health status of the patients of such entities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396r–8 of this title.

SUBPART VIII—BULK PURCHASES OF VACCINES FOR CERTAIN PROGRAMS

AMENDMENTS

1993—Pub. L. 103–43, title XX, § 2008(i)(2)(A)(i), June 10, 1993, 107 Stat. 213, made technical amendment relating to placement of subpart VIII within part D of this subchapter.

§ 256c. Bulk purchases of vaccines for certain programs

(a) Agreements for purchases

(1) In general

Not later than 180 days after October 27, 1992, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Health Resources and Services Administration, shall enter into negotiations with manufacturers of vaccines for the purpose of establishing and maintaining agreements under which entities described in paragraph (2) may purchase vaccines from the manufacturers at the prices specified in the agreements.

(2) Relevant entities

The entities referred to in paragraph (1) are entities that provide immunizations against vaccine-preventable diseases with assistance provided under section 254b of this title.

(b) Negotiation of prices

In carrying out subsection (a) of this section, the Secretary shall, to the extent practicable, ensure that the prices provided for in agreements under such subsection are comparable to the prices provided for in agreements negotiated by the Secretary on behalf of grantees under section 247b(j)(1) of this title.

(c) Authority of Secretary

In carrying out subsection (a) of this section, the Secretary, in the discretion of the Secretary, may enter into the agreements described in such subsection (and may decline to enter into such agreements), may modify such agreements, may extend such agreements, and may terminate such agreements.

(d) Rule of construction

This section may not be construed as requiring any State to reduce or terminate the supply of vaccines provided by the State to any of the entities described in subsection (a)(2) of this section.

(July 1, 1944, ch. 373, title III, § 340C, formerly § 340B, as added Pub. L. 102–531, title III, § 305,

Oct. 27, 1992, 106 Stat. 3494; renumbered § 340C, Pub. L. 103–43, title XX, § 2008(i)(2)(A)(ii), June 10, 1993, 107 Stat. 213; amended Pub. L. 104–299, § 4(a)(2), Oct. 11, 1996, 110 Stat. 3645.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–299 substituted ''with assistance provided under section 254b of this title'' for ''under the programs established in sections 254b, 254c, 256, and 256a of this title.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–299 effective Oct. 1, 1996, see section 5 of Pub. L. 104–299, as amended, set out as a note under section 233 of this title.

§ 256d. Breast and cervical cancer information

(a) In general

As a condition of receiving grants, cooperative agreements, or contracts under this chapter, each of the entities specified in subsection (c) of this section shall, to the extent determined to be appropriate by the Secretary, make available information concerning breast and cervical cancer.

(b) Certain authorities

In carrying out subsection (a) of this section, an entity specified in subsection (c) of this section—

(1) may make the information involved available to such individuals as the entity determines appropriate;

(2) may, as appropriate, provide information under subsection (a) of this section on the need for self-examination of the breasts and on the skills for such self-examinations;

(3) shall provide information under subsection (a) of this section in the language and cultural context most appropriate to the individuals to whom the information is provided; and

(4) shall refer such clients as the entities determine appropriate for breast and cervical cancer screening, treatment, or other appropriate services.

(c) Relevant entities

The entities specified in this subsection are the following:

(1) Entities receiving assistance under section 247b–6 of this title (relating to tuberculosis).

(2) Entities receiving assistance under section 247c of this title (relating to sexually transmitted diseases).

(3) Migrant health centers receiving assistance under section 254b[1] of this title.

(4) Community health centers receiving assistance under section 254c[1] of this title.

(5) Entities receiving assistance under section 256[1] of this title (relating to homeless individuals).

(6) Entities receiving assistance under section 256a[1] of this title (relating to health services for residents of public housing).

(7) Entities providing services with assistance under subchapter III–A of this chapter or subchapter XVII of this chapter.

(8) Entities receiving assistance under section 300 of this title (relating to family planning).

(9) Entities receiving assistance under subchapter XXIV of this chapter (relating to services with respect to acquired immune deficiency syndrome).

(10) Non-Federal entities authorized under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(July 1, 1944, ch. 373, title III, § 340D, as added Pub. L. 103–183, title I, § 104, Dec. 14, 1993, 107 Stat. 2230.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (c)(3), (4), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of subpart I (§ 254b et seq.) of this part by Pub. L. 104–299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in subsec. (c)(5), (6), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

The Indian Self-Determination Act, referred to in subsec. (c)(10), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

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 health center, or homeless health center, considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS

AMENDMENTS

1970—Pub. L. 91–513, title I, § 2(a)(6), Oct. 27, 1970, 84 Stat. 1240, inserted reference to Other Drug Abusers in part heading.

§ 257. Care and treatment of narcotic addicts

(a) Surgeon General authorized to provide programs

The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General

[1] See References in Text note below.

under other provisions of law to provide for the conditional release of patients and for aftercare under supervision. In carrying out this subsection, the Secretary shall establish in each hospital and other appropriate medical facility of the Service a treatment and rehabilitation program for drug addicts and other persons with drug abuse and drug dependence problems who are in the area served by such hospital or other facility; except that the requirement of this sentence shall not apply in the case of any such hospital or other facility with respect to which the Secretary determines that there is not sufficient need for such a program in such hospital or other facility.

(b) Furnishing of information relating to persons voluntarily undergoing care to Mayor of District of Columbia

Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Mayor of the District of Columbia or his designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person.

(c) Agreements with other departments and agencies

The Secretary may enter into agreements with the Secretary of Veterans Affairs, the Secretary of Defense, and the head of any other department or agency of the Government under which agreements hospitals and other appropriate medical facilities of the Service may be used in treatment and rehabilitation programs provided by such department or agency for drug addicts and other persons with drug abuse and other drug dependence problems who are in areas served by such hospitals or other facilities.

(July 1, 1944, ch. 373, title III, § 341, 58 Stat. 698; May 8, 1954, ch. 195, § 3, 68 Stat. 80; July 24, 1956, ch. 676, title III, § 302(a), 70 Stat. 622; Pub. L. 89–793, title VI, § 601, Nov. 8, 1966, 80 Stat. 1449; 1967 Reorg. Plan No. 3, § 401, eff. Nov. 3, 1967 (in part), 32 F.R. 11669, 81 Stat. 951; Pub. L. 91–513, title I, § 2(a)(1), Oct. 27, 1970, 84 Stat. 1240; Pub. L. 92–255, title IV, § 402, Mar. 21, 1972, 86 Stat. 77; Pub. L. 93–198, title IV, § 421, Dec. 24, 1973, 87 Stat. 789; Pub. L. 98–473, title II, § 232(a), Oct. 12, 1984, 98 Stat. 2031; Pub. L. 99–646, § 22(a), Nov. 10, 1986, 100 Stat. 3597; Pub. L. 102–54, § 13(q)(1)(B)(i), June 13, 1991, 105 Stat. 278.)

REFERENCES IN TEXT

The Narcotic Addict Rehabilitation Act of 1966, referred to in subsec. (a), is Pub. L. 89–793, titles I to IV, Nov. 8, 1966, 80 Stat. 1438, as amended. Title I of the Act is classified generally to chapter 175 (§ 2901 et seq.) of Title 28, Judiciary and Judicial Procedure. Title II of the Act is classified generally to chapter 314 (§ 4251 et seq.) of Title 18, Crimes and Criminal Procedure. Title III of the Act is classified generally to subchapter II (§ 3411 et seq.) of chapter 42 of this title. Title IV of the Act is classified generally to subchapter III (§ 3441 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

CODIFICATION

Section is also set out in D.C. Code, § 24–613.

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1986—Subsec. (a). Pub. L. 99–646 struck out ''and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966'' before '', including persons convicted''.

1984—Subsec. (a). Pub. L. 98–473 struck out ''or convicted of offenses against the United States and sentenced to treatment'' after ''committed to treatment'' and directed striking out of ''addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act [18 U.S.C. 5005 et seq.],'', which amendment was executed by striking out ''addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act [18 U.S.C. 5005 et seq.],'' after ''Narcotic Addict Rehabilitation Act of 1966,''.

1972—Subsec. (a). Pub. L. 92–255, § 402(a), required establishment in hospitals and other appropriate medical facilities of treatment and rehabilitation programs for drug addicts and other persons with drug abuse and drug dependence problems where sufficient need for such programs exists.

Subsec. (c). Pub. L. 92–255, § 402(b), added subsec. (c).

1970—Subsec. (a). Pub. L. 91–513 inserted provision for voluntary submission for treatment of persons with drug abuse and drug dependence problems.

1966—Subsec. (a). Pub. L. 89–793 designated existing first and second sentences as subsec. (a), substituted care and treatment provisions for persons who are civilly committed to treatment or convicted of Federal offenses and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to custody of Attorney General pursuant to provisions of Federal Youth Corrections Act, and addicts convicted of Federal offenses and who are not sentenced to treatment under such Act of 1966 for prior care and treatment provisions for addicts who have been or are hereafter convicted of Federal offenses, deleted language for care and treatment for addicts who are committed to the Service or to a hospital thereof pursuant to section 260a of this title, and provided for care and treatment at places other than hospitals of the Service where authorized by other provisions of law and for conditional release of patients and aftercare under supervision.

Subsec. (b). Pub. L. 89–793 designated existing third sentence as subsec. (b).

1956—Act July 24, 1956, required the Surgeon General to furnish to the Commissioners or their designated agent, the name, address, and any other useful information relating to persons who voluntarily submit themselves for treatment and who, at the time of submission, are residents of the District of Columbia.

1954—Act May 8, 1954, inserted in first sentence reference to addicts who are committed to the Service or to a hospital thereof pursuant to section 260a of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 22(b) of Pub. L. 99–646 provided that: ''The amendment made by this section [amending this section] shall take effect on the date the amendments made by section 232(a) of the Comprehensive Crime Control Act of 1984 [Pub. L. 98–473] take effect [Nov. 1, 1987, see Effective Date note set out under section 3551 of Title 18, Crimes and Criminal Procedure].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note

under section 3551 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

Except as otherwise provided in Reorg. Plan No. 3 of 1967, functions of Board of Commissioners of District of Columbia transferred to Commissioner of District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93–198, classified to section 1–241 of District of Columbia Code. Accordingly, ''Mayor'' substituted in subsec. (b) for ''Commissioners''.

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.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3441 of this title.

§ 257a. Medical treatment of narcotics addiction; report to Congress

The Secretary of Health and Human Services, after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress.

(Pub. L. 91–513, title I, § 4, Oct. 27, 1970, 84 Stat. 1241; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CODIFICATION

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

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 258. Employment; establishment of industries, plants, etc.; sale of commodities; disposition of proceeds

Narcotic addicts or other persons with drug abuse and drug dependence problems in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Secretary of Health and Human Services shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

(July 1, 1944, ch. 373, title III, § 342, 58 Stat. 699; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 91–513, title I, § 2(a)(2)(A), Oct. 27, 1970, 84 Stat. 1240; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1970—Pub. L. 91–513 inserted reference to persons with drug abuse and drug dependence problems.

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.

§ 258a. Transfer of balances in working capital fund, narcotic hospitals, to surplus fund

As of June 30, 1947, and the end of each fiscal year thereafter any balances in the ''Working capital fund, narcotic hospitals,'' in excess of

$150,000 shall be transferred to the surplus fund of the Treasury.

(July 8, 1947, ch. 210, title II, § 201, 61 Stat. 269.)

CODIFICATION

Section was enacted as part of the Federal Security Agency Appropriation Act, 1948, and not as part of the Public Health Service Act which comprises this chapter.

§ 259. Convict addicts or other persons with drug abuse or drug dependence problems

(a) Transfers to and from hospitals; duty of prosecuting officers to report convicted persons believed to be addicts

The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems, if accommodations are available, all addicts or other persons with drug abuse and drug dependence problems who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict or other person with a drug abuse or other drug dependence problem shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict or other person with a drug abuse or other drug dependence problem whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict or other person with a drug abuse or other drug dependence problem. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict or other person with a drug abuse or other drug dependence problem, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, drug abuse, or drug dependence, and the nature of the offense committed. Whenever an alien addict or other person with a drug abuse or other drug dependence problem transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) Repealed. Pub. L. 92–293, § 3, May 11, 1972, 86 Stat. 136

(c) Discharge; further treatment

Not later than one month prior to the expiration of the sentence of any addict or other person with a drug abuse or other drug dependence problem confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict or other person with a drug abuse or other drug dependence problem and that he may by further treatment in a Service hospital be cured of his addiction, drug abuse, or drug dependence, the addict or other person with a drug abuse or other drug dependence problem shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The addict or other person with a drug abuse or other drug dependence problem may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict or other person with a drug abuse or other drug dependence problem may be given such further treatment as is necessary to cure him of his addiction, drug abuse, or drug dependence.

(d) Gratuities and transportation furnished upon discharge or release on parole or supervised release

Every person convicted of an offense against the United States, upon discharge, or upon release on parole or supervised release, from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Admission of probationers to hospitals for treatment

Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict or other person with a drug abuse or other drug dependence problem, shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a

penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts or other persons with drug abuse and drug dependence problems discharged from hospitals of the Service.

(July 1, 1944, ch. 373, title III, §343, 58 Stat. 699; Pub. L. 91–513, title I, §2(a)(2)(A), (3), (4), Oct. 27, 1970, 84 Stat. 1240; Pub. L. 92–293, §3, May 11, 1972, 86 Stat. 136; Pub. L. 98–473, title II, §232(b), Oct. 12, 1984, 98 Stat. 2031.)

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–473 inserted ''or supervised release'' after ''parole''.

1972—Subsec. (b). Pub. L. 92–293 struck out subsec. (b) which provided for application of sections 710 to 712a, 714 to 723c and 744h of title 18 to narcotic addicts and persons with drug abuse and drug dependence problems.

1970—Pub. L. 91–513 extended section to cover drug abuse or drug dependence and to cover persons with drug abuse or drug dependence problems.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

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.

CROSS REFERENCES

Discharge from prison, transportation, clothing and money issued, see section 4281 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 section 1231.

§260. Addicts and persons with drug abuse or drug dependence problems

(a) Application for admission

Any addict or other person with a drug abuse or other drug dependence problem, whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems.

(b) Determination of addiction; conditions of admission; payment of subsistence, care, and treatment

Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict or other person with a drug abuse or other drug dependence problem, whether by treatment in a hospital of the Service he may probably be cured of his addiction, drug abuse, or drug dependence, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict or other person with a drug abuse or other drug dependence problem shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States have been admitted. Any such addict or other person with a drug abuse or other drug dependence problem may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts or other persons with drug abuse and drug dependence problems admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict or other person with a drug abuse or other drug dependence problem who is discharged as cured.

(c) Period of confinement

Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section, including any addict or other person with a drug abuse or other drug dependence problem, not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the addiction, drug abuse, or drug dependence or until such time as he ceases to be an addict or other person with a drug abuse or other drug dependence problem.

(d) Other rights unaffected

Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this chapter, be confidential and shall not be divulged.

(July 1, 1944, ch. 373, title III, §344, 58 Stat. 701; June 25, 1948, ch. 654, §5, 62 Stat. 1018; July 24,

1956, ch. 676, title III, § 302(b), 70 Stat. 622; Pub. L. 91–513, title I, § 2(a)(2)(A), (3), (4), Oct. 27, 1970, 84 Stat. 1240.)

AMENDMENTS

1970—Pub. L. 91–513 extended coverage of section to cover drug abuse or drug dependence and to cover persons with drug abuse or drug dependence problems.

1956—Subsec. (d). Act July 24, 1956, substituted ''shall, except as otherwise provided by this chapter, be confidential'' for ''shall be confidential''.

1948—Subsec. (b). Act June 25, 1948, inserted sentence at end to continue authority to provide transportation for indigent narcotics who are discharged as cured.

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.

§ 260a. Admission of addicts committed from District of Columbia

(a) Conditions

The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 248(b) of this title, any addict, who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress) [D.C. Code, § 24–601 et seq.], to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for such care and treatment. No such addict shall be admitted unless (1) committed prior to July 1, 1958; (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than one hundred; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.

(b) Discharge from hospitals; notice; delivery to court

Any person admitted to a hospital of the Service pursuant to subsection (a) of this section shall be discharged therefrom (1) upon order of the Superior Court of the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the Superior Court of the District of Columbia and shall deliver such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress) [D.C. Code, § 24–601 et seq.].

(c) Authority of Surgeon General and other officers

With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a) of this section, the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

(d) Payment of costs; determination; disposition of moneys; availability of appropriations

The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) of this section shall be a charge upon the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all or particular classes of patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District of Columbia, including subsistence allowance while traveling, for any such addict who is discharged.

(July 1, 1944, ch. 373, title III, § 345, as added May 8, 1954, ch. 195, § 2, 68 Stat. 79; amended July 24, 1956, ch. 676, title III, § 302(c), 70 Stat. 622; Pub. L. 91–358, title I, § 155(c)(32), July 29, 1970, 84 Stat. 572.)

REFERENCES IN TEXT

Act of June 24, 1953 (Public Law 76, Eighty-third Congress), referred to in subsecs. (a) and (b), is act June 24, 1953, ch. 149, 67 Stat. 77, as amended, which appears in chapter 6 (§ 24–601 et seq.) of Title 24, Prisoners and Their Treatment, of the District of Columbia Code.

CODIFICATION

Section is also set out in D.C. Code, § 24–614.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–358 substituted ''Superior Court of the District of Columbia'' for ''United States District Court for the District of Columbia'' in two places.

1956—Subsec. (a). Act July 24, 1956, substituted ''July 1, 1958'' for ''July 1, 1956'', and ''one hundred'' for ''fifty''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–358 effective first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91–358, set out as a note under section 1257 of Title 28, Judiciary and Judicial Procedure.

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 sec-

tion 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

DECLARATION OF PURPOSE

With respect to enactment of this section and section 261a of this title, and amendment of section 257 of this title, section 1 of act May 8, 1954, as amended by act July 24, 1956, § 303, provided: ''In order to afford the District of Columbia the facilities required to carry out the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), as amended [D.C. code, §§ 24–601 et seq.], and to help it meet its responsibility for the detention, care, and treatment of noncriminal narcotic addicts, it is hereby declared to be the purpose of this Act to authorize the limited use of suitable Public Health Service facilities at the expense of the District of Columbia for such detention, care, and treatment.''

§ 261. Penalties for introducing prohibited articles and substances into hospitals; escaping from, or aiding and abetting escape from hospitals

(a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, any habit-forming narcotic drug or substance controlled under the Controlled Substances Act [21 U.S.C. 801 et seq.], weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years.

(July 1, 1944, ch. 373, title III, § 346, formerly § 345, 58 Stat. 701; renumbered § 346, May 8, 1954, ch. 195, § 2, 68 Stat. 79; amended Pub. L. 91–513, title I, § 2(a)(2)(A), (5), Oct. 27, 1970, 84 Stat. 1240.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Foods and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513, § 2(a)(2), (5), extended section to cover hospitals in which persons with drug abuse and drug dependence problems are cared for and added substances controlled under the Controlled Substances Act to the enumeration of prohibited articles.

Subsecs. (b), (c). Pub. L. 91–513, § 2(a)(2), extended provisions to cover hospitals in which persons with drug abuse or drug dependence problems are treated and cared for.

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.

§ 261a. Release of patients; determination by Surgeon General

For purposes of this chapter, an individual shall be deemed cured of his addiction, drug abuse, or drug dependence and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his addiction, drug abuse, or drug dependence or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

(July 1, 1944, ch. 373, title III, § 347, as added May 8, 1954, ch. 195, § 4, 68 Stat. 80; amended Pub. L. 91–513, title I, § 2(a)(4), Oct. 27, 1970, 84 Stat. 1240.)

CODIFICATION

Section is also set out in D.C. Code, § 24–615.

AMENDMENTS

1970—Pub. L. 91–513 inserted '', drug abuse, or drug dependence'' after ''addiction'' in two places.

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.

PART F—LICENSING OF BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES

SUBPART 1—BIOLOGICAL PRODUCTS

§ 262. Regulation of biological products

(a) Biologics license

(1) No person shall introduce or deliver for introduction into interstate commerce any biological product unless—

(A) a biologics license is in effect for the biological product; and

(B) each package of the biological product is plainly marked with—

(i) the proper name of the biological product contained in the package;

(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

(iii) the expiration date of the biological product.

(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

(B) The Secretary shall approve a biologics license application—

(i) on the basis of a demonstration that—

(I) the biological product that is the subject of the application is safe, pure, and potent; and

(II) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent; and

(ii) if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c) of this section.

(3) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).

(b) Falsely labeling or marking package or container; altering label or mark

No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.

(c) Inspection of establishment for propagation and preparation

Any officer, agent, or employee of the Department of Health and Human Services, authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any biological product.

(d) Recall of product presenting imminent hazard; violations

(1) Upon a determination that a batch, lot, or other quantity of a product licensed under this section presents an imminent or substantial hazard to the public health, the Secretary shall issue an order immediately ordering the recall of such batch, lot, or other quantity of such product. An order under this paragraph shall be issued in accordance with section 554 of title 5.

(2) Any violation of paragraph (1) shall subject the violator to a civil penalty of up to $100,000 per day of violation. The amount of a civil penalty under this paragraph shall, effective December 1 of each year beginning 1 year after the effective date of this paragraph, be increased by the percent change in the Consumer Price Index for the base quarter of such year over the Consumer Price Index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent. For purposes of this paragraph, the term ''base quarter'', as used with respect to a year, means the calendar quarter ending on September 30 of such year and the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

(e) Interference with officers

No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Penalties for offenses

Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding $500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Construction with other laws

Nothing contained in this chapter shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(h) Exportation of partially processed biological products

A partially processed biological product which—

(1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;

(2) is not intended for sale in the United States; and

(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on the export of the product under this chapter or the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et. seq.] if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice requirements or meets international manufacturing standards as certified by an international standards organization recognized by the Secretary and meets the requirements of section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)).

(i) "Biological product" defined

In this section, the term ''biological product'' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.

(j) Application of Federal Food, Drug, and Cosmetic Act

The Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] applies to a biological product subject to regulation under this section, except that a product for which a license has been approved under subsection (a) shall not be required to have an approved application under section 505 of such Act [21 U.S.C. 355].

(July 1, 1944, ch. 373, title III, § 351, 58 Stat. 702; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 85–881, § 2, Sept. 2, 1958, 72 Stat. 1704; Pub. L. 91–515, title II, § 291, Oct. 30, 1970, 84 Stat. 1308; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 99–660, title I, § 105(a), title III, § 315, Nov. 14, 1986, 100 Stat. 3751, 3783; Pub. L. 102–300, § 6(b)(1), June 16, 1992, 106 Stat. 240; Pub. L. 104–134, title II, §§ 2102(d)(2), 2104, Apr. 26, 1996, 110 Stat. 1321–319,

1321–320; Pub. L. 105–115, title I, §123(a)–(d), (g), Nov. 21, 1997, 111 Stat. 2323, 2324.)

REFERENCES IN TEXT

The effective date of this paragraph, referred to in subsec. (d)(2), is the effective date of section 315 of Pub. L. 99–660 which added subsec. (d)(2). See Effective Date of 1986 Amendment note set out below.

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (g), (h), and (j), 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.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–115, §123(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to intrastate and interstate traffic in biological products and suspension or revocation of licenses as affecting prior sales.

Subsec. (b). Pub. L. 105–115, §123(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''No person shall falsely label or mark any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid so as to falsify such label or mark.''

Subsec. (c). Pub. L. 105–115, §123(c), substituted ''biological product.'' for ''virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.''

Subsec. (d). Pub. L. 105–115, §123(a)(2), designated par. (2) as subsec. (d), redesignated subpars. (A) and (B) of par. (2) as pars. (1) and (2), respectively, in par. (2), substituted ''Any violation of paragraph (1)'' for ''Any violation of subparagraph (A)'' and substituted ''this paragraph'' for ''this subparagraph'' wherever appearing, and struck out former par. (1) which read as follows: ''Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishments for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.''

Subsec. (i). Pub. L. 105–115, §123(d), added subsec. (i).

Subsec. (j). Pub. L. 105–115, §123(g), added subsec. (j).

1996—Subsec. (h). Pub. L. 104–134, §2104, amended subsec. (h) generally, revising and restating former provisions, which also related to exportation of partially processed biological products.

Subsec. (h)(1)(A). Pub. L. 104–134, §2102(d)(2), substituted ''in a country listed under section 802(b)(1)'' for ''in a country listed under section 802(b)(A)'' and ''to a country listed under section 802(b)(1)'' for ''to a country listed under section 802(b)(4)''.

1992—Subsec. (c). Pub. L. 102–300, which directed substitution of ''Health and Human Services'' for ''Health, Education, and Welfare'', could not be executed because the words ''Health, Education, and Welfare'' did not appear in original statutory text. Previously, references to Department and Secretary of Health and Human Services were substituted for references to Federal Security Agency and its Administrator pursuant to provisions cited in Transfer of Functions note below.

1986—Subsec. (d). Pub. L. 99–660, §315, designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 99–660, §105(a), added subsec. (h).

1970—Subsecs. (a) to (c). Pub. L. 91–515 inserted ''vaccine, blood, blood component or derivative, allergenic product,'' after ''antitoxin'' wherever appearing.

1958—Subsec. (d). Pub. L. 85–881 struck out ''made jointly by the Surgeon General, the Surgeon General of the Army, and the Surgeon General of the Navy, and approved by the Secretary'' after ''regulations'' in first sentence.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–115 effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as a note under section 321 of Title 21, Food and Drugs.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 105(b) of Pub. L. 99–660 provided that: ''Paragraph (1) of section 351(h) of the Public Health Service Act [former subsec. (h)(1) of this section] as added by subsection (a) shall take effect upon the expiration of 90 days after the date of the enactment of this Act [Nov. 14, 1986].''

Amendment by section 315 of Pub. L. 99–660 effective Dec. 22, 1987, see section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

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.

References to Secretary and Department of Health, Education, and Welfare substituted for references to Federal Security Administrator and Federal Security Agency, respectively, pursuant to Reorg. Plan No. 1 of 1953, §5, set out as a note under section 3501 of this title, which transferred all functions of Federal Security Administrator to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency to Department of Health, Education, and Welfare. 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.

ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS

Pub. L. 104–132, title V, §511, Apr. 24, 1996, 110 Stat. 1284, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) certain biological agents have the potential to pose a severe threat to public health and safety;

''(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

''(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

''(4) efforts to protect the public from exposure to such agents should ensure that individuals and

groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

''(b) CRIMINAL ENFORCEMENT.—[Amended sections 175, 177, and 178 of Title 18, Crimes and Criminal Procedure.]

''(c) TERRORISM.—[Amended section 2332a of Title 18.]

''(d) REGULATORY CONTROL OF BIOLOGICAL AGENTS.—

''(1) LIST OF BIOLOGICAL AGENTS.—

''(A) IN GENERAL.—The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

''(B) CRITERIA.—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

''(i) consider—

''(I) the effect on human health of exposure to the agent;

''(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

''(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

''(IV) any other criteria that the Secretary considers appropriate; and

''(ii) consult with scientific experts representing appropriate professional groups.

''(e) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.—The Secretary shall, through regulations promulgated under subsection (f), provide for—

''(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant to subsection (d)(1), including measures to ensure—

''(A) proper training and appropriate skills to handle such agents; and

''(B) proper laboratory facilities to contain and dispose of such agents;

''(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

''(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

''(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

''(f) REGULATIONS.—The Secretary shall carry out this section by issuing—

''(1) proposed rules not later than 60 days after the date of enactment of this Act [Apr. 24, 1996]; and

''(2) final rules not later than 120 days after the date of enactment of this Act.

''(g) DEFINITIONS.—For purposes of this section—

''(1) the term 'biological agent' has the same meaning as in section 178 of title 18, United States Code; and

''(2) the term 'Secretary' means the Secretary of Health and Human Services.''

CROSS REFERENCES

Regulation of biological products for use in treatment of domestic animals, see sections 151 to 159 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 236, 263, 300aa–22, 300aa–23, 1396r–8 of this title; title 21 sections 321, 331, 352, 353, 355, 356, 356a, 360aa, 360bb, 360cc, 360ee, 360aaa, 360bbb–1, 379g, 381, 382, 392, 397; title 26 section 45C; title 35 section 156.

§ 263. Preparation of biological products by Service

(a) The Service may prepare for its own use any product described in section 262 of this title and any product necessary to carrying out any of the purposes of section 241 of this title.

(b) The Service may prepare any product described in section 262 of this title for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section.

(July 1, 1944, ch. 373, title III, § 352, 58 Stat. 703.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 201 of this title.

SUBPART 2—CLINICAL LABORATORIES

§ 263a. Certification of laboratories

(a) "Laboratory" or "clinical laboratory" defined

As used in this section, the term ''laboratory'' or ''clinical laboratory'' means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(b) Certificate requirement

No person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a certificate issued by the Secretary under this section applicable to the category of examinations or procedures which includes such examination or procedure.

(c) Issuance and renewal of certificates

(1) In general

The Secretary may issue or renew a certificate for a laboratory only if the laboratory meets the requirements of subsection (d) of this section.

(2) Term

A certificate issued under this section shall be valid for a period of 2 years or such shorter period as the Secretary may establish.

(d) Requirements for certificates

(1) In general

A laboratory may be issued a certificate or have its certificate renewed if—

(A) the laboratory submits (or if the laboratory is accredited under subsection (e) of this section, the accreditation body which accredited the laboratory submits), an application—

(i) in such form and manner as the Secretary shall prescribe,

(ii) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory including—

(I) the number and types of laboratory examinations and other procedures performed,

(II) the methodologies for laboratory examinations and other procedures employed, and

(III) the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

(iii) that contains such other information as the Secretary may require to determine compliance with this section, and

the laboratory agrees to provide to the Secretary (or if the laboratory is accredited, to the accreditation body which accredited it) a description of any change in the information submitted under clause (ii) not later than 6 months after the change was put into effect,

(B) the laboratory provides the Secretary—

(i) with satisfactory assurances that the laboratory will be operated in accordance with standards issued by the Secretary under subsection (f) of this section, or

(ii) with proof of accreditation under subsection (e) of this section,

(C) the laboratory agrees to permit inspections by the Secretary under subsection (g) of this section,

(D) the laboratory agrees to make records available and submit reports to the Secretary as the Secretary may reasonably require, and

(E) the laboratory agrees to treat proficiency testing samples in the same manner as it treats materials derived from the human body referred to it for laboratory examinations or other procedures in the ordinary course of business.

(2) Requirements for certificates of waiver

(A) In general

A laboratory which only performs laboratory examinations and procedures described in paragraph (3) shall be issued a certificate of waiver or have its certificate of waiver renewed if—

(i) the laboratory submits an application—

(I) in such form and manner as the Secretary shall prescribe,

(II) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory, including the number and types of laboratory examinations and other procedures performed, the methodologies for laboratory examinations and other procedures employed, and the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

(III) that contains such other information as the Secretary may reasonably require to determine compliance with this section, and

(ii) the laboratory agrees to make records available and submit reports to the Secretary as the Secretary may require.

(B) Changes

If a laboratory makes changes in the examinations and other procedures performed by it only with respect to examinations and procedures which are described in paragraph (3), the laboratory shall report such changes to the Secretary not later than 6 months after the change has been put into effect. If a laboratory proposes to make changes in the examinations and procedures performed by it such that the laboratory will perform an examination or procedure not described in paragraph (3), the laboratory shall report such change to the Secretary before the change takes effect.

(C) Effect

Subsections (f) and (g) of this section shall not apply to a laboratory to which has been issued a certificate of waiver.

(3) Examinations and procedures

The examinations and procedures identified in paragraph (2) are laboratory examinations and procedures that have been approved by the Food and Drug Administration for home use or that, as determined by the Secretary, are simple laboratory examinations and procedures that have an insignificant risk of an erroneous result, including those that—

(A) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results by the user negligible, or

(B) the Secretary has determined pose no unreasonable risk of harm to the patient if performed incorrectly.

(4) "Certificate" defined

As used in this section, the term ''certificate'' includes a certificate of waiver issued under paragraph (2).

(e) Accreditation

(1) In general

A laboratory may be accredited for purposes of obtaining a certificate if the laboratory—

(A) meets the standards of an approved accreditation body, and

(B) authorizes the accreditation body to submit to the Secretary (or such State agency as the Secretary may designate) such records or other information as the Secretary may require.

(2) Approval of accreditation bodies

(A) In general

The Secretary may approve a private nonprofit organization to be an accreditation body for the accreditation of laboratories if—

(i) using inspectors qualified to evaluate the methodologies used by the laboratories in performing laboratory examinations and other procedures, the accreditation body agrees to inspect a laboratory for purposes of accreditation with such frequency as determined by[1] Secretary,

(ii) the standards applied by the body in determining whether or not to accredit a laboratory are equal to or more stringent than the standards issued by the Secretary under subsection (f) of this section,

(iii) there is adequate provision for assuring that the standards of the accreditation body continue to be met by the laboratory,

(iv) in the case of any laboratory accredited by the body which has had its accreditation denied, suspended, withdrawn, or revoked or which has had any other action taken against it by the accrediting body, the accrediting body agrees to submit to the Secretary the name of such laboratory within 30 days of the action taken,

(v) the accreditation body agrees to notify the Secretary at least 30 days before it changes its standards, and

(vi) if the accreditation body has its approval withdrawn by the Secretary, the body agrees to notify each laboratory accredited by the body of the withdrawal within 10 days of the withdrawal.

(B) Criteria and procedures

The Secretary shall promulgate criteria and procedures for approving an accreditation body and for withdrawing such approval if the Secretary determines that the accreditation body does not meet the requirements of subparagraph (A).

(C) Effect of withdrawal of approval

If the Secretary withdraws the approval of an accreditation body under subparagraph (B), the certificate of any laboratory accredited by the body shall continue in effect for 60 days after the laboratory receives notification of the withdrawal of the approval, except that the Secretary may extend such period for a laboratory if it determines that the laboratory submitted an application for accreditation or a certificate in a timely manner after receipt of the notification of the withdrawal of approval. If an accreditation body withdraws or revokes the accreditation of a laboratory, the certificate of the laboratory shall continue in effect—

(i) for 45 days after the laboratory receives notice of the withdrawal or revocation of the accreditation, or

(ii) until the effective date of any action taken by the Secretary under subsection (i) of this section.

(D) Evaluations

The Secretary shall evaluate annually the performance of each approved accreditation body by—

(i) inspecting under subsection (g) of this section a sufficient number of the laboratories accredited by such body to allow a reasonable estimate of the performance of such body, and

(ii) such other means as the Secretary determines appropriate.

(3) Report

The Secretary shall annually prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that describes the results of the evaluation conducted under paragraph (2)(D).

(f) Standards

(1) In general

The Secretary shall issue standards to assure consistent performance by laboratories issued a certificate under this section of valid and reliable laboratory examinations and other procedures. Such standards shall require each laboratory issued a certificate under this section—

(A) to maintain a quality assurance and quality control program adequate and appropriate for the validity and reliability of the laboratory examinations and other procedures of the laboratory and to meet requirements relating to the proper collection, transportation, and storage of specimens and the reporting of results,

(B) to maintain records, equipment, and facilities necessary for the proper and effective operation of the laboratory,

(C) in performing and carrying out its laboratory examinations and other procedures, to use only personnel meeting such qualifications as the Secretary may establish for the direction, supervision, and performance of examinations and procedures within the laboratory, which qualifications shall take into consideration competency, training, experience, job performance, and education and which qualifications shall, as appropriate, be different on the basis of the type of examinations and procedures being performed by the laboratory and the risks and consequences of erroneous results associated with such examinations and procedures,

(D) to qualify under a proficiency testing program meeting the standards established by the Secretary under paragraph (3), and

(E) to meet such other requirements as the Secretary determines necessary to assure consistent performance by such laboratories of accurate and reliable laboratory examinations and procedures.

(2) Considerations

In developing the standards to be issued under paragraph (1), the Secretary shall, within the flexibility provided under subparagraphs (A) through (E) of paragraph (1), take into consideration—

(A) the examinations and procedures performed and the methodologies employed,

(B) the degree of independent judgment involved,

(C) the amount of interpretation involved,

(D) the difficulty of the calculations involved,

[1] So in original. Probably should be ''by the''.

(E) the calibration and quality control requirements of the instruments used,

(F) the type of training required to operate the instruments used in the methodology, and

(G) such other factors as the Secretary considers relevant.

(3) Proficiency testing program

(A) In general

The Secretary shall establish standards for the proficiency testing programs for laboratories issued a certificate under this section which are conducted by the Secretary, conducted by an organization approved under subparagraph (C), or conducted by an approved accrediting body. The standards shall require that a laboratory issued a certificate under this section be tested for each examination and procedure conducted within a category of examinations or procedures for which it has received a certificate, except for examinations and procedures for which the Secretary has determined that a proficiency test cannot reasonably be developed. The testing shall be conducted on a quarterly basis, except where the Secretary determines for technical and scientific reasons that a particular examination or procedure may be tested less frequently (but not less often than twice per year).

(B) Criteria

The standards established under subparagraph (A) shall include uniform criteria for acceptable performance under a proficiency testing program, based on the available technology and the clinical relevance of the laboratory examination or other procedure subject to such program. The criteria shall be established for all examinations and procedures and shall be uniform for each examination and procedure. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory has performed acceptably for a particular quarter and acceptably for a particular examination or procedure or category of examination or procedure over a period of successive quarters.

(C) Approved proficiency testing programs

For the purpose of administering proficiency testing programs which meet the standards established under subparagraph (A), the Secretary shall approve a proficiency testing program offered by a private nonprofit organization or a State if the program meets the standards established under subparagraph (A) and the organization or State provides technical assistance to laboratories seeking to qualify under the program. The Secretary shall evaluate each program approved under this subparagraph annually to determine if the program continues to meet the standards established under subparagraph (A) and shall withdraw the approval of any program that no longer meets such standards.

(D) Onsite testing

The Secretary shall perform, or shall direct a program approved under subparagraph (C) to perform, onsite proficiency testing to assure compliance with the requirements of subsection (d)(5) of this section. The Secretary shall perform, on an onsite or other basis, proficiency testing to evaluate the performance of a proficiency testing program approved under subparagraph (C) and to assure quality performance by a laboratory.

(E) Training, technical assistance, and enhanced proficiency testing

The Secretary may, in lieu of or in addition to actions authorized under subsection (h), (i), or (j) of this section, require any laboratory which fails to perform acceptably on an individual examination and procedure or a category of examination and procedures—

(i) to undertake training and to obtain the necessary technical assistance to meet the requirements of the proficency[2] testing program,

(ii) to enroll in a program of enhanced proficiency testing, or

(iii) to undertake any combination of the training, technical assistance, or testing described in clauses (i) and (ii).

(F) Testing results

The Secretary shall establish a system to make the results of the proficiency testing programs subject to the standards established by the Secretary under subparagraph (A) available, on a reasonable basis, upon request of any person. The Secretary shall include with results made available under this subparagraph such explanatory information as may be appropriate to assist in the interpretation of such results.

(4) National standards for quality assurance in cytology services

(A) Establishment

The Secretary shall establish national standards for quality assurance in cytology services designed to assure consistent performance by laboratories of valid and reliable cytological services.

(B) Standards

The standards established under subparagraph (A) shall include—

(i) the maximum number of cytology slides that any individual may screen in a 24-hour period,

(ii) requirements that a clinical laboratory maintain a record of (I) the number of cytology slides screened during each 24-hour period by each individual who examines cytology slides for the laboratory, and (II) the number of hours devoted during each 24-hour period to screening cytology slides by such individual,

(iii) criteria for requiring rescreening of cytological preparations, such as (I) random rescreening of cytology specimens determined to be in the benign category, (II) focused rescreening of such preparations in high risk groups, and (III) for each abnormal cytological result, rescreening of all

[2] So in original. Probably should be ''proficiency''.

prior cytological specimens for the patient, if available,

(iv) periodic confirmation and evaluation of the proficiency of individuals involved in screening or interpreting cytological preparations, including announced and unannounced on-site proficiency testing of such individuals, with such testing to take place, to the extent practicable, under normal working conditions,

(v) procedures for detecting inadequately prepared slides, for assuring that no cytological diagnosis is rendered on such slides, and for notifying referring physicians of such slides,

(vi) requirements that all cytological screening be done on the premises of a laboratory that is certified under this section,

(vii) requirements for the retention of cytology slides by laboratories for such periods of time as the Secretary considers appropriate, and

(viii) standards requiring periodic inspection of cytology services by persons capable of evaluating the quality of cytology services.

(g) Inspections

(1) In general

The Secretary may, on an announced or unannounced basis, enter and inspect, during regular hours of operation, laboratories which have been issued a certificate under this section. In conducting such inspections the Secretary shall have access to all facilities, equipment, materials, records, and information that the Secretary determines have a bearing on whether the laboratory is being operated in accordance with this section. As part of such an inspection the Secretary may copy any such material or require to it[3] be submitted to the Secretary. An inspection under this paragraph may be made only upon presenting identification to the owner, operator, or agent in charge of the laboratory being inspected.

(2) Compliance with requirements and standards

The Secretary shall conduct inspections of laboratories under paragraph (1) to determine their compliance with the requirements of subsection (d) of this section and the standards issued under subsection (f) of this section. Inspections of laboratories not accredited under subsection (e) of this section shall be conducted on a biennial basis or with such other frequency as the Secretary determines to be necessary to assure compliance with such requirements and standards. Inspections of laboratories accredited under subsection (e) of this section shall be conducted on such basis as the Secretary determines is necessary to assure compliance with such requirements and standards.

(h) Intermediate sanctions

(1) In general

If the Secretary determines that a laboratory which has been issued a certificate under this section no longer substantially meets the requirements for the issuance of a certificate, the Secretary may impose intermediate sanctions in lieu of the actions authorized by subsection (i) of this section.

(2) Types of sanctions

The intermediate sanctions which may be imposed under paragraph (1) shall consist of—

(A) directed plans of correction,

(B) civil money penalties in an amount not to exceed $10,000 for each violation listed in subsection (i)(1) of this section or for each day of substantial noncompliance with the requirements of this section,

(C) payment for the costs of onsite monitoring, or

(D) any combination of the actions described in subparagraphs (A), (B), and (C).

(3) Procedures

The Secretary shall develop and implement procedures with respect to when and how each of the intermediate sanctions is to be imposed under paragraph (1). Such procedures shall provide for notice to the laboratory and a reasonable opportunity to respond to the proposed sanction and appropriate procedures for appealing determinations relating to the imposition of intermediate sanctions[4]

(i) Suspension, revocation, and limitation

(1) In general

Except as provided in paragraph (2), the certificate of a laboratory issued under this section may be suspended, revoked, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(A) has been guilty of misrepresentation in obtaining the certificate,

(B) has performed or represented the laboratory as entitled to perform a laboratory examination or other procedure which is not within a category of laboratory examinations or other procedures authorized in the certificate,

(C) has failed to comply with the requirements of subsection (d) of this section or the standards prescribed by the Secretary under subsection (f) of this section,

(D) has failed to comply with reasonable requests of the Secretary for—

(i) any information or materials, or

(ii) work on materials,

that the Secretary concludes is necessary to determine the laboratory's continued eligibility for its certificate or continued compliance with the Secretary's standards under subsection (f) of this section,

(E) has refused a reasonable request of the Secretary, or any Federal officer or employee duly designated by the Secretary, for permission to inspect the laboratory and its operations and pertinent records during the hours the laboratory is in operation,

(F) has violated or aided and abetted in the violation of any provisions of this sec-

[3] So in original. Probably should be ''require it to''.

[4] So in original. Probably should be followed by a period.

tion or of any regulation promulgated thereunder, or

(G) has not complied with an intermediate sanction imposed under subsection (h) of this section.

(2) Action before a hearing

If the Secretary determines that—

(A) the failure of a laboratory to comply with the standards of the Secretary under subsection (f) of this section presents an imminent and serious risk to human health, or

(B) a laboratory has engaged in an action described in subparagraph (D) or (E) of paragraph (1),

the Secretary may suspend or limit the certificate of the laboratory before holding a hearing under paragraph (1) regarding such failure or refusal. The opportunity for a hearing shall be provided no later than 60 days from the effective date of the suspension or limitation. A suspension or limitation under this paragraph shall stay in effect until the decision of the Secretary made after the hearing under paragraph (1).

(3) Ineligibility to own or operate laboratories after revocation

No person who has owned or operated a laboratory which has had its certificate revoked may, within 2 years of the revocation of the certificate, own or operate a laboratory for which a certificate has been issued under this section. The certificate of a laboratory which has been excluded from participation under the medicare program under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] because of actions relating to the quality of the laboratory shall be suspended for the period the laboratory is so excluded.

(4) Improper referrals

Any laboratory that the Secretary determines intentionally refers its proficiency testing samples to another laboratory for analysis shall have its certificate revoked for at least one year and shall be subject to appropriate fines and penalties as provided for in subsection (h) of this section.

(j) Injunctions

Whenever the Secretary has reason to believe that continuation of any activity by a laboratory would constitute a significant hazard to the public health the Secretary may bring suit in the district court of the United States for the district in which such laboratory is situated to enjoin continuation of such activity. Upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this subsection shall be granted without bond by such court.

(k) Judicial review

(1) Petition

Any laboratory which has had an intermediate sanction imposed under subsection (h) of this section or has had its certificate suspended, revoked, or limited under subsection (i) of this section may, at any time within 60 days after the date the action of the Secretary under subsection (i) or (h) of this section becomes final, file a petition with the United States court of appeals for the circuit wherein the laboratory has its principal place of business for judicial review of such action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary for that purpose. As soon as practicable after receipt of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28.

(2) Additional evidence

If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal of such additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Judgment of court

Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) Finality of judgment

The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

***(l)* Sanctions**

Any person who intentionally violates any requirement of this section or any regulation promulgated thereunder shall be imprisoned for not more than one year or fined under title 18, or both, except that if the conviction is for a second or subsequent violation of such a requirement such person shall be imprisoned for not more than 3 years or fined in accordance with title 18, or both.

(m) Fees

(1) Certificate fees

The Secretary shall require payment of fees for the issuance and renewal of certificates, except that the Secretary shall only require a nominal fee for the issuance and renewal of certificates of waiver.

(2) Additional fees

The Secretary shall require the payment of fees for inspections of laboratories which are

not accredited and for the cost of performing proficiency testing on laboratories which do not participate in proficiency testing programs approved under subsection (f)(3)(C) of this section.

(3) Criteria

(A) Fees under paragraph (1)

Fees imposed under paragraph (1) shall be sufficient to cover the general costs of administering this section, including evaluating and monitoring proficiency testing programs approved under subsection (f) of this section and accrediting bodies and implementing and monitoring compliance with the requirements of this section.

(B) Fees under paragraph (2)

Fees imposed under paragraph (2) shall be sufficient to cover the cost of the Secretary in carrying out the inspections and proficiency testing described in paragraph (2).

(C) Fees imposed under paragraphs (1) and (2)

Fees imposed under paragraphs (1) and (2) shall vary by group or classification of laboratory, based on such considerations as the Secretary determines are relevant, which may include the dollar volume and scope of the testing being performed by the laboratories.

(n) Information

On April 1, 1990 and annually thereafter, the Secretary shall compile and make available to physicians and the general public information, based on the previous calendar year, which the Secretary determines is useful in evaluating the performance of a laboratory, including—

(1) a list of laboratories which have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks,

(2) a list of laboratories—

(A) which have had their certificates revoked, suspended, or limited under subsection (i) of this section, or

(B) which have been the subject of a sanction under subsection (*l*) of this section,

together with a statement of the reasons for the revocation, suspension, limitation, or sanction,

(3) a list of laboratories subject to intermediate sanctions under subsection (h) of this section together with a statement of the reasons for the sanctions,

(4) a list of laboratories whose accreditation has been withdrawn or revoked together with a statement of the reasons for the withdrawal or revocation,

(5) a list of laboratories against which the Secretary has taken action under subsection (j) of this section together with a statement of the reasons for such action, and

(6) a list of laboratories which have been excluded from participation under title XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

The information to be compiled under paragraphs (1) through (6) shall be information for the calendar year preceding the date the information is to be made available to the public and shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraphs.

(*o*) Delegation

In carrying out this section, the Secretary may, pursuant to agreement, use the services or facilities of any Federal or State or local public agency or nonprofit private organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(p) State laws

(1) Except as provided in paragraph (2), nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with this section or with the regulations issued under this section.

(2) If a State enacts laws relating to matters covered by this section which provide for requirements equal to or more stringent than the requirements of this section or than the regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

(q) Consultations

In carrying out this section, the Secretary shall consult with appropriate private organizations and public agencies.

(July 1, 1944, ch. 373, title III, § 353, as added Pub. L. 90–174, § 5(a), Dec. 5, 1967, 81 Stat. 536; amended Pub. L. 100–578, § 2, Oct. 31, 1988, 102 Stat. 2903; Pub. L. 105–115, title I, § 123(h), Nov. 21, 1997, 111 Stat. 2324.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (i)(3) and (n)(6), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 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.

AMENDMENTS

1997—Subsec. (d)(3). Pub. L. 105–115 amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''The examinations and procedures identified in paragraph (2) are simple laboratory examinations and procedures which, as determined by the Secretary, have an insignificant risk of an erroneous result, including those which—

''(A) have been approved by the Food and Drug Administration for home use,

''(B) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible, or

''(C) the Secretary has determined pose no reasonable risk of harm to the patient if performed incorrectly.''

1988—Pub. L. 100–578 substituted ''Certification of laboratories'' for ''Licensing of laboratories'' in section catchline, and amended text generally, revising and restating as subsecs. (a) to (q) provisions of former subsecs. (a) to (*l*).

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–115 effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as a note under section 321 of Title 21, Food and Drugs.

EFFECTIVE DATE OF 1988 AMENDMENT; EXCEPTIONS; CONTINUING APPLICABILITY

Section 3 of Pub. L. 100–578 provided that: ''Subsections (g)(1), (h), (i), (j), (k), (*l*), and (m) of section 353 of the Public Health Service Act [this section], as amended by section 101 [probably means section 2 of Pub. L. 100–578], shall take effect January 1, 1989, except that any reference in such subsections to the standards established under subsection (f) shall be considered a reference to the standards established under subsection (d) of such section 353, as in effect on December 31, 1988. During the period beginning January 1, 1989, and ending December 31, 1989, subsections (a) through (d) and subsection (i) through (*l*) of such section 353 as in effect on December 31, 1988, shall continue to apply to clinical laboratories. The remaining subsections of such section 353, as so amended, shall take effect January 1, 1990, except that subsections (f)(1)(C) and (g)(2) shall take effect July 1, 1991, with respect to laboratories which were not subject to the requirements of such section 353 as in effect on December 31, 1988.''

EFFECTIVE DATE

Section 5(b) of Pub. L. 90–174 provided that: ''The amendment made by subsection (a) [enacting this section] shall become effective on the first day of the thirteenth month after the month [December 1967] in which it is enacted, except that the Secretary of Health, Education, and Welfare may postpone such effective date for such additional period as he finds necessary, but not beyond the first day of the 19th month after such month [December 1967] in which the amendment is enacted.''

SHORT TITLE

Section 5(c) of Pub. L. 90–174 provided that: ''This section [enacting this section and provisions set out as a note under this section] may be cited as the 'Clinical Laboratories Improvement Act of 1967.' ''

STUDIES

Section 4 of Pub. L. 100–578 directed Secretary to conduct studies and submit report to Congress, not later than May 1, 1990, relating to the reliability and quality control procedures of clinical laboratory testing programs and the effect of errors in the testing procedures and results on the diagnosis and treatment of patients.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263a–2, 300aa–2, 1395x, 1395aa of this title; title 35 section 287.

§ 263a–1. Assisted reproductive technology programs

(a) In general

Effective 2 years after October 24, 1992, each assisted reproductive technology (as defined in section 263a–7[1] of this title) program shall annually report to the Secretary through the Centers for Disease Control—

(1) pregnancy success rates achieved by such program through each assisted reproductive technology, and

(2) the identity of each embryo laboratory (as defined in section 263a–7[1] of this title) used by such program and whether the laboratory is certified under section 263a–2 of this title or has applied for such certification.

(b) Pregnancy success rates

(1) In general

For purposes of subsection (a)(1) of this section, the Secretary shall, in consultation with the organizations referenced in subsection (c) of this section, define pregnancy success rates and shall make public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development.

(2) Definition

In developing the definition of pregnancy success rates, the Secretary shall take into account the effect on success rates of age, diagnosis, and other significant factors and shall include in such rates—

(A) the basic live birth rate calculated for each assisted reproductive technology performed by an assisted reproductive technology program by dividing the number of pregnancies which result in live births by the number of ovarian stimulation procedures attempted by such program, and

(B) the live birth rate per successful oocyte retrieval procedure calculated for each assisted reproductive technology performed by an assisted reproductive technology program by dividing the number of pregnancies which result in live births by the number of successful oocyte retrieval procedures performed by such program.

(c) Consultation

In developing the definition under subsection (b) of this section, the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with assisted reproductive technologies.

(Pub. L. 102–493, § 2, Oct. 24, 1992, 106 Stat. 3146.)

REFERENCES IN TEXT

Section 263a–7 of this title, referred to in subsec. (a), was in the original ''section 7'' meaning section 7 of Pub. L. 102–493, which was translated as reading section 8 to reflect the probable intent of Congress, because definitions are contained in section 8 instead of section 7.

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section 9 of Pub. L. 102–493 provided that: ''This Act [enacting this section, sections 263a–2 to 263a–7 of this title, and provisions set out as a note under section 201 of this title] shall take effect upon the expiration of 2

[1] See References in Text note below.

years after the date of the enactment of this Act [Oct. 24, 1992].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263a–5, 263a–6, 263a–7 of this title.

§ 263a–2. Certification of embryo laboratories

(a) In general

(1) Development

Not later than 2 years after October 24, 1992, the Secretary, through the Centers for Disease Control, shall develop a model program for the certification of embryo laboratories (referred to in this section as a ''certification program'') to be carried out by the States.

(2) Consultation

In developing the certification program under paragraph (1), the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with the assisted reproductive technology programs.

(b) Distribution

The Secretary shall distribute a description of the certification program to—

(1) the Governor of each State,

(2) the presiding officers of each State legislature,

(3) the public health official of each State, and

(4) the official responsible in each State for the operation of the State's contract with the Secretary under section 1395aa of this title,

and shall encourage such officials to assist in the State adopting such program.

(c) Requirements

The certification program shall include the following requirements:

(1) Administration

The certification program shall be administered by the State and shall provide for the inspection and certification of embryo laboratories in the State by the State or by approved accreditation organizations.

(2) Application requirements

The certification program shall provide for the submission of an application to a State by an embryo laboratory for certification, in such form as may be specified by the State. Such an application shall include—

(A) assurances satisfactory to the State that the embryo laboratory will be operated in accordance with the standards under subsection (d) of this section,

(B) a report to the State identifying the assisted reproductive technology programs with which the laboratory is associated, and

(C) such other information as the State finds necessary.

An embryo laboratory which meets the requirements of section 263a of this title shall, for the purposes of subparagraph (A) be considered in compliance with the standards referred to in such subparagraph which are the same as the standards in effect under section 263a of this title.

(d) Standards

The certification program shall include the following standards developed by the Secretary:

(1) A standard to assure consistent performance of procedures by each embryo laboratory certified under the certification program or by an approved accreditation organization in a State which has not adopted the certification program.

(2) A standard for a quality assurance and a quality control program to assure valid, reliable, and reproduceable[1] procedures in the laboratory.

(3) A standard for the maintenance of records (on a program by program basis) on laboratory tests and procedures performed, including the scientific basis of, and the methodology used for, the tests, procedures, and preparation of any standards or controls, criteria for acceptable and unacceptable outcomes, criteria for sample rejection, and procedures for safe sample disposal.

(4) A standard for the maintenance of written records on personnel and facilities necessary for proper and effective operation of the laboratory, schedules of preventive maintenance, function verification for equipment, and the release of such records to the State upon demand.

(5) A standard for the use of such personnel who meet such qualifications as the Secretary may develop.

(e) Certification under State programs

A State may qualify to adopt the certification program if the State has submitted an application to the Secretary to adopt such program and the Secretary has approved the application. Such an application shall include—

(1) assurances by the State satisfactory to the Secretary that the certification program within the State meets the requirements of this section,

(2) an agreement to make such reports as the Secretary may require, and

(3) information about any proposed use of accreditation organizations under subsection (g)[2] of this section.

(f) Use of accreditation organizations

A State which has adopted the certification program may use accreditation organizations approved under section 263a–3 of this title to inspect and certify embryo laboratories.

(g) Inspections

(1) In general

A State which qualifies to adopt the certification program within the State shall conduct inspections in accordance with paragraph (2) to determine if laboratories in the State meet the requirements of such program. Such inspections shall be carried out by the State or by accreditation organizations used by the State under subsection (g)[2] of this section.

(2) Requirements

Inspections carried out under paragraph (1) shall—

[1] So in original. Probably should be ''reproducible''.

[2] So in original. Probably should be subsection ''(f)''.

(A) be periodic and unannounced, or

(B) be announced in such circumstances as the Secretary determines will not diminish the likelihood of discovering deficiencies in the operations of a laboratory.

Before making a determination under subparagraph (B), the Secretary shall make public, in such manner as to facilitate comment from any person (including any Federal or other public agency), a proposal indicating the circumstances under which announced inspections would be permitted.

(3) Results

The specific findings, including deficiencies, identified in an inspection carried out under paragraph (1) and any subsequent corrections to those deficiencies shall be announced and made available to the public upon request beginning no later than 60 days after the date of the inspection.

(h) Validation inspections

(1) In general

The Secretary may enter and inspect, during regular hours of operation, embryo laboratories—

(A) which have been certified by a State under the certification program, or

(B) which have been certified by an accreditation organization approved by the Secretary under section 263a–3 of this title,

for the purpose of determining whether the laboratory is being operated in accordance with the standards in subsection (d) of this section.

(2) Access to facilities and records

In conducting an inspection of an embryo laboratory under paragraph (1), the Secretary shall have access to all facilities, equipment, materials, records, and information which the Secretary determines is necessary to determine if such laboratory is being operated in accordance with the standards in subsection (d) of this section. As part of such an inspection, the Secretary may copy any material, record, or information inspected or require it to be submitted to the Secretary. Such an inspection may be made only upon the presentation of identification to the owner, operator, or agent in charge of the laboratory being inspected.

(3) Failure to comply

If the Secretary determines as a result of an inspection under paragraph (1) that the embryo laboratory is not in compliance with the standards in subsection (d) of this section, the Secretary shall—

(A) notify the State in which the laboratory is located and, if appropriate, the accreditation organization which certified the laboratory,

(B) make available to the public the results of the inspection,

(C) conduct additional inspections of other embryo laboratories under paragraph (1) to determine if—

(i) such State in carrying out the certification program is reliably identifying the deficiencies of such laboratory, or

(ii) the accreditation organization which certified such laboratories is reliably identifying such deficencies,[3] and

(D) if the Secretary determines—

(i) that such State in carrying out the certification program has not met the requirements applicable to such program, or

(ii) the accreditation organization which certified such laboratory has not met the requirements of section 263a–3 of this title,

the Secretary may revoke the approval of the State certification program or revoke the approval of such accreditation organization.

(i) Limitation

(1) Secretary

In developing the certification program, the Secretary may not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs.

(2) State

In adopting the certification program, a State may not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs.

(j) Term

The term of a certification issued by a State or an accreditation organization in a State shall be prescribed by the Secretary in the certification program and shall be valid for a period of time to be defined by the Secretary through the public comment process described in subsection (h)(2)[4] of this section. The Secretary shall provide an application for recertification to be submitted at the time of changes in the ownership of a certified laboratory or changes in the administration of such a laboratory.

(Pub. L. 102–493, § 3, Oct. 24, 1992, 106 Stat. 3146.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263a–1, 263a–3, 263a–4, 263a–5, 263a–6, 263a–7 of this title.

§ 263a–3. Accreditation organizations

(a) Approval of accreditation organizations

Not later than 2 years after October 24, 1992, the Secretary, through the Centers for Disease

[3] So in original. Probably should be ''deficiencies,''.

[4] So in original. Probably should be subsection ''(g)(2)''.

Control, shall promulgate criteria and procedures for the approval of accreditation organizations to inspect and certify embryo laboratories. The procedures shall require an application to the Secretary by an accreditation organization for approval. An accreditation organization which has received such an approval—

(1) may be used by States in the certification program under section 263a–2 of this title to inspect and certify embryo laboratories, or

(2) may certify embryo laboratories in States which have not adopted such a certification program.

(b) Criteria and procedures

The criteria and procedures promulgated under subsection (a) of this section shall include—

(1) requirements for submission of such reports and the maintenance of such records as the Secretary or a State may require, and

(2) requirements for the conduct of inspections under section 263a–2(h)[1] of this title.

(c) Evaluations

The Secretary shall evaluate annually the performance of each accreditation organization approved by the Secretary by—

(1) inspecting under section 263a–2(i)[2] of this title a sufficient number of embryo laboratories accredited by such an organization to allow a reasonable estimate of the performance of such organization, and

(2) such other means as the Secretary determines to be appropriate.

(d) Transition

If the Secretary revokes approval under section 263a–2(i)(3)(D)[3] of this title of an accreditation organization after an evaluation under subsection (c) of this section, the certification of any embryo laboratory accredited by the organization shall continue in effect for 60 days after the laboratory is notified by the Secretary of the withdrawal of approval, except that the Secretary may extend the period during which the certification shall remain in effect if the Secretary determines that the laboratory submitted an application to another approved accreditation organization for certification after receipt of such notice in a timely manner.

(Pub. L. 102–493, § 4, Oct. 24, 1992, 106 Stat. 3150.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

[1] So in original. Probably should be section "263a–2(g)".

[2] So in original. Probably should be section "263a–2(h)".

[3] So in original. Probably should be section "263a–2(h)(3)(D)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263a–2, 263a–5, 263a–6, 263a–7 of this title.

§ 263a–4. Certification revocation and suspension

(a) In general

A certification issued by a State or an accreditation organization for an embryo laboratory shall be revoked or suspended if the State or organization finds, on the basis of inspections and after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that the owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the certification,

(2) has failed to comply with any standards under section 263a–2 of this title applicable to the certification, or

(3) has refused a request of the State or accreditation organization for permission to inspect the laboratory, its operations, and records.

(b) Effect

If the certification of an embryo laboratory is revoked or suspended, the certification of the laboratory shall continue in effect for 60 days after the laboratory receives notice of the revocation or suspension. If the certification of an embryo laboratory is revoked or suspended, the laboratory may apply for recertification after one year after the date of the revocation or suspension.

(Pub. L. 102–493, § 5, Oct. 24, 1992, 106 Stat. 3150.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263a–6, 263a–7 of this title.

§ 263a–5. Publication

The Secretary, through the Centers for Disease Control, shall not later than 3 years after October 24, 1992, and annually thereafter publish and distribute to the States and the public—

(1)(A)[1] pregnancy success rates reported to the Secretary under section 263a–1(a)(1) of this title and, in the case of an assisted reproductive technology program which failed to report one or more success rates as required under such section, the name of each such program and each pregnancy success rate which the program failed to report, and

(B) from information reported under section 263a–1(a)(2) of this title—

(i) the identity of each embryo laboratory in a State which has adopted the certification program under such program and

[1] So in original. No par. (2) has been enacted.

whether such laboratory is certified under section 263a–2 of this title,

(ii) the identity of each embryo laboratory in a State which has not adopted such certification program and which has been certified by an accreditation organization approved by the Secretary under section 263a–3 of this title, and

(iii) in the case of an embryo laboratory which is not certified under section 263a–2 of this title or certified by an accreditation organization approved by the Secretary under section 263a–3 of this title, whether the laboratory applied for certification.

(Pub. L. 102–493, § 6, Oct. 24, 1992, 106 Stat. 3151.)

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263a–6, 263a–7 of this title.

§ 263a–6. Fees

The Secretary may require the payment of fees for the purpose of, and in an amount sufficient to cover the cost of, administering sections 263a–1 to 263a–7 of this title. A State operating a program under section 263a–2 of this title may require the payment of fees for the purpose of, and in an amount sufficient to cover the costs of, administering its program.

(Pub. L. 102–493, § 7, Oct. 24, 1992, 106 Stat. 3151.)

REFERENCES IN TEXT

Sections 263a–1 to 263a–7 of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 102–493, Oct. 24, 1992, 106 Stat. 3146, known as the Fertility Clinic Success Rate and Certification Act of 1992, which enacted sections 263a–1 to 263a–7 of this title and provisions set out as notes under sections 201 and 263a–1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263a–7 of this title.

§ 263a–7. Definitions

For purposes of sections 263a–1 to 263a–7 of this title:

(1) Assisted reproductive technology

The term ''assisted reproductive technology'' means all treatments or procedures which include the handling of human oocytes or embryos, including in vitro fertilization, gamete intrafallopian transfer, zygote intrafallopian transfer, and such other specific technologies as the Secretary may include in this definition, after making public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency).

(2) Embryo laboratory

The term ''embryo laboratory'' means a facility in which human oocytes are subject to assisted reproductive technology treatment or procedures based on manipulation of oocytes or embryos which are subject to implantation.

(3) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(Pub. L. 102–493, § 8, Oct. 24, 1992, 106 Stat. 3151.)

REFERENCES IN TEXT

Sections 263a–1 to 263a–7 of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 102–493, Oct. 24, 1992, 106 Stat. 3146, known as the Fertility Clinic Success Rate and Certification Act of 1992, which enacted sections 263a–1 to 263a–7 of this title and provisions set out as notes under sections 201 and 263a–1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Fertility Clinic Success Rate and Certification Act of 1992, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective upon expiration of 2 years after Oct. 24, 1992, see section 9 of Pub. L. 102–493, set out as a note under section 263a–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263a–1, 263a–6 of this title.

SUBPART 3—MAMMOGRAPHY FACILITIES

PRIOR PROVISIONS

A prior subpart 3 of part F of title III of the Public Health Service Act, comprising this subpart, was renumbered subchapter C of chapter V of the Federal Food, Drug, and Cosmetic Act, by Pub. L. 101–629, § 19(a)(4), Nov. 28, 1990, 104 Stat. 4530, as amended by Pub. L. 103–80, § 4(a)(2), Aug. 13, 1993, 107 Stat. 779, and is classified to part C (§ 360hh et seq.) of subchapter V of chapter 9 of Title 21, Food and Drugs.

§ 263b. Certification of mammography facilities

(a) Definitions

As used in this section:

(1) Accreditation body

The term ''accreditation body'' means a body that has been approved by the Secretary under subsection (e)(1)(A) of this section to accredit mammography facilities.

(2) Certificate

The term ''certificate'' means the certificate described in subsection (b)(1) of this section.

(3) Facility

(A) In general

The term ''facility'' means a hospital, outpatient department, clinic, radiology practice, or mobile unit, an office of a physician, or other facility as determined by the Secretary, that conducts breast cancer screening or diagnosis through mammography activities. Such term does not include a facility of the Department of Veterans Affairs.

(B) Activities

For the purposes of this section, the activities of a facility include the operation of equipment to produce the mammogram, the processing of the film, the initial interpretation of the mammogram and the viewing conditions for that interpretation. Where procedures such as the film processing, or the interpretation of the mammogram are performed in a location different from where the mammogram is performed, the facility performing the mammogram shall be responsible for meeting the quality standards described in subsection (f) of this section.

(4) Inspection

The term ''inspection'' means an onsite evaluation of the facility by the Secretary, or State or local agency on behalf of the Secretary.

(5) Mammogram

The term ''mammogram'' means a radiographic image produced through mammography.

(6) Mammography

The term ''mammography'' means radiography of the breast.

(7) Survey

The term ''survey'' means an onsite physics consultation and evaluation performed by a medical physicist as described in subsection (f)(1)(E) of this section.

(8) Review physician

The term ''review physician'' means a physician as prescribed by the Secretary under subsection (f)(1)(D) of this section who meets such additional requirements as may be established by an accreditation body under subsection (e) of this section and approved by the Secretary to review clinical images under subsection (e)(1)(B)(i) of this section on behalf of the accreditation body.

(b) Certificate requirement

(1) Certificate

No facility may conduct an examination or procedure described in paragraph (2) involving mammography after October 1, 1994, unless the facility obtains—

(A) a certificate—

(i) that is issued, and, if applicable, renewed, by the Secretary in accordance with subsection (c)(1) of this section;

(ii) that is applicable to the examination or procedure to be conducted; and

(iii) that is displayed prominently in such facility; or

(B) a provisional certificate—

(i) that is issued by the Secretary in accordance with subsection (c)(2) of this section;

(ii) that is applicable to the examination or procedure to be conducted; and

(iii) that is displayed prominently in such facility.

The reference to a certificate in this section includes a provisional certificate.

(2) Examination or procedure

A facility shall obtain a certificate in order to—

(A) operate radiological equipment that is used to image the breast;

(B) provide for the interpretation of a mammogram produced by such equipment at the facility or under arrangements with a qualified individual at a facility different from where the mammography examination is performed; and

(C) provide for the processing of film produced by such equipment at the facility or under arrangements with a qualified individual at a facility different from where the mammography examination is performed.

(c) Issuance and renewal of certificates

(1) In general

The Secretary may issue or renew a certificate for a facility if the person or agent described in subsection (d)(1)(A) of this section meets the applicable requirements of subsection (d)(1) of this section with respect to the facility. The Secretary may issue or renew a certificate under this paragraph for not more than 3 years.

(2) Provisional certificate

The Secretary may issue a provisional certificate for an entity to enable the entity to qualify as a facility. The applicant for a provisional certificate shall meet the requirements of subsection (d)(1) of this section, except providing information required by clauses (iii) and (iv) of subsection (d)(1)(A) of this section. A provisional certificate may be in effect no longer than 6 months from the date it is issued, except that it may be extended once for a period of not more than 90 days if the owner, lessor, or agent of the facility demonstrates to the Secretary that without such extension access to mammography in the geographic area served by the facility would be significantly reduced and if the owner, lessor, or agent of the facility will describe in a report to the Secretary steps that will be taken to qualify the facility for certification under subsection (b)(1) of this section.

(d) Application for certificate

(1) Submission

The Secretary may issue or renew a certificate for a facility if—

(A) the person who owns or leases the facility or an authorized agent of the person, submits to the Secretary, in such form and manner as the Secretary shall prescribe, an application that contains at a minimum—

(i) a description of the manufacturer, model, and type of each x-ray machine,

image receptor, and processor operated in the performance of mammography by the facility;

(ii) a description of the procedures currently used to provide mammography at the facility, including—

(I) the types of procedures performed and the number of such procedures performed in the prior 12 months;

(II) the methodologies for mammography; and

(III) the names and qualifications (educational background, training, and experience) of the personnel performing mammography and the physicians reading and interpreting the results from the procedures;

(iii) proof of on-site survey by a qualified medical physicist as described in subsection (f)(1)(E) of this section; and

(iv) proof of accreditation in such manner as the Secretary shall prescribe; and

(B) the person or agent submits to the Secretary—

(i) a satisfactory assurance that the facility will be operated in accordance with standards established by the Secretary under subsection (f) of this section to assure the safety and accuracy of mammography;

(ii) a satisfactory assurance that the facility will—

(I) permit inspections under subsection (g) of this section;

(II) make such records and information available, and submit such reports, to the Secretary as the Secretary may require; and

(III) update the information submitted under subparagraph (A) or assurances submitted under this subparagraph on a timely basis as required by the Secretary; and

(iii) such other information as the Secretary may require.

An applicant shall not be required to provide in an application under subparagraph (A) any information which the applicant has supplied to the accreditation body which accredited the applicant, except as required by the Secretary.

(2) Appeal

If the Secretary denies an application for the certification of a facility submitted under paragraph (1)(A), the Secretary shall provide the owner or lessor of the facility or the agent of the owner or lessor who submitted such application—

(A) a statement of the grounds on which the denial is based, and

(B) an opportunity for an appeal in accordance with the procedures set forth in regulations of the Secretary published at part 498 of title 42, Code of Federal Regulations.

(3) Effect of denial

If the application for the certification of a facility is denied, the facility may not operate unless the denial of the application is overturned at the conclusion of the administrative appeals process provided in the regulations referred to in paragraph (2)(B).

(e) Accreditation

(1) Approval of accreditation bodies

(A) In general

The Secretary may approve a private nonprofit organization or State agency to accredit facilities for purposes of subsection (d)(1)(A)(iv) of this section if the accreditation body meets the standards for accreditation established by the Secretary as described in subparagraph (B) and provides the assurances required by subparagraph (C).

(B) Standards

The Secretary shall establish standards for accreditation bodies, including—

(i) standards that require an accreditation body to perform—

(I) a review of clinical images from each facility accredited by such body not less often than every 3 years which review will be made by qualified review physicians; and

(II) a review of a random sample of clinical images from such facilities in each 3-year period beginning October 1, 1994, which review will be made by qualified review physicians;

(ii) standards that prohibit individuals conducting the reviews described in clause (i) from maintaining any relationship to the facility undergoing review which would constitute a conflict of interest;

(iii) standards that limit the imposition of fees for accreditation to reasonable amounts;

(iv) standards that require as a condition of accreditation that each facility undergo a survey at least annually by a medical physicist as described in subsection (f)(1)(E) of this section to ensure that the facility meets the standards described in subparagraphs (A) and (B) of subsection (f)(1) of this section;

(v) standards that require monitoring and evaluation of such survey, as prescribed by the Secretary;

(vi) standards that are equal to standards established under subsection (f) of this section which are relevant to accreditation as determined by the Secretary; and

(vii) such additional standards as the Secretary may require.

(C) Assurances

The accrediting body shall provide the Secretary satisfactory assurances that the body will—

(i) comply with the standards as described in subparagraph (B);

(ii) comply with the requirements described in paragraph (4);

(iii) submit to the Secretary the name of any facility for which the accreditation body denies, suspends, or revokes accreditation;

(iv) notify the Secretary in a timely manner before the accreditation body changes the standards of the body;

(v) notify each facility accredited by the accreditation body if the Secretary withdraws approval of the accreditation body under paragraph (2) in a timely manner; and

(vi) provide such other additional information as the Secretary may require.

(D) Regulations

Not later than 9 months after October 27, 1992, the Secretary shall promulgate regulations under which the Secretary may approve an accreditation body.

(2) Withdrawal of approval

(A) In general

The Secretary shall promulgate regulations under which the Secretary may withdraw the approval of an accreditation body if the Secretary determines that the accreditation body does not meet the standards under subparagraph (B) of paragraph (1), the requirements of clauses (i) through (vi) of subparagraph (C) of paragraph (1), or the requirements of paragraph (4).

(B) Effect of withdrawal

If the Secretary withdraws the approval of an accreditation body under subparagraph (A), the certificate of any facility accredited by the body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain another accreditation.

(3) Accreditation

To be accredited by an approved accreditation body a facility shall meet—

(A) the standards described in paragraph (1)(B) which the Secretary determines are applicable to the facility, and

(B) such other standards which the accreditation body may require.

(4) Compliance

To ensure that facilities accredited by an accreditation body will continue to meet the standards of the accreditation body, the accreditation body shall—

(A) make onsite visits on an annual basis of a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

(B) take such additional measures as the Secretary determines to be appropriate.

Visits made under subparagraph (A) shall be made after providing such notice as the Secretary may require.

(5) Revocation of accreditation

If an accreditation body revokes the accreditation of a facility, the certificate of the facility shall continue in effect until such time as may be determined by the Secretary.

(6) Evaluation and report

(A) Evaluation

The Secretary shall evaluate annually the performance of each approved accreditation body by—

(i) inspecting under subsection (g)(2) of this section a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

(ii) such additional means as the Secretary determines to be appropriate.

(B) Report

The Secretary shall annually prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the evaluation conducted in accordance with subparagraph (A).

(f) Quality standards

(1) In general

The standards referred to in subsection (d)(1)(B)(i) of this section are standards established by the Secretary which include—

(A) standards that require establishment and maintenance of a quality assurance and quality control program at each facility that is adequate and appropriate to ensure the reliability, clarity, and accuracy of interpretation of mammograms and standards for appropriate radiation dose;

(B) standards that require use of radiological equipment specifically designed for mammography, including radiologic standards and standards for other equipment and materials used in conjunction with such equipment;

(C) a requirement that personnel who perform mammography—

(i)(I) be licensed by a State to perform radiological procedures; or

(II) be certified as qualified to perform radiological procedures by an organization described in paragraph (2)(A); and

(ii) during the 2-year period beginning October 1, 1994, meet training standards for personnel who perform mammography or meet experience requirements which shall at a minimum include 1 year of experience in the performance of mammography; and

(iii) upon the expiration of such 2-year period meet minimum training standards for personnel who perform mammograms;

(D) a requirement that mammograms be interpreted by a physician who is certified as qualified to interpret radiological procedures, including mammography—

(i)(I) by a board described in paragraph (2)(B); or

(II) by a program that complies with the standards described in paragraph (2)(C); and

(ii) who meets training and continuing medical education requirements as established by the Secretary;

(E) a requirement that individuals who survey mammography facilities be medical physicists—

(i) licensed or approved by a State to perform such surveys, reviews, or inspections for mammography facilities;

(ii) certified in diagnostic radiological physics or certified as qualified to perform

such surveys by a board as described in paragraph (2)(D); or

(iii) in the first 5 years after October 27, 1992, who meet other criteria established by the Secretary which are comparable to the criteria described in clause (i) or (ii);

(F) a requirement that a medical physicist who is qualified in mammography as described in subparagraph (E) survey mammography equipment and oversee quality assurance practices at each facility;

(G) a requirement that—

(i) a facility that performs any mammogram—

(I) except as provided in subclause (II), maintain the mammogram in the permanent medical records of the patient for a period of not less than 5 years, or not less than 10 years if no subsequent mammograms of such patient are performed at the facility, or longer if mandated by State law; and

(II) upon the request of or on behalf of the patient, transfer the mammogram to a medical institution, to a physician of the patient, or to the patient directly; and

(ii)(I) a facility must assure the preparation of a written report of the results of any mammography examination signed by the interpreting physician;

(II) such written report shall be provided to the patient's physicians (if any);

(III) if such a physician is not available or if there is no such physician, the written report shall be sent directly to the patient; and

(IV) whether or not such a physician is available or there is no such physician, a summary of the written report shall be sent directly to the patient in terms easily understood by a lay person; and

(H) standards relating to special techniques for mammography of patients with breast implants.

Subparagraph (G) shall not be construed to limit a patient's access to the patient's medical records.

(2) Certification of personnel

The Secretary shall by regulation—

(A) specify organizations eligible to certify individuals to perform radiological procedures as required by paragraph (1)(C);

(B) specify boards eligible to certify physicians to interpret radiological procedures, including mammography, as required by paragraph (1)(D);

(C) establish standards for a program to certify physicians described in paragraph (1)(D); and

(D) specify boards eligible to certify medical physicists who are qualified to survey mammography equipment and to oversee quality assurance practices at mammography facilities.

(g) Inspections

(1) Annual inspections

(A) In general

The Secretary may enter and inspect facilities to determine compliance with the certification requirements under subsection (b) of this section and the standards established under subsection (f) of this section. The Secretary shall, if feasible, delegate to a State or local agency the authority to make such inspections.

(B) Identification

The Secretary, or State or local agency acting on behalf of the Secretary, may conduct inspections only on presenting identification to the owner, operator, or agent in charge of the facility to be inspected.

(C) Scope of inspection

In conducting inspections, the Secretary or State or local agency acting on behalf of the Secretary—

(i) shall have access to all equipment, materials, records, and information that the Secretary or State or local agency considers necessary to determine whether the facility is being operated in accordance with this section; and

(ii) may copy, or require the facility to submit to the Secretary or the State or local agency, any of the materials, records, or information.

(D) Qualifications of inspectors

Qualified individuals, as determined by the Secretary, shall conduct all inspections. The Secretary may request that a State or local agency acting on behalf of the Secretary designate a qualified officer or employee to conduct the inspections, or designate a qualified Federal officer or employee to conduct inspections. The Secretary shall establish minimum qualifications and appropriate training for inspectors and criteria for certification of inspectors in order to inspect facilities for compliance with subsection (f) of this section.

(E) Frequency

The Secretary or State or local agency acting on behalf of the Secretary shall conduct inspections under this paragraph of each facility not less often than annually, subject to paragraph (6).

(F) Records and annual reports

The Secretary or a State or local agency acting on behalf of the Secretary which is responsible for inspecting mammography facilities shall maintain records of annual inspections required under this paragraph for a period as prescribed by the Secretary. Such a State or local agency shall annually prepare and submit to the Secretary a report concerning the inspections carried out under this paragraph. Such reports shall include a description of the facilities inspected and the results of such inspections.

(2) Inspection of accredited facilities

The Secretary shall inspect annually a sufficient number of the facilities accredited by an accreditation body to provide the Secretary with a reasonable estimate of the performance of such body.

(3) Inspection of facilities inspected by State or local agencies

The Secretary shall inspect annually facilities inspected by State or local agencies act-

ing on behalf of the Secretary to assure a reasonable performance by such State or local agencies.

(4) Timing

The Secretary, or State or local agency, may conduct inspections under paragraphs (1), (2), and (3), during regular business hours or at a mutually agreeable time and after providing such notice as the Secretary may prescribe, except that the Secretary may waive such requirements if the continued performance of mammography at such facility threatens the public health.

(5) Limited reinspection

Nothing in this section limits the authority of the Secretary to conduct limited reinspections of facilities found not to be in compliance with this section.

(6) Demonstration program

(A) In general

The Secretary may establish a demonstration program under which inspections under paragraph (1) of selected facilities are conducted less frequently by the Secretary (or as applicable, by State or local agencies acting on behalf of the Secretary) than the interval specified in subparagraph (E) of such paragraph.

(B) Requirements

Any demonstration program under subparagraph (A) shall be carried out in accordance with the following:

(i) The program may not be implemented before April 1, 2001. Preparations for the program may be carried out prior to such date.

(ii) In carrying out the program, the Secretary may not select a facility for inclusion in the program unless the facility is substantially free of incidents of noncompliance with the standards under subsection (f) of this section. The Secretary may at any time provide that a facility will no longer be included in the program.

(iii) The number of facilities selected for inclusion in the program shall be sufficient to provide a statistically significant sample, subject to compliance with clause (ii).

(iv) Facilities that are selected for inclusion in the program shall be inspected at such intervals as the Secretary determines will reasonably ensure that the facilities are maintaining compliance with such standards.

(h) Sanctions

(1) In general

In order to promote voluntary compliance with this section, the Secretary may, in lieu of taking the actions authorized by subsection (i) of this section, impose one or more of the following sanctions:

(A) Directed plans of correction which afford a facility an opportunity to correct violations in a timely manner.

(B) Payment for the cost of onsite monitoring.

(2) Patient information

If the Secretary determines that the quality of mammography performed by a facility (whether or not certified pursuant to subsection (c) of this section) was so inconsistent with the quality standards established pursuant to subsection (f) of this section as to present a significant risk to individual or public health, the Secretary may require such facility to notify patients who received mammograms at such facility, and their referring physicians, of the deficiencies presenting such risk, the potential harm resulting, appropriate remedial measures, and such other relevant information as the Secretary may require.

(3) Civil money penalties

The Secretary may assess civil money penalties in an amount not to exceed $10,000 for—

(A) failure to obtain a certificate as required by subsection (b) of this section,

(B) each failure by a facility to substantially comply with, or each day on which a facility fails to substantially comply with, the standards established under subsection (f) of this section or the requirements described in subclauses (I) through (III) of subsection (d)(1)(B)(ii) of this section,

(C) each failure to notify a patient of risk as required by the Secretary pursuant to paragraph (2), and

(D) each violation, or for each aiding and abetting in a violation of, any provision of, or regulation promulgated under, this section by an owner, operator, or any employee of a facility required to have a certificate.

(4) Procedures

The Secretary shall develop and implement procedures with respect to when and how each of the sanctions is to be imposed under paragraphs (1) through (3). Such procedures shall provide for notice to the owner or operator of the facility and a reasonable opportunity for the owner or operator to respond to the proposed sanctions and appropriate procedures for appealing determinations relating to the imposition of sanctions.

(i) Suspension and revocation

(1) In general

The certificate of a facility issued under subsection (c) of this section may be suspended or revoked if the Secretary finds, after providing, except as provided in paragraph (2), reasonable notice and an opportunity for a hearing to the owner or operator of the facility, that the owner, operator, or any employee of the facility—

(A) has been guilty of misrepresentation in obtaining the certificate;

(B) has failed to comply with the requirements of subsection (d)(1)(B)(ii)(III) of this section or the standards established by the Secretary under subsection (f) of this section;

(C) has failed to comply with reasonable requests of the Secretary (or of an accreditation body approved pursuant to subsection (e) of this section) for any record, information, report, or material that the Secretary

(or such accreditation body or State carrying out certification program requirements pursuant to subsection (q) of this section) concludes is necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards established under subsection (f) of this section;

(D) has refused a reasonable request of the Secretary, any Federal officer or employee duly designated by the Secretary, or any State or local officer or employee duly designated by the State or local agency, for permission to inspect the facility or the operations and pertinent records of the facility in accordance with subsection (g) of this section;

(E) has violated or aided and abetted in the violation of any provision of, or regulation promulgated under, this section; or

(F) has failed to comply with a sanction imposed under subsection (h) of this section.

(2) Action before a hearing

(A) In general

The Secretary may suspend the certificate of the facility before holding a hearing required by paragraph (1) if the Secretary has reason to believe that the circumstance of the case will support one or more of the findings described in paragraph (1) and that—

(i) the failure or violation was intentional; or

(ii) the failure or violation presents a serious risk to human health.

(B) Hearing

If the Secretary suspends a certificate under subparagraph (A), the Secretary shall provide an opportunity for a hearing to the owner or operator of the facility not later than 60 days from the effective date of the suspension. The suspension shall remain in effect until the decision of the Secretary made after the hearing.

(3) Ineligibility to own or operate facilities after revocation

If the Secretary revokes the certificate of a facility on the basis of an act described in paragraph (1), no person who owned or operated the facility at the time of the act may, within 2 years of the revocation of the certificate, own or operate a facility that requires a certificate under this section.

(j) Injunctions

If the Secretary determines that—

(1) continuation of any activity related to the provision of mammography by a facility would constitute a serious risk to human health, the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin continuation of the activity; and

(2) a facility is operating without a certificate as required by subsection (b) of this section, the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin the operation of the facility.

Upon a proper showing, the district court shall grant a temporary injunction or restraining order against continuation of the activity or against operation of a facility, as the case may be, without requiring the Secretary to post a bond, pending issuance of a final order under this subsection.

(k) Judicial review

(1) Petition

If the Secretary imposes a sanction on a facility under subsection (h) of this section or suspends or revokes the certificate of a facility under subsection (i) of this section, the owner or operator of the facility may, not later than 60 days after the date the action of the Secretary becomes final, file a petition with the United States court of appeals for the circuit in which the facility is situated for judicial review of the action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary. As soon as practicable after receipt of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28.

(2) Additional evidence

If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may determine to be proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file the modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of the original action of the Secretary with the return of the additional evidence.

(3) Judgment of court

Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set the action aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) Finality of judgment

The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(*l*) Information

(1) In general

Not later than October 1, 1996, and annually thereafter, the Secretary shall compile and make available to physicians and the general

public information that the Secretary determines is useful in evaluating the performance of facilities, including a list of facilities—

(A) that have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks;

(B) that have been subject to sanctions under subsection (h) of this section, together with a statement of the reasons for the sanctions;

(C) that have had certificates revoked or suspended under subsection (i) of this section, together with a statement of the reasons for the revocation or suspension;

(D) against which the Secretary has taken action under subsection (j) of this section, together with a statement of the reasons for the action;

(E) whose accreditation has been revoked, together with a statement of the reasons of the revocation;

(F) against which a State has taken adverse action; and

(G) that meets such other measures of performance as the Secretary may develop.

(2) Date

The information to be compiled under paragraph (1) shall be information for the calendar year preceding the date the information is to be made available to the public.

(3) Explanatory information

The information to be compiled under paragraph (1) shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraph.

(m) State laws

Nothing in this section shall be construed to limit the authority of any State to enact and enforce laws relating to the matters covered by this section that are at least as stringent as this section or the regulations issued under this section.

(n) National Advisory Committee

(1) Establishment

In carrying out this section, the Secretary shall establish an advisory committee to be known as the National Mammography Quality Assurance Advisory Committee (hereafter in this subsection referred to as the ''Advisory Committee'').

(2) Composition

The Advisory Committee shall be composed of not fewer than 13, nor more than 19 individuals, who are not officers or employees of the Federal Government. The Secretary shall make appointments to the Advisory Committee from among—

(A) physicians,

(B) practitioners, and

(C) other health professionals,

whose clinical practice, research specialization, or professional expertise include a significant focus on mammography. The Secretary shall appoint at least 4 individuals from among national breast cancer or consumer health organizations with expertise in mammography and at least 2 practicing physicians who provide mammography services.

(3) Functions and duties

The Advisory Committee shall—

(A) advise the Secretary on appropriate quality standards and regulations for mammography facilities;

(B) advise the Secretary on appropriate standards and regulations for accreditation bodies;

(C) advise the Secretary in the development of regulations with respect to sanctions;

(D) assist in developing procedures for monitoring compliance with standards under subsection (f) of this section;

(E) make recommendations and assist in the establishment of a mechanism to investigate consumer complaints;

(F) report on new developments concerning breast imaging that should be considered in the oversight of mammography facilities;

(G) determine whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determine the effects of personnel or other requirements of subsection (f) of this section on access to the services of such facilities in such areas;

(H) determine whether there will exist a sufficient number of medical physicists after October 1, 1999, to assure compliance with the requirements of subsection (f)(1)(E) of this section;

(I) determine the costs and benefits of compliance with the requirements of this section (including the requirements of regulations promulgated under this section); and

(J) perform other activities that the Secretary may require.

The Advisory Committee shall report the findings made under subparagraphs (G) and (I) to the Secretary and the Congress no later than October 1, 1993.

(4) Meetings

The Advisory Committee shall meet not less than quarterly for the first 3 years of the program and thereafter, at least biannually.

(5) Chairperson

The Secretary shall appoint a chairperson of the Advisory Committee.

(*o*) Consultations

In carrying out this section, the Secretary shall consult with appropriate Federal agencies within the Department of Health and Human Services for the purposes of developing standards, regulations, evaluations, and procedures for compliance and oversight.

(p) Breast cancer screening surveillance research grants

(1) Research

(A) Grants

The Secretary shall award grants to such entities as the Secretary may determine to be appropriate to establish surveillance systems in selected geographic areas to provide data to evaluate the functioning and effec-

tiveness of breast cancer screening programs in the United States, including assessments of participation rates in screening mammography, diagnostic procedures, incidence of breast cancer, mode of detection (mammography screening or other methods), outcome and follow up information, and such related epidemiologic analyses that may improve early cancer detection and contribute to reduction in breast cancer mortality. Grants may be awarded for further research on breast cancer surveillance systems upon the Secretary's review of the evaluation of the program.

(B) Use of funds

Grants awarded under subparagraph (A) may be used—

(i) to study—

(I) methods to link mammography and clinical breast examination records with population-based cancer registry data;

(II) methods to provide diagnostic outcome data, or facilitate the communication of diagnostic outcome data, to radiology facilities for purposes of evaluating patterns of mammography interpretation; and

(III) mechanisms for limiting access and maintaining confidentiality of all stored data; and

(ii) to conduct pilot testing of the methods and mechanisms described in subclauses (I), (II), and (III) of clause (i) on a limited basis.

(C) Grant application

To be eligible to receive funds under this paragraph, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(D) Report

A recipient of a grant under this paragraph shall submit a report to the Secretary containing the results of the study and testing conducted under clauses (i) and (ii) of subparagraph (B), along with recommendations for methods of establishing a breast cancer screening surveillance system.

(2) Establishment

The Secretary shall establish a breast cancer screening surveillance system based on the recommendations contained in the report described in paragraph (1)(D).

(3) Standards and procedures

The Secretary shall establish standards and procedures for the operation of the breast cancer screening surveillance system, including procedures to maintain confidentiality of patient records.

(4) Information

The Secretary shall recruit facilities to provide to the breast cancer screening surveillance system relevant data that could help in the research of the causes, characteristics, and prevalence of, and potential treatments for, breast cancer and benign breast conditions, if the information may be disclosed under section 552 of title 5.

(q) State program

(1) In general

The Secretary may, upon application, authorize a State—

(A) to carry out, subject to paragraph (2), the certification program requirements under subsections (b), (c), (d), (g)(1), (h), (i), and (j) of this section (including the requirements under regulations promulgated pursuant to such subsections), and

(B) to implement the standards established by the Secretary under subsection (f) of this section,

with respect to mammography facilities operating within the State.

(2) Approval

The Secretary may approve an application under paragraph (1) if the Secretary determines that—

(A) the State has enacted laws and issued regulations relating to mammography facilities which are the requirements of this section (including the requirements under regulations promulgated pursuant to such subsections), and

(B) the State has provided satisfactory assurances that the State—

(i) has the legal authority and qualified personnel necessary to enforce the requirements of and the regulations promulgated pursuant to this section (including the requirements under regulations promulgated pursuant to such subsections),

(ii) will devote adequate funds to the administration and enforcement of such requirements, and

(iii) will provide the Secretary with such information and reports as the Secretary may require.

(3) Authority of Secretary

In a State with an approved application—

(A) the Secretary shall carry out the Secretary's functions under subsections (e) and (f) of this section;

(B) the Secretary may take action under subsections (h), (i), and (j) of this section; and

(C) the Secretary shall conduct oversight functions under subsections (g)(2) and (g)(3) of this section.

(4) Withdrawal of approval

(A) In general

The Secretary may, after providing notice and opportunity for corrective action, withdraw the approval of a State's authority under paragraph (1) if the Secretary determines that the State does not meet the requirements of such paragraph. The Secretary shall promulgate regulations for the implementation of this subparagraph.

(B) Effect of withdrawal

If the Secretary withdraws the approval of a State under subparagraph (A), the certificate of any facility certified by the State shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain certification by the Secretary.

(r) Funding

(1) Fees

(A) In general

The Secretary shall, in accordance with this paragraph assess and collect fees from persons described in subsection (d)(1)(A) of this section (other than persons who are governmental entities, as determined by the Secretary) to cover the costs of inspections conducted under subsection (g)(1) of this section by the Secretary or a State acting under a delegation under subparagraph (A) of such subsection. Fees may be assessed and collected under this paragraph only in such manner as would result in an aggregate amount of fees collected during any fiscal year which equals the aggregate amount of costs for such fiscal year for inspections of facilities of such persons under subsection (g)(1) of this section. A person's liability for fees shall be reasonably based on the proportion of the inspection costs which relate to such person.

(B) Deposit and appropriations

(i) Deposit and availability

Fees collected under subparagraph (A) shall be deposited as an offsetting collection to the appropriations for the Department of Health and Human Services as provided in appropriation Acts and shall remain available without fiscal year limitation.

(ii) Appropriations

Fees collected under subparagraph (A) shall be collected and available only to the extent provided in advance in appropriation Acts.

(2) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(A) to award research grants under subsection (p) of this section, such sums as may be necessary for each of the fiscal years 1993 through 2002; and

(B) for the Secretary to carry out other activities which are not supported by fees authorized and collected under paragraph (1), such sums as may be necessary for fiscal years 1993 through 2002.

(July 1, 1944, ch. 373, title III, § 354, as added Pub. L. 102–539, § 2, Oct. 27, 1992, 106 Stat. 3547; amended Pub. L. 105–248, §§ 2–13, Oct. 9, 1998, 112 Stat. 1864–1867.)

PRIOR PROVISIONS

A prior section 263b, act July 1, 1944, ch. 373, title III, § 354, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1173; amended Nov. 28, 1990, Pub. L. 101–629, § 19(a)(1)(B), 104 Stat. 4529; Aug. 13, 1993, Pub. L. 103–80, § 4(a)(2), 107 Stat. 779, set forth Congressional declaration of purpose, prior to repeal by Pub. L. 101–629, § 19(a)(3), Nov. 28, 1990, 104 Stat. 4530.

Sections 263c to 263n, act July 1, 1944, ch. 373, title III, §§ 355–360F, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1174, and amended, which related to electronic product radiation control, were renumbered sections 531 to 542, respectively, of the Federal Food, Drug, and Cosmetic Act by Pub. L. 101–629, § 19(a)(4), Nov. 28, 1990, 104 Stat. 4530, and are classified to sections 360hh to 360ss, respectively, of Title 21, Food and Drugs.

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–248, § 9(1), inserted "or local" after "State".

Subsec. (a)(8). Pub. L. 105–248, § 4(b), added par. (8).

Subsec. (d)(2)(B). Pub. L. 105–248, § 3, substituted "part 498 of title 42, Code of Federal Regulations" for "42 C.F.R. 498 and in effect on October 27, 1992".

Subsec. (e)(1)(B)(i)(I), (II). Pub. L. 105–248, § 4(a)(1), substituted "review physicians" for "practicing physicians".

Subsec. (e)(1)(B)(ii). Pub. L. 105–248, § 4(a)(2), substituted "relationship" for "financial relationship".

Subsec. (f)(1)(G)(i). Pub. L. 105–248, § 5, added cl. (i) and struck out former cl. (i) which read as follows: "a facility that performs any mammogram maintain the mammogram in the permanent medical records of the patient—

"(I) for a period of not less than 5 years, or not less than 10 years if no additional mammograms of such patient are performed at the facility, or longer if mandated by State law; or

"(II) until such time as the patient should request that the patient's medical records be forwarded to a medical institution or a physician of the patient;

whichever is longer; and".

Subsec. (f)(1)(G)(ii)(IV). Pub. L. 105–248, § 6, added subcl. (IV) and struck out former subcl. (IV) which read as follows: "if such report is sent to the patient, the report shall include a summary written in terms easily understood by a lay person; and".

Subsec. (g)(1). Pub. L. 105–248, § 9(1), inserted "or local" after "State" wherever appearing.

Subsec. (g)(1)(A). Pub. L. 105–248, § 7, in first sentence, struck out "certified" before "facilities" and inserted "the certification requirements under subsection (b) of this section and" after "compliance with".

Subsec. (g)(1)(E). Pub. L. 105–248, § 8(1), inserted ", subject to paragraph (6)" before period at end.

Subsec. (g)(3). Pub. L. 105–248, § 9(1), (2), inserted "or local" after "State" in heading and in two places in text.

Subsec. (g)(4). Pub. L. 105–248, § 9(1), inserted "or local" after "State".

Subsec. (g)(6). Pub. L. 105–248, § 8(2), added par. (6).

Subsec. (h)(2). Pub. L. 105–248, § 10(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (h)(3). Pub. L. 105–248, § 10(a)(1), (b), redesignated par. (2) as (3), added subpar. (C), and redesignated former subpar. (C) as (D). Former par. (3) redesignated (4).

Subsec. (h)(4). Pub. L. 105–248, § 10(a)(1), (c), redesignated par. (3) as (4) and substituted "paragraphs (1) through (3)" for "paragraphs (1) and (2)".

Subsec. (i)(1)(C). Pub. L. 105–248, § 11, inserted "(or of an accreditation body approved pursuant to subsection (e) of this section)" after "of the Secretary" and inserted "(or such accreditation body or State carrying out certification program requirements pursuant to subsection (q) of this section)" after "that the Secretary".

Subsec. (i)(1)(D). Pub. L. 105–248, § 9(3), inserted "or local" after "any State" and "or local agency" after "by the State".

Subsec. (i)(2)(A). Pub. L. 105–248, § 12, substituted "has reason to believe that the circumstance of the case will support one or more of the findings described in paragraph (1) and that—" and cls. (i) and (ii) for "makes the finding described in paragraph (1) and determines that—

"(i) the failure of a facility to comply with the standards established by the Secretary under subsection (f) of this section presents a serious risk to human health; or

"(ii) a facility has engaged in an action described in subparagraph (D) or (E) of paragraph (1)."

Subsec. (q)(4)(B). Pub. L. 105–248, § 13, substituted "certified" for "accredited".

Subsec. (r)(2)(A). Pub. L. 105–248, § 2, substituted "subsection (p)" for "subsection (q)" and "2002" for "1997".

Subsec. (r)(2)(B). Pub. L. 105–248, § 2, substituted ''fiscal years'' for ''fiscal year'' and ''2002'' for ''1997''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

REGULATIONS

Pub. L. 103–183, title VII, § 707, Dec. 14, 1993, 107 Stat. 2241, provided that: ''The Secretary of Health and Human Services is authorized to issue interim final regulations—

''(1) under which the Secretary may approve accreditation bodies under section 354(e) of the Public Health Service Act (42 U.S.C. 263b(e)); and

''(2) establishing quality standards under section 354(f) of the Public Health Service Act (42 U.S.C. 263b(f)).''

STUDY

Section 3 of Pub. L. 102–539 directed Comptroller General of United States to conduct a study of the certification program authorized by this section to determine if the program has resulted in improvement of quality and accessibility of mammography services, and if the program has reduced the frequency of poor quality mammography and improved early detection of breast cancer, with Comptroller General, not later than 3 years from Oct. 27, 1992, submit to Congress an interim report of results of study and, not later than 5 years from such date to submit a final report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395m, 1395x of this title; title 38 section 7319.

PART G—QUARANTINE AND INSPECTION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300j–9 of this title.

§ 264. Regulations to control communicable diseases

(a) Promulgation and enforcement by Surgeon General

The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Apprehension, detention, or conditional release of individuals

Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Application of regulations to persons entering from foreign countries

Except as provided in subsection (d) of this section, regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) Apprehension and examination of persons reasonably believed to be infected

On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. For purposes of this subsection, the term ''State'' includes, in addition to the several States, only the District of Columbia.

(July 1, 1944, ch. 373, title III, § 361, 58 Stat. 703; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 86–624, § 29(c), July 12, 1960, 74 Stat. 419; Pub. L. 94–317, title III, § 301(b)(1), June 23, 1976, 90 Stat. 707.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94–317 inserted provision defining ''State'' to include, in addition to the several States, only the District of Columbia.

1960—Subsec. (c). Pub. L. 86–624 struck out reference to Territory of Hawaii.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–624 effective Aug. 21, 1959, see section 47(f) of Pub. L. 86–624, set out as a note under section 201 of this title.

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.

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.

EX. ORD. NO. 12452. REVISED LIST OF QUARANTINABLE COMMUNICABLE DISEASES

Ex. Ord. No. 12452, Dec. 22, 1983, 48 F.R. 56927, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 264(b) of Title 42 of the United States Code, it is hereby ordered as follows:

SECTION 1. Based upon the recommendation of the National Advisory Health Council and the Assistant Secretary for Health of the Department of Health and Human Services, and for the purposes of specifying certain communicable diseases for regulations providing for the apprehension, detention, or conditional release of individuals to prevent the introduction, transmission, or spread of communicable diseases, the following named communicable diseases are hereby specified pursuant to Section 264(b) of Title 42 of the United States Code: Cholera or suspected Cholera, Diphtheria, infectious Tuberculosis, Plague, suspected Smallpox, Yellow Fever, and suspected Viral Hemorrhagic Fevers (Lassa, Marburg, Ebola, Congo-Crimean, and others not yet isolated or named).

SEC. 2. Executive Order No. 9708 of March 26, 1946, Executive Order No. 10532 of May 28, 1954, and Executive Order No. 11070 of December 12, 1962, are hereby revoked.

RONALD REAGAN.

CROSS REFERENCES

Compliance with State laws, see section 97 of this title.

Removal of revenue officers, during epidemics, see section 112 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 266, 271 of this title; title 21 section 381; title 49 section 24301.

§ 265. Suspension of entries and imports from designated places to prevent spread of communicable diseases

Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.

(July 1, 1944, ch. 373, title III, § 362, 58 Stat. 704.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 266. Special quarantine powers in time of war

To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 264 of this title, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.

(July 1, 1944, ch. 373, title III, § 363, 58 Stat. 704.)

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 WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 267. Quarantine stations, grounds, and anchorages

(a) Control and management

Except as provided in title II of the Act of June 15, 1917, as amended [50 U.S.C. 191 et seq.], the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suit-

able sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) Hours of inspection

The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.

(c) Overtime pay for employees of Service

The Surgeon General shall fix a reasonable rate of extra compensation for overtime services of employees of the United States Public Health Service, Foreign Quarantine Division, performing overtime duties including the operation of vessels, in connection with the inspection or quarantine treatment of persons (passengers and crews), conveyances, or goods arriving by land, water, or air in the United States or any place subject to the jurisdiction thereof, hereinafter referred to as ''employees of the Public Health Service'', when required to be on duty between the hours of 6 o'clock postmeridian and 6 o'clock antemeridian (or between the hours of 7 o'clock postmeridian and 7 o'clock antemeridian at stations which have a declared workday of from 7 o'clock antemeridian to 7 o'clock postmeridian), or on Sundays or holidays, such rate, in lieu of compensation under any other provision of law, to be fixed at two times the basic hourly rate for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian, and two times the basic hourly rate for each overtime hour worked on Sundays or holidays. As used in this subsection, the term ''basic hourly rate'' shall mean the regular basic rate of pay which is applicable to such employees for work performed within their regular scheduled tour of duty.

(d) Payment of extra compensation to United States; bond or deposit to assure payment; deposit of moneys to credit of appropriation

(1) The said extra compensation shall be paid to the United States by the owner, agent, consignee, operator, or master or other person in charge of any conveyance, for whom, at his request, services as described in this subsection (hereinafter referred to as overtime service) are performed. If such employees have been ordered to report for duty and have so reported, and the requested services are not performed by reason of circumstances beyond the control of the employees concerned, such extra compensation shall be paid on the same basis as though the overtime services had actually been performed during the period between the time the employees were ordered to report for duty and did so report, and the time they were notified that their services would not be required, and in any case as though their services had continued for not less than one hour. The Surgeon General with the approval of the Secretary of Health and Human Services may prescribe regulations requiring the owner, agent, consignee, operator, or master or other person for whom the overtime services are performed to file a bond in such amounts and containing such conditions and with such sureties, or in lieu of a bond, to deposit money or obligations of the United States in such amount, as will assure the payment of charges under this subsection, which bond or deposit may cover one or more transactions or all transactions during a specified period: *Provided*, That no charges shall be made for services performed in connection with the inspection of (1) persons arriving by international highways, ferries, bridges, or tunnels, or the conveyances in which they arrive, or (2) persons arriving by aircraft or railroad trains, the operations of which are covered by published schedules, or the aircraft or trains in which they arrive, or (3) persons arriving by vessels operated between Canadian ports and ports on Puget Sound or operated on the Great Lakes and connecting waterways, the operations of which are covered by published schedules, or the vessels in which they arrive.

(2) Moneys collected under this subsection shall be deposited in the Treasury of the United States to the credit of the appropriation charged with the expense of the services, and the appropriations so credited shall be available for the payment of such compensation to the said employees for services so rendered.

(July 1, 1944, ch. 373, title III, §364, 58 Stat. 704; Pub. L. 85–58, ch. VII, §701, June 21, 1957, 71 Stat. 181; Pub. L. 85–580, title II, §201, Aug. 1, 1958, 72 Stat. 467; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1958—Subsec. (c). Pub. L. 85–580 increased rate of pay for each hour that overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian from one and one-half times the basic hourly rate to two times the basic hourly rate.

1957—Subsecs. (c), (d). Pub. L. 85–58 added subsecs. (c) and (d).

TRANSFER OF FUNCTIONS

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

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.

DELEGATION OF FUNCTIONS

Functions of President delegated to Secretary of Health 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270, 271 of this title.

§ 268. Quarantine duties of consular and other officers

(a) Any consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services.

(July 1, 1944, ch. 373, title III, § 365, 58 Stat. 705; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

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.

Reference to Secretary of Health, Education, and Welfare substituted for reference to Federal Security Administrator pursuant to section 5 of Reorg. Plan No. 1, of 1953, set out as a note under section 3501 of this title, which transferred functions of Federal Security Administrator to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency to Department of Health, Education, and Welfare. 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 269. Bills of health

(a) Detail of medical officer; conditions precedent to issuance; consular officer to receive fees

Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c) of this section. Before granting such duplicate bill of health, such consular or medical officer shall be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

(b) Collectors of customs to receive originals; duplicate copies as part of ship's papers

Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

(c) Regulations to secure sanitary conditions of vessels

The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be observed by such vessels prior to departure, during the course of the voyage, and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

(d) Vessels from ports near frontier

The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

(e) Compliance with regulations

It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations prescribed under subsection (c) of this section have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station.

(July 1, 1944, ch. 373, title III, § 366, 58 Stat. 705.)

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and em-

ployees 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.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of Bureau of Customs of Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270, 271 of this title.

§ 270. Quarantine regulations governing civil air navigation and civil aircraft

The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 267 to 269 of this title and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health.

(July 1, 1944, ch. 373, title III, § 367, 58 Stat. 706.)

ABOLITION OF OFFICE OF SURGEON GENERAL

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.

§ 271. Penalties for violation of quarantine laws

(a) Penalties for persons violating quarantine laws

Any person who violates any regulation prescribed under sections 264 to 266 of this title, or any provision of section 269 of this title or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

(b) Penalties for vessels violating quarantine laws

Any vessel which violates section 269 of this title, or any regulations thereunder or under section 267 of this title, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than $5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered by proceedings in the proper district court of the United States. In all such proceedings the United States attorney shall appear on behalf of the United States; and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) Remittance or mitigation of forfeitures

With the approval of the Secretary, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications.

(July 1, 1944, ch. 373, title III, § 368, 58 Stat. 706; June 25, 1948, ch. 646, § 1, 62 Stat. 909; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "United States district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision note thereunder.

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.

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.

§ 272. Administration of oaths by quarantine officers

Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States.

(July 1, 1944, ch. 373, title III, § 369, 58 Stat. 706.)

PART H—ORGAN TRANSPLANTS

PRIOR PROVISIONS

A prior part H related to grants to Alaska for mental health, prior to the general revision of part H by Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2342.

Another prior part H, entitled "National Library of Medicine", as added by act Aug. 3, 1956, ch. 907, 70 Stat. 960, was redesignated part I and classified to section 275 et seq. of this title, prior to repeal by Pub. L. 99–158.

§ 273. Organ procurement organizations

(a) Grant authority of Secretary

(1) The Secretary may make grants for the planning of qualified organ procurement organizations described in subsection (b) of this section.

(2) The Secretary may make grants for the establishment, initial operation, consolidation, and expansion of qualified organ procurement organizations described in subsection (b) of this section.

(3) The Secretary may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) of this section and other nonprofit private entities for the purpose of carrying out special projects designed to increase the number of organ donors.

(b) Qualified organizations

(1) A qualified organ procurement organization for which grants may be made under subsection (a) of this section is an organization which, as determined by the Secretary, will carry out the functions described in paragraph (2)[1] and—

(A) is a nonprofit entity,

(B) has accounting and other fiscal procedures (as specified by the Secretary) necessary to assure the fiscal stability of the organization,

(C) has an agreement with the Secretary to be reimbursed under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] for the procurement of kidneys,

(D) has procedures to obtain payment for non-renal organs provided to transplant centers,

(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area,

(F) has a director and such other staff, including the organ donation coordinators and organ procurement specialists necessary to effectively obtain organs from donors in its service area, and

(G) has a board of directors or an advisory board which—

(i) is composed of—

(I) members who represent hospital administrators, intensive care or emergency room personnel, tissue banks, and voluntary health associations in its service area,

(II) members who represent the public residing in such area,

(III) a physician with knowledge, experience, or skill in the field of histocompatability[2] or an individual with a doctorate degree in a biological science with knowledge, experience, or skill in the field of histocompatibility,

(IV) a physician with knowledge or skill in the field of neurology, and

(V) from each transplant center in its service area which has arrangements described in paragraph (2)(G)[1] with the organization, a member who is a surgeon who has practicing privileges in such center and who performs organ transplant surgery,

(ii) has the authority to recommend policies for the procurement of organs and the other functions described in paragraph (2),[1] and

(iii) has no authority over any other activity of the organization.

(2)(A) Not later than 90 days after November 16, 1990, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to establish criteria for determining whether an entity meets the requirement established in paragraph (1)(E).

(B) Not later than 1 year after November 16, 1990, the Secretary shall publish in the Federal Register a final rule to establish the criteria described in subparagraph (A).

(3) An organ procurement organization shall—

(A) have effective agreements, to identify potential organ donors, with a substantial majority of the hospitals and other health care entities in its service area which have facilities for organ donations,

(B) conduct and participate in systematic efforts, including professional education, to acquire all useable organs from potential donors,

(C) arrange for the acquisition and preservation of donated organs and provide quality standards for the acquisition of organs which are consistent with the standards adopted by the Organ Procurement and Transplantation Network under section 274(b)(2)(E) of this title, including arranging for testing with respect to preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,

(D) arrange for the appropriate tissue typing of donated organs,

(E) have a system to allocate donated organs equitably among transplant patients according to established medical criteria,

(F) provide or arrange for the transportation of donated organs to transplant centers,

(G) have arrangements to coordinate its activities with transplant centers in its service area,

(H) participate in the Organ Procurement Transplantation Network established under section 274 of this title,

(I) have arrangements to cooperate with tissue banks for the retrieval, processing, preservation, storage, and distribution of tissues as may be appropriate to assure that all useable tissues are obtained from potential donors,

(J) evaluate annually the effectiveness of the organization in acquiring potentially available organs, and

(K) assist hospitals in establishing and implementing protocols for making routine inquiries about organ donations by potential donors.

(July 1, 1944, ch. 373, title III, § 371, as added Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2342; amended Pub. L. 100–607, title IV, § 402(a), (c)(1),

[1] See References in Text note below.

[2] So in original. Probably should be ''histocompatibility''.

(2), (d), Nov. 4, 1988, 102 Stat. 3114, 3115; Pub. L. 101–616, title II, §§201(a)–(c)(1), (d), (e), 206(b), Nov. 16, 1990, 104 Stat. 3283, 3285.)

REFERENCES IN TEXT

Paragraph (2), referred to in subsec. (b)(1), meaning paragraph (2) of subsec. (b) of this section, was redesignated paragraph (3) by section 201(d)(1) of Pub. L. 101–616. See 1990 Amendment note below.

The Social Security Act, referred to in subsec. (b)(1)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 273, act July 1, 1944, ch. 373, title III, §371, as added July 28, 1956, ch. 772, title II, §201, 70 Stat. 709, authorized grants to the Territory of Alaska for an integrated mental health program, prior to repeal by Pub. L. 86–70, §31(b)(1), June 25, 1959, 73 Stat. 148, effective July 1, 1959.

A prior section 371 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, §1, 70 Stat. 960, was renumbered section 381 and classified to section 275 of this title, prior to repeal by Pub. L. 99–158, §3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Pub. L. 101–616, §201(a), substituted ''Organ procurement organizations'' for ''Assistance for organ procurement organizations'' in section catchline.

Subsec. (a)(3). Pub. L. 101–616, §201(b)(1), substituted ''may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) of this section and other nonprofit private entities for the purpose of carrying out special projects'' for ''may make grants for special projects''.

Subsec. (a)(4). Pub. L. 101–616, §201(b)(2), struck out par. (4) which set forth factors to consider in making grants.

Subsec. (b)(1)(E). Pub. L. 101–616, §201(c)(1), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''has a defined service area which is a geographical area of sufficient size such that (unless the service area comprises an entire State) the organization can reasonably expect to procure organs from not less than 50 donors each year and which either includes an entire standard metropolitan statistical area (as specified by the Office of Management and Budget) or does not include any part of such an area,''.

Subsec. (b)(1)(G)(i)(III). Pub. L. 101–616, §201(e), made technical correction to Pub. L. 100–607, §402(c)(2). See 1988 Amendment note below.

Subsec. (b)(2), (3). Pub. L. 101–616, §201(d), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 101–616, §206(b), struck out subsec. (c) which authorized appropriations for subsec. (a) grants for fiscal years 1988 through 1990.

1988—Subsec. (a)(2). Pub. L. 100–607, §402(a)(1), inserted ''consolidation,'' after ''initial operation,''.

Subsec. (a)(3). Pub. L. 100–607, §402(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 100–607, §402(a)(2), redesignated former par. (3) as (4).

Subsec. (a)(4)(C). Pub. L. 100–607, §402(a)(3), added subpar. (C).

Subsec. (b)(1)(E). Pub. L. 100–607, §402(c)(1)(A), substituted ''size such that'' for ''size which'', and ''the organization can reasonably expect to procure organs from not less than 50 donors each year'' for ''will include at least fifty potential organ donors each year''.

Subsec. (b)(1)(G)(i)(III). Pub. L. 100–607, §402(c)(2), as amended by Pub. L. 101–616, §201(e), inserted ''or an individual with a doctorate degree in a biological science with knowledge, experience, or skill in the field of histocompatibility'' before comma at end.

Subsec. (b)(2)(C). Pub. L. 100–607, §402(c)(1)(B), substituted ''274(b)(2)(E) of this title, including arranging for testing with respect to preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,'' for ''274(b)(2)(D) of this title,''.

Subsec. (b)(2)(E). Pub. L. 100–607, §402(c)(1)(C), substituted ''organs equitably among transplant patients'' for ''organs among transplant centers and patients''.

Subsec. (b)(2)(K). Pub. L. 100–607, §402(c)(1)(D), added subpar. (K).

Subsec. (c). Pub. L. 100–607, §402(d), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''For grants under subsection (a) of this section there are authorized to be appropriated $5,000,000 for fiscal year 1985, $8,000,000 for fiscal year 1986, and $12,000,000 for fiscal year 1987.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 207 of title II of Pub. L. 101–616 provided that: ''Except as otherwise provided in this title, the amendments made by this title [enacting sections 274f and 274g of this title, amending this section and sections 274 and 274b to 274d of this title, and repealing provisions set out as a note below] shall become effective on October 1, 1990, or on the date of the enactment of this Act [Nov. 16, 1990], whichever occurs later.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 402(c)(3) of Pub. L. 100–607, as amended by Pub. L. 101–274, Apr. 23, 1990, 104 Stat. 139, which provided that the amendment made by section 402(c)(1)(A) of Pub. L. 100–607, amending this section, was not to apply to an organ procurement organization designated under section 1320b–8(b) of this title until Jan. 1, 1992, was repealed by Pub. L. 101–616, title II, §201(c)(2), Nov. 16, 1990, 104 Stat. 3283.

SHORT TITLE

For short title of Pub. L. 98–507, which enacted this part as the ''National Organ Transplant Act'', see section 1 of Pub. L. 98–507, set out as a Short Title of 1984 Amendments note under section 201 of this title.

SEVERABILITY

Section 301 of Pub. L. 101–616 provided that: ''If any provision of this Act [enacting sections 274f, 274g, 274k, and 274*l* of this title, amending this section and sections 274 to 274d of this title, enacting provisions set out as notes under this section and sections 274 and 274k of this title, and repealing provisions set out as a note above], amendment made by this Act, or application of the provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions or amendments to any person or circumstance shall not be affected.''

STUDY ON HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT AGENCIES

Pub. L. 103–432, title I, §155(b), Oct. 31, 1994, 108 Stat. 4439, provided that:

''(1) IN GENERAL.—The Office of Technology Assessment (referred to in this section as the 'OTA') shall, pursuant to the approval of the Technology Assessment Board of the OTA, conduct a study to determine the efficacy and fairness of requiring a hospital to enter into an agreement under section 371(b)(3)(A) of the Public Health Service Act [subsec. (b)(3)(A) of this section] with the organ procurement agency designated pursuant to section 1138(b) of the Social Security Act [section 1320b–8(b) of this title] for the service area in which such hospital is located and the impact of such requirement on the efficacy and fairness of organ procurement and distribution.

''(2) REPORT.—Not later than 2 years after the date of the enactment of this Act [Oct. 31, 1994], the OTA shall complete the study required under paragraph (1) and prepare and submit to the Committee on Finance and

the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce [now Committee on Commerce] of the House of Representatives a report containing the findings of such study and the implications of such findings with respect to policies affecting organ procurement and distribution.''

TASK FORCE ON ORGAN PROCUREMENT AND TRANSPLANTATION

Pub. L. 98–507, title I, §§101–105, Oct. 19, 1984, 98 Stat. 2339–2342, directed Secretary of Health and Human Services, not later than 90 days after Oct. 19, 1984, to establish a Task Force on Organ Transplantation to conduct comprehensive examinations, prepare an assessment and report, and submit advice as to regulation of the medical, legal, ethical, economic, and social issues presented by human organ procurement and transplantation, with the final report due not later than 12 months after the Task Force is established and the Task Force to terminate 3 months thereafter.

BONE MARROW REGISTRY DEMONSTRATION AND STUDY

Section 401 of Pub. L. 98–507 directed Secretary of Health and Human Services to hold a conference on the feasibility of establishing and the effectiveness of a national registry of voluntary bone marrow donors not later than 9 months after Oct. 19, 1984, and if the conference found that it was feasible to establish a national registry of voluntary donors of bone marrow and that such a registry was likely to be effective in matching donors with recipients, the Secretary was to establish a registry of voluntary donors of bone marrow not later than six months after the completion of the conference, and further directed the Secretary, acting through the Assistant Secretary for Health, to study the establishment and implementation of the registry to identify the issues presented by the establishment of such a registry, to evaluate participation of bone marrow donors, to assess the implementation of the informed consent and confidentiality requirements, and to determine if the establishment of a permanent bone marrow registry was needed and appropriate, and to report the results of the study to Congress not later than two years after the date the registry was established.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 274, 274b, 1320b–8 of this title.

§ 274. Organ procurement and transplantation network

(a) Contract authority of Secretary; limitation; available appropriations

The Secretary shall by contract provide for the establishment and operation of an Organ Procurement and Transplantation Network which meets the requirements of subsection (b) of this section. The amount provided under such contract in any fiscal year may not exceed $2,000,000. Funds for such contracts shall be made available from funds available to the Public Health Service from appropriations for fiscal years beginning after fiscal year 1984.

(b) Functions

(1) The Organ Procurement and Transplantation Network shall carry out the functions described in paragraph (2) and shall—

(A) be a private nonprofit entity that has an expertise in organ procurement and transplantation, and

(B) have a board of directors—

(i) that includes representatives of organ procurement organizations (including organizations that have received grants under section 273 of this title), transplant centers, voluntary health associations, and the general public; and

(ii) that shall establish an executive committee and other committees, whose chairpersons shall be selected to ensure continuity of leadership for the board.

(2) The Organ Procurement and Transplantation Network shall—

(A) establish in one location or through regional centers—

(i) a national list of individuals who need organs, and

(ii) a national system, through the use of computers and in accordance with established medical criteria, to match organs and individuals included in the list, especially individuals whose immune system makes it difficult for them to receive organs,

(B) establish membership criteria and medical criteria for allocating organs and provide to members of the public an opportunity to comment with respect to such criteria,

(C) maintain a twenty-four-hour telephone service to facilitate matching organs with individuals included in the list,

(D) assist organ procurement organizations in the nationwide distribution of organs equitably among transplant patients,

(E) adopt and use standards of quality for the acquisition and transportation of donated organs, including standards for preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,

(F) prepare and distribute, on a regionalized basis (and, to the extent practicable, among regions or on a national basis), samples of blood sera from individuals who are included on the list and whose immune system makes it difficult for them to receive organs, in order to facilitate matching the compatibility of such individuals with organ donors,

(G) coordinate, as appropriate, the transportation of organs from organ procurement organizations to transplant centers,

(H) provide information to physicians and other health professionals regarding organ donation,

(I) collect, analyze, and publish data concerning organ donation and transplants,

(J) carry out studies and demonstration projects for the purpose of improving procedures for organ procurement and allocation, and[1]

(K) work actively to increase the supply of donated organs.[2]

(L) submit to the Secretary an annual report containing information on the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network.

(c) Consideration of critical comments

The Secretary shall establish procedures for—

(1) receiving from interested persons critical comments relating to the manner in which the

[1] So in original. The word ''and'' probably should not appear.

[2] So in original. The period probably should be '', and''.

Organ Procurement and Transplantation Network is carrying out the duties of the Network under subsection (b) of this section; and

(2) the consideration by the Secretary of such critical comments.

(July 1, 1944, ch. 373, title III, § 372, as added Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2344; amended Pub. L. 100–607, title IV, § 403, Nov. 4, 1988, 102 Stat. 3115; Pub. L. 101–616, title II, § 202(a)–(c), Nov. 16, 1990, 104 Stat. 3283, 3284.)

PRIOR PROVISIONS

A prior section 274, act July 1, 1944, ch. 373, title III, § 372, as added July 28, 1956, ch. 772, title II, § 201, 70 Stat. 710; amended June 25, 1959, Pub. L. 86–70, § 31(b)(2)–(4), 73 Stat. 148, related to grants to Alaska for a mental health program and payment for construction of hospital facilities, prior to the general revision of this part by section 201 of Pub. L. 98–507.

Another section 372 of act July 1, 1944, added by act Aug. 3, 1956, ch. 941, § 1, 70 Stat. 960, which related to functions of National Library of Medicine, was renumbered section 382 and classified to section 276 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Subsec. (b)(1)(A). Pub. L. 101–616, § 202(a)(1), substituted ''that has an expertise in organ procurement and transplantation'' for ''which is not engaged in any activity unrelated to organ procurement''.

Subsec. (b)(1)(B). Pub. L. 101–616, § 202(a)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''have a board of directors which includes representatives of organ procurement organizations (including organizations which have received grants under section 273 of this title), transplant centers, voluntary health associations, and the general public.''

Subsec. (b)(2)(D). Pub. L. 101–616, § 202(b)(1), inserted ''nationwide'' after ''organizations in the'' and ''equitably among transplant patients'' after ''organs''.

Subsec. (b)(2)(F). Pub. L. 101–616, § 202(c), substituted ''compatibility'' for ''compatability''.

Subsec. (b)(2)(K), (L). Pub. L. 101–616, § 202(b)(2)–(4), added subpars. (K) and (L).

1988—Subsec. (b)(2)(B), (C). Pub. L. 100–607, § 403(a)(1), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (b)(2)(D). Pub. L. 100–607, § 403(a)(1), (2), redesignated former subpar. (C) as (D) and substituted ''organs'' for ''organs which cannot be placed within the service areas of the organizations''. Former subpar. (D) redesignated (E).

Subsec. (b)(2)(E). Pub. L. 100–607, § 403(a)(1), (3), redesignated former subpar. (D) as (E) and inserted ''including standards for preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,'' after ''organs,''. Former subpar. (E) redesignated (F).

Subsec. (b)(2)(F). Pub. L. 100–607, § 403(a)(1), (4), redesignated former subpar. (E) as (F) and inserted ''(and, to the extent practicable, among regions or on a national basis)'' after ''basis''. Former subpar. (F) redesignated (G).

Subsec. (b)(2)(G) to (I). Pub. L. 100–607, § 403(a)(1), redesignated former subpars. (F) to (H) as (G) to (I), respectively.

Subsec. (b)(2)(J). Pub. L. 100–607, § 403(a)(5), added subpar. (J).

Subsec. (c). Pub. L. 100–607, § 403(b), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 202(d) of Pub. L. 101–616 provided that: ''The amendments made by subsection (a) [amending this section] shall become effective on December 31, 1990.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 274b, 274c, 1320b–8 of this title.

§ 274a. Scientific registry

The Secretary shall, by grant or contract, develop and maintain a scientific registry of the recipients of organ transplants. The registry shall include such information respecting patients and transplant procedures as the Secretary deems necessary to an ongoing evaluation of the scientific and clinical status of organ transplantation. The Secretary shall prepare for inclusion in the report under section 274d of this title an analysis of information derived from the registry.

(July 1, 1944, ch. 373, title III, § 373, as added Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2345; amended Pub. L. 100–607, title IV, § 404, Nov. 4, 1988, 102 Stat. 3116; Pub. L. 101–616, title I, § 101(b), Nov. 16, 1990, 104 Stat. 3282.)

PRIOR PROVISIONS

A prior section 373 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, which related to a Board of Regents of National Library of Medicine, was renumbered section 383 and classified to section 277 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Pub. L. 101–616 struck out ''and bone marrow registry'' after ''Scientific registry'' in section catchline and struck out subsec. (a) designation and subsec. (b) which directed establishment of bone marrow registry and authorized appropriations for fiscal years 1989 and 1990 for such purpose.

1988—Pub. L. 100–607 inserted ''and bone marrow registry'' in section catchline, designated existing text as subsec. (a), and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 274b of this title.

§ 274b. General provisions respecting grants and contracts

(a) Application requirement

No grant may be made under this part or contract entered into under section 274 or 274a of this title unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall by regulation prescribe.

(b) Special considerations and priority; planning and establishment grants

(1) A grant for planning under section 273(a)(1) of this title may be made for one year with respect to any organ procurement organization and may not exceed $100,000.

(2) Grants under section 273(a)(2) of this title may be made for two years. No such grant may exceed $500,000 for any year and no organ procurement organization may receive more than $800,000 for initial operation or expansion.

(3) Grants or contracts under section 273(a)(3) of this title may be made for not more than 3 years.

(c) Determination of grant amount; terms of payment; recordkeeping; access for purposes of audits and examination of records

(1) The Secretary shall determine the amount of a grant or contract made under section 273 or 274a of this title. Payments under such grants

and contracts may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants and contracts.

(2)(A) Each recipient of a grant or contract under section 273 or 274a of this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the undertaking in connection with which such grant or contract was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant or contract under section 273 or 274a of this title that are pertinent to such grant or contract.

(d) "Transplant center" and "organ" defined

For purposes of this part:

(1) The term ''transplant center'' means a health care facility in which transplants of organs are performed.

(2) The term ''organ'' means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by the Secretary by regulation and for purposes of section 274a of this title, such term includes bone marrow.

(July 1, 1944, ch. 373, title III, § 374, as added Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2345; amended Pub. L. 100–607, title IV, § 402(b), Nov. 4, 1988, 102 Stat. 3114; Pub. L. 101–616, title II, § 203, Nov. 16, 1990, 104 Stat. 3284.)

PRIOR PROVISIONS

A prior section 374 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 961, which related to acceptance and administration of gifts to National Library of Medicine and to establishment of memorials to donors, was renumbered section 384 and classified to section 278 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–616, § 203(1), substituted ''No grant may be made under this part'' for ''No grant may be made under section 273 or 274a of this title''.

Subsec. (b). Pub. L. 101–616, § 203(2), redesignated par. (2) as (1) and substituted ''section 273(a)(1)'' for ''section 273'', struck out former par. (1) which set forth factors in considering applications for section 273 grants, redesignated par. (3) as (2) and substituted ''section 273(a)(2)'' for ''paragraphs (2) and (3) of section 273(a)'', and added par. (3).

Subsec. (c). Pub. L. 101–616, § 203(3), inserted ''or contract'' after ''grant'' wherever appearing and ''and contracts'' after ''grants'' wherever appearing.

1988—Subsec. (b)(3). Pub. L. 100–607 substituted ''paragraphs (2) and (3) of section 273(a) of this title'' for ''section 273 of this title for the establishment, initial operation, or expansion of organ procurement organizations''.

§ 274c. Administration

The Secretary shall designate and maintain an identifiable administrative unit in the Public Health Service to—

(1) administer this part and coordinate with the organ procurement activities under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.],

(2) conduct a program of public information to inform the public of the need for organ donations,

(3) provide technical assistance to organ procurement organizations, the Organ Procurement and Transplantation Network established under section 274 of this title, and other entities in the health care system involved in organ donations, procurement, and transplants, and

(4) provide information—

(i) to patients, their families, and their physicians about transplantation; and

(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation.

(July 1, 1944, ch. 373, title III, § 375, as added Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2346; amended Pub. L. 100–607, title IV, § 405, Nov. 4, 1988, 102 Stat. 3116; Pub. L. 101–616, title II, § 204, Nov. 16, 1990, 104 Stat. 3285.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 375 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, which related to definitions, was renumbered section 385 and classified to section 279 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Pub. L. 101–616, § 204(a), struck out '', during fiscal years 1985 through 1990,'' after ''The Secretary shall''.

Par. (3). Pub. L. 101–616, § 204(b)(1), struck out ''receiving funds under section 273 of this title'' after ''organ procurement organizations''.

Par. (4). Pub. L. 101–616, § 204(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''not later than April 1 of each of the years 1989 and 1990, submit to the Congress a report on the status of organ donation and coordination services and include in the report an analysis of the efficiency and effectiveness of the procurement and allocation of organs and a description of problems encountered in the procurement and allocation of organs.''

1988—Pub. L. 100–607, in introductory provisions, substituted ''1985 through 1990'' for ''1985, 1986, 1987, and 1988'' and, in par. (4), substituted ''not later than April 1 of each of the years 1989 and 1990, submit to the Congress a report'' for ''one year after the date on which the Task Force on Organ Transplantation transmits its final report under section 104(c) of the National Organ Transplant Act, and annually thereafter through fiscal year 1988, submit to Congress an annual report''.

§ 274d. Report

Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.[1] a report on the scientific and clinical status of organ transplantation. The Secretary shall consult with the Director of the National Institutes of Health and the Commissioner of the Food and Drug Administration in the preparation of the report.

(July 1, 1944, ch. 373, title III, § 376, as added Pub. L. 98–507, title II, § 201, Oct. 19, 1984, 98 Stat. 2346; amended Pub. L. 100–607, title IV, § 406, Nov. 4, 1988, 102 Stat. 3116; Pub. L. 101–616, title II, § 205, Nov. 16, 1990, 104 Stat. 3285.)

PRIOR PROVISIONS

A prior section 376 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, which related to Library facilities, was renumbered section 386 and classified to section 280 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Pub. L. 101–616 substituted ''Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.'' for ''The Secretary shall, not later than October 1 of each year, publish''.

1988—Pub. L. 100–607 substituted ''shall, not later than October 1 of each year,'' for ''shall annually''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 274a of this title.

§ 274e. Prohibition of organ purchases

(a) Prohibition

It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.

(b) Penalties

Any person who violates subsection (a) of this section shall be fined not more than $50,000 or imprisoned not more than five years, or both.

(c) Definitions

For purposes of subsection (a) of this section:

(1) The term ''human organ'' means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.

(2) The term ''valuable consideration'' does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(3) The term ''interstate commerce'' has the meaning prescribed for it by section 321(b) of title 21.

(Pub. L. 98–507, title III, § 301, Oct. 19, 1984, 98 Stat. 2346; Pub. L. 100–607, title IV, § 407, Nov. 4, 1988, 102 Stat. 3116.)

CODIFICATION

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

AMENDMENTS

1988—Subsec. (c)(1). Pub. L. 100–607 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The term 'human organ' means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin, and any other human organ specified by the Secretary of Health and Human Services by regulation.''

§ 274f. Study by General Accounting Office

(a) In general

The Comptroller General of the United States shall conduct a study for the purpose of determining—

(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective;

(2) the problems encountered in the procurement and allocation; and

(3) the effect of State required-request laws.

(b) Report

Not later than January 7, 1992, the Comptroller General of the United States shall complete the study required in subsection (a) of this section and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

(July 1, 1944, ch. 373, title III, § 377, as added Pub. L. 101–616, title II, § 206(a), Nov. 16, 1990, 104 Stat. 3285.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 274g. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $8,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

(July 1, 1944, ch. 373, title III, § 378, as added Pub. L. 101–616, title II, § 206(a), Nov. 16, 1990, 104 Stat. 3285; amended Pub. L. 105–196, § 4(1), July 16, 1998, 112 Stat. 636.)

AMENDMENTS

1998—Pub. L. 105–196 made technical amendment relating to placement of section within part H of this subchapter.

[1] So in original. The period probably should be a comma.

PART I—NATIONAL BONE MARROW DONOR REGISTRY

AMENDMENTS

1990—Pub. L. 101–616, title I, § 101(a)(2), Nov. 16, 1990, 104 Stat. 3279, added part I ''National Bone Marrow Donor Registry'' and redesignated former part I ''Biomedical Ethics'' as J.

1985—Pub. L. 99–158, §§ 3(b), 11, Nov. 20, 1985, 99 Stat. 879, 883, added part I ''Biomedical Ethics'', and repealed former part I ''National Library of Medicine''.

1970—Pub. L. 91–212, § 10(a)(2), Mar. 13, 1970, 84 Stat. 66, redesignated part H ''National Library of Medicine'', as part I ''National Library of Medicine''.

§ 274k. National Registry

(a) Establishment

The Secretary shall by contract establish and maintain a National Bone Marrow Donor Registry (referred to in this part as the ''Registry'') that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets the requirements of this section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors meeting the following requirements:

(1) Each member of the board shall serve for a term of 2 years, and each such member may serve as many as 3 consecutive 2-year terms, except that such limitations shall not apply to the Chair of the board (or the Chair-elect) or to the member of the board who most recently served as the Chair.

(2) A member of the board may continue to serve after the expiration of the term of such member until a successor is appointed.

(3) In order to ensure the continuity of the board, the board shall be appointed so that each year the terms of approximately one-third of the members of the board expire.

(4) The membership of the board shall include representatives of marrow donor centers and marrow transplant centers; recipients of a bone marrow transplant; persons who require or have required such a transplant; family members of such a recipient or family members of a patient who has requested the assistance of the Registry in searching for an unrelated donor of bone marrow; persons with expertise in the social sciences; and members of the general public; and in addition nonvoting representatives from the Naval Medical Research and Development Command and from the Division of Organ Transplantation of the Health Resources and Services Administration.

(b) Functions

The Registry shall—

(1) establish a system for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

(2) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c) of this section, including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Registry;

(3) carry out informational and educational activities in accordance with subsection (c) of this section;

(4) annually update information to account for changes in the status of individuals as potential donors of bone marrow;

(5) provide for a system of patient advocacy through the office established under subsection (d) of this section;

(6) provide case management services for any potential donor of bone marrow to whom the Registry has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d) of this section), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

(7) with respect to searches for unrelated donors of bone marrow that are conducted through the system under paragraph (1), collect and analyze and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached; the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances; and comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers; and

(8) support studies and demonstration projects for the purpose of increasing the number of individuals, especially minorities, who are willing to be marrow donors.

(c) Recruitment; priorities; information and education

(1) Recruitment; priorities

The Registry shall carry out a program for the recruitment of bone marrow donors. Such program shall identify populations that are underrepresented among potential donors enrolled with the Registry. In the case of populations that are identified under the preceding sentence:

(A) The Registry shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

(B) The Registry shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

(2) Information and education regarding recruitment; testing and enrollment

(A) In general

In carrying out the program under paragraph (1), the Registry shall carry out informational and educational activities for purposes of recruiting individuals to serve as donors of bone marrow, and shall test and

enroll with the Registry potential donors. Such information and educational activities shall include the following:

(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

(ii) Educating and providing information to individuals who are willing to serve as potential donors, including providing updates.

(iii) Training individuals in requesting individuals to serve as potential donors.

(B) Priorities

In carrying out informational and educational activities under subparagraph (A), the Registry shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

(3) Transplantation as treatment option

In addition to activities regarding recruitment, the program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor.

(d) Patient advocacy; case management

(1) In general

The Registry shall establish and maintain an office of patient advocacy (in this subsection referred to as the ''Office'').

(2) General functions

The Office shall meet the following requirements:

(A) The Office shall be headed by a director.

(B) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for donor advocacy, and which shall serve patients for whom the Registry is conducting, or has been requested to conduct, a search for an unrelated donor of bone marrow.

(C) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under subsection (b)(1) of this section to conduct an ongoing search for a donor.

(D) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) of this section to determine whether the search needs of the patient involved are being met, including with respect to the following:

(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding donors who are suitability matched to the patient, and other information regarding the progress being made in the search.

(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

(iii) Identifying and resolving problems in the search, to the extent practicable.

(E) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) of this section to determine whether the Registry, donor centers, transplant centers, and other entities participating in the Registry program are complying with standards issued under subsection (e)(4) of this section for the system for patient advocacy under this subsection.

(F) The Office shall ensure that the following data are made available to patients:

(i) The resources available through the Registry.

(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

(iii) A list of donor registries, transplant centers, and other entities that meet the applicable standards, criteria, and procedures under subsection (e) of this section.

(iv) The posttransplant outcomes for individual transplant centers.

(v) Such other information as the Registry determines to be appropriate.

(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved.

(3) Case management

(A) In general

In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

(i) individualized case assessment; and

(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

(B) Postsearch functions

In addition to the case management services described in paragraph (1) for patients, the Office may, on behalf of patients who have completed the search for an unrelated donor, provide information and education on the process of receiving a transplant of bone marrow, including the posttransplant process.

(e) Criteria, standards, and procedures

Not later than 180 days after November 16, 1990, the Secretary shall establish and enforce, for entities participating in the program, including the Registry, individual marrow donor centers, marrow donor registries, marrow collection centers, and marrow transplant centers—

(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the

transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

(3) procedures to ensure the proper collection and transportation of the marrow;

(4) standards for the system for patient advocacy operated under subsection (d) of this section, including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;

(5) standards that—

(A) require the establishment of a system of strict confidentiality of records relating to the identity, address, HLA type, and managing marrow donor center for marrow donors and potential marrow donors; and

(B) prescribe the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure; and

(6) in the case of a marrow donor center or marrow donor registry participating in the program, procedures to ensure the establishment of a method for integrating donor files, searches, and general procedures of the center or registry with the Registry.

(f) Comment procedures

The Secretary shall establish and provide information to the public on procedures, which may include establishment of a policy advisory committee, under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Registry is carrying out the duties of the Registry under subsection (b) of this section and complying with the criteria, standards, and procedures described in subsection (e) of this section.

(g) Consultation

The Secretary shall consult with the board of directors of the Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

(h) Application

To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe.

(i) Eligibility

Entities eligible to receive a contract under this section shall include private nonprofit entities.

(j) Records

(1) Recordkeeping

Each recipient of a contract or subcontract under subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) Examination of records

The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract or subcontract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

(k) Penalties for disclosure

Any person who discloses the content of any record referred to in subsection (e)(5)(A) of this section without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (e)(5)(B) of this section, shall be imprisoned for not more than 2 years or fined in accordance with title 18, or both.

(*l*) Annual report regarding pretransplant costs

The Registry shall annually submit to the Secretary the data collected under subsection (b)(7) of this section on comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers. The data shall be submitted to the Secretary through inclusion in the annual report required in section 274*l*(c) of this title.

(July 1, 1944, ch. 373, title III, § 379, as added Pub. L. 101–616, title I, § 101(a)(2), Nov. 16, 1990, 104 Stat. 3279; amended Pub. L. 105–196, § 2(a), (b)(1), (c)–(g), July 16, 1998, 112 Stat. 631–635.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–196, § 2(a), substituted ''(referred to in this part as the 'Registry') that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets'' for ''(referred to in this part as the 'Registry') that meets'' and substituted ''under the direction of a board of directors meeting the following requirements:'' and pars. (1) to (4) for ''under the direction of a board of directors that shall include representatives of marrow donor centers, marrow transplant centers, persons with expertise in the social science, and the general public.''

Subsec. (b)(2) to (8). Pub. L. 105–196, § 2(b)(1), added pars. (2) to (7), redesignated former par. (7) as (8), and struck out former pars. (2) to (6) which read as follows:

''(2) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor;

''(3) increase the representation of individuals from racial and ethnic minority groups in the pool of potential donors for the Registry in order to enable an individual in a minority group, to the extent practicable, to have a comparable chance of finding a suitable unrelated donor as would an individual not in a minority group;

''(4) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

''(5) recruit potential bone marrow donors;

''(6) collect, analyze, and publish data concerning bone marrow donation and transplantation; and''.

Subsecs. (c), (d). Pub. L. 105–196, § 2(c), (d), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 105–196, § 2(c), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsec. (e)(4). Pub. L. 105–196, § 2(e), added par. (4) and struck out former par. (4) which read as follows: ''standards that require the provision of information to patients, their families, and their physicians at the start of the search process concerning—

''(A) the resources available through the Registry;

''(B) all other marrow donor registries meeting the standards described in this paragraph; and

''(C) in the case of the Registry—

''(i) the comparative costs of all charges by marrow transplant centers incurred by patients prior to transplantation; and

''(ii) the success rates of individual marrow transplant centers;''.

Subsec. (f). Pub. L. 105–196, § 2(c), (g)(1), redesignated subsec. (d) as (f) and substituted ''subsection (e)'' for ''subsection (c)''. Former subsec. (f) redesignated (h).

Subsecs. (g) to (i). Pub. L. 105–196, § 2(c), redesignated subsecs. (e) to (g) as (g) to (i), respectively. Former subsecs. (h) and (i) redesignated (j) and (k), respectively.

Subsec. (j). Pub. L. 105–196, § 2(c), redesignated subsec. (h) as (j) and struck out heading and text of former subsec. (j). Text read as follows: ''There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993.''

Subsec. (k). Pub. L. 105–196, § 2(c), (g)(2), redesignated subsec. (i) as (k) and substituted ''subsection (e)(5)(A)'' for ''subsection (c)(5)(A)'' and ''subsection (e)(5)(B)'' for ''subsection (c)(5)(B)''.

Subsec. (*l*). Pub. L. 105–196, § 2(f), added subsec. (*l*).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–196, § 7, July 16, 1998, 112 Stat. 637, provided that: ''This Act [see Short Title of 1998 Amendment note set out under section 201 of this title] takes effect October 1, 1998, or upon the date of the enactment of this Act [July 16, 1998], whichever occurs later.''

SAVINGS PROVISION

Section 102 of title I of Pub. L. 101–616 provided that:

''(a) IN GENERAL.—This title [enacting this section and section 274*l* of this title and amending section 274a of this title], and the amendments made by this title, shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act [Nov. 16, 1990], or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act [section 274a(b) of this title] (as it existed before the amendment made by section 101(b) of this Act).

''(b) CONTINUED EFFECT.—A legal document described in subsection (a) or an order issued in a lawsuit described in subsection (a) shall continue in effect until modified, terminated, or revoked.

''(c) PROCEEDINGS.—In any administrative proceeding or lawsuit described in subsection (a), parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.''

REPORT OF INSPECTOR GENERAL; PLAN REGARDING RELATIONSHIP BETWEEN REGISTRY AND DONOR CENTERS

Pub. L. 105–196, § 2(b)(2), July 16, 1998, 112 Stat. 632, provided that: ''The Secretary of Health and Human Services shall ensure that, not later than 1 year after the date of the enactment of this Act [July 16, 1998], the National Bone Marrow Donor Registry (under section 379 of the Public Health Service Act [this section]) develops, evaluates, and implements a plan to effectuate efficiencies in the relationship between such Registry and donor centers. The plan shall incorporate, to the extent practicable, the findings and recommendations made in the inspection conducted by the Office of the Inspector General (Department of Health and Human Services) as of January 1997 and known as the Bone Marrow Program Inspection.''

STUDY BY GENERAL ACCOUNTING OFFICE

Pub. L. 105–196, § 5, July 16, 1998, 112 Stat. 636, provided that:

''(a) IN GENERAL.—During the period indicated pursuant to subsection (b), the Comptroller General of the United States shall conduct a study of the National Bone Marrow Donor Registry under section 379 of the Public Health Service Act [this section] for purposes of making determinations of the following:

''(1) The extent to which, relative to the effective date of this Act [Oct. 1, 1998], such Registry has increased the representation of racial and ethnic minority groups (including persons of mixed ancestry) among potential donors of bone marrow who are enrolled with the Registry, and whether the extent of increase results in a level of representation that meets the standard established in subsection (c)(1)(A) of such section 379 [subsec. (c)(1)(A) of this section] (as added by section 2(c) of this Act).

''(2) The extent to which patients in need of a transplant of bone marrow from a biologically unrelated donor, and the physicians of such patients, have been utilizing the Registry in the search for such a donor.

''(3) The number of such patients for whom the Registry began a preliminary search but for whom the full search process was not completed, and the reasons underlying such circumstances.

''(4) The extent to which the plan required in section 2(b)(2) of this Act [set out as a note above] (relating to the relationship between the Registry and donor centers) has been implemented.

''(5) The extent to which the Registry, donor centers, donor registries, collection centers, transplant centers, and other appropriate entities have been complying with the standards, criteria, and procedures under subsection (e) of such section 379 [subsec. (e) of this section] (as redesignated by section 2(c) of this Act).

''(b) REPORT.—A report describing the findings of the study under subsection (a) shall be submitted to the Congress not later than October 1, 2001. The report may not be submitted before January 1, 2001.''

COMPLIANCE WITH NEW REQUIREMENTS FOR OFFICE OF PATIENT ADVOCACY

Pub. L. 105–196, § 6, July 16, 1998, 112 Stat. 636, provided that: ''With respect to requirements for the office of patient advocacy under section 379(d) of the Public Health Service Act [subsec. (d) of this section], the Secretary of Health and Human Services shall ensure that, not later than 180 days after the effective date of this Act [Oct. 1, 1998], such office is in compliance with all requirements (established pursuant to the amendment made by section 2(d) [amending this section]) that are additional to the requirements that under section 379 of such Act [this section] were in effect with respect to patient advocacy on the day before the date of the enactment of this Act [July 16, 1998].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 274*l* of this title.

§ 274*l*. Bone marrow scientific registry

(a) Establishment of recipient registry

The Secretary, acting through the Registry under section 274k of this title (in this section referred to as the ''Registry''), shall establish and maintain a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor.

(b) Information

The scientific registry under subsection (a) of this section shall include information with re-

spect to patients described in subsection (a) of this section, transplant procedures, and such other information as the Secretary determines to be appropriate to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors.

(c) Annual report on patient outcomes

The Registry shall annually submit to the Secretary a report concerning patient outcomes with respect to each transplant center. Each such report shall use data collected and maintained by the scientific registry under subsection (a) of this section. Each such report shall in addition include the data required in section 274k(*l*) of this title (relating to pretransplant costs).

(July 1, 1944, ch. 373, title III, § 379A, as added Pub. L. 105–196, § 3, July 16, 1998, 112 Stat. 635.)

PRIOR PROVISIONS

A prior section 274*l*, act July 1, 1944, ch. 373, title III, § 379A, as added Pub. L. 101–616, title I, § 101(a)(2), Nov. 16, 1990, 104 Stat. 3282, related to study by General Accounting Office, prior to repeal by Pub. L. 105–196, §§ 3, 7, July 16, 1998, 112 Stat. 635, 637, effective Oct. 1, 1998.

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 7 of Pub. L. 105–196, set out as an Effective Date of 1998 Amendment note under section 274k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 274k of this title.

§ 274m. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.

(July 1, 1944, ch. 373, title III, § 379B, as added Pub. L. 105–196, § 4(2), July 16, 1998, 112 Stat. 636.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 7 of Pub. L. 105–196, set out as an Effective Date of 1998 Amendment note under section 274k of this title.

§ 275. Repealed. Pub. L. 103–43, title I, § 121(a), June 10, 1993, 107 Stat. 133

Section, act July 1, 1944, ch. 373, title III, § 381, as added Nov. 20, 1985, Pub. L. 99–158, § 11, 99 Stat. 883; amended Nov. 4, 1988, Pub. L. 100–607, title I, § 157(a), 102 Stat. 3059, established the Biomedical Ethics Board and provided for its membership, functions, reports to Congress, etc., and provided for appointment of a Biomedical Ethics Advisory Committee to assist the Biomedical Ethics Board.

A prior section 275, act July 1, 1944, ch. 373, title III, § 381, formerly § 371, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960; renumbered § 381, Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), 84 Stat. 66, established a National Library of Medicine in the Public Health Service and stated the congressional purposes for such establishment, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

§§ 276 to 280a–1. Repealed. Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879

Section 276, act July 1, 1944, ch. 373, title III, § 382, formerly § 372, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960; renumbered § 382 and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (b)(1), (d)(1), 84 Stat. 66, 67; Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(1), 85 Stat. 463, related to functions of Secretary with regard to acquisition, etc., of materials and rules for public access to materials.

Section 277, act July 1, 1944, ch. 373, title III, § 383, formerly § 373, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960; amended Oct. 22, 1965, Pub. L. 89–291, § 4, 79 Stat. 1067; renumbered § 383 and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(2), 85 Stat. 464; Nov. 9, 1978, Pub. L. 95–622, title II, § 212, 92 Stat. 3421, related to establishment, etc., of Board of Regents.

Section 278, act July 1, 1944, ch. 373, title III, § 384, formerly § 374, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 961; renumbered § 384 and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695; Apr. 26, 1983, Pub. L. 98–24, § 2(a)(2), 97 Stat. 176, related to acceptance and administration of gifts and establishment of memorials to donors.

Section 279, act July 1, 1944, ch. 373, title III, § 385, formerly § 375, as added Aug. 3, 1956, ch. 907 § 1, 70 Stat. 962; renumbered § 385 and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (b)(2), 84 Stat. 66, defined ''medicine'' and ''medical''.

Section 280, act July 1, 1944, ch. 373, title III, § 386, formerly § 376, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962; renumbered § 386 and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(3), 85 Stat. 464, authorized appropriations for erection and equipment of Library.

Section 280a, act July 1, 1944, ch. 373, title III, § 387, formerly § 377, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962; amended 1970 Reorg. Plan No. 2 § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; renumbered § 387, Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), 84 Stat. 66, related to transfer of Armed Forces Medical Library to Public Health Service for use in administration of part I.

Section 280a–1, act July 1, 1944, ch. 373, title III, § 388, formerly § 378, as added Oct. 22, 1965, Pub. L. 89–291, § 3, 79 Stat. 1067; renumbered § 388 and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Nov. 18, 1971, Pub. L. 92–157, title III, § 301(d)(4), 85 Stat. 464, related to establishment of regional branches.

PART J—PREVENTION AND CONTROL OF INJURIES

AMENDMENTS

1993—Pub. L. 103–183, title II, § 203(a)(1), Dec. 14, 1993, 107 Stat. 2232, substituted ''Prevention and Control of Injuries'' for ''Injury Control'' in part heading.

Pub. L. 103–43, title XX, § 2008(i)(2)(B)(i), June 10, 1993, 107 Stat. 213, redesignated part K ''Injury Control'' as J. Former part J ''Biomedical Ethics'', consisting of section 275, was repealed by Pub. L. 103–43, title I, § 121(a), June 10, 1993, 107 Stat. 133.

1990—Pub. L. 101–616, title I, § 101(a)(1), Nov. 16, 1990, 104 Stat. 3279, redesignated part I ''Biomedical Ethics'' as J. Former part J ''Injury Control'' redesignated K.

§ 280b. Research

(a) The Secretary, through the Director of the Centers for Disease Control and Prevention, shall—

(1) conduct, and give assistance to public and nonprofit private entities, scientific institutions, and individuals engaged in the conduct of, research relating to the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries;

(2) make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including academic institutions, hospitals, and laboratories) and individuals for the conduct of such research; and

(3) make grants to, or enter into cooperative agreements or contracts with, academic institutions for the purpose of providing training on the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries.

(b) The Secretary, through the Director of the Centers for Disease Control and Prevention, shall collect and disseminate, through publications and other appropriate means, information concerning the practical applications of research conducted or assisted under subsection (a) of this section. In carrying out the preceding sentence, the Secretary shall disseminate such information to the public, including through elementary and secondary schools.

(July 1, 1944, ch. 373, title III, § 391, as added Pub. L. 99–649, § 3, Nov. 10, 1986, 100 Stat. 3633; amended Pub. L. 101–558, § 2(a), Nov. 15, 1990, 104 Stat. 2772; Pub. L. 102–531, title III, § 312(d)(3), Oct. 27, 1992, 106 Stat. 3504; Pub. L. 103–183, title II, § 203(b)(2), Dec. 14, 1993, 107 Stat. 2232.)

PRIOR PROVISIONS

A prior section 280b, act July 1, 1944, ch. 373, title III, § 390, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1059; amended Mar. 13, 1970, Pub. L. 91–212, §§ 4(b), 5(b), 6(b), 84 Stat. 64, 65; July 23, 1974, Pub. L. 93–353, title II, §§ 201(a), (b), 202(a), 88 Stat. 371, 372; Aug. 1, 1977, Pub. L. 95–83, title II, § 202, 91 Stat. 386; Nov. 9, 1978, Pub. L. 95–622, title II, § 211, 92 Stat. 3420; Aug. 13, 1981, Pub. L. 97–35, title IX, § 925(a), 95 Stat. 569, set forth findings and declaration of policy and authorized appropriations with regard to assistance to medical libraries, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

A prior section 391 of act July 1, 1944, ch. 373, title III, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1059; amended Mar. 13, 1970, Pub. L. 91–212, § 10(b)(3), 84 Stat. 66; July 23, 1974, Pub. L. 93–353, title II, § 202(b), 88 Stat. 372, which defined ''sciences related to health'', ''National Medical Libraries Assistance Advisory Board'', ''Board'', and ''medical library'', was classified to section 280b–1 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–183 inserted at end ''In carrying out the preceding sentence, the Secretary shall disseminate such information to the public, including through elementary and secondary schools.''

1992—Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'' in subsecs. (a) and (b).

1990—Subsec. (a)(2). Pub. L. 101–558, § 2(a)(1), inserted '', or enter into cooperative agreements or contracts with,'' after ''grants to''.

Subsec. (a)(3). Pub. L. 101–558, § 2(a)(2), added par. (3).

FINDINGS AND PURPOSES

Section 2 of Pub. L. 99–649 provided that:

''(a) The Congress finds and declares that:

''(1) Injury is one of the principal public health problems in America, and causes over 140,000 deaths per year.

''(2) Injury rates are particularly high for children and the elderly.

''(3) Injury causes 50 percent of all deaths for children over the age of one year and two-thirds of all deaths for children over the age of 15 years, and is the leading cause of death for individuals under the age of 44 years. Individuals over the age of 65 years have the highest fatality rates for many injuries.

''(4) Injury control has not been given high priority in the United States, and the research being conducted on injury control and the number of personnel involved in injury control activities are not adequate.

''(b) The purposes of this Act [enacting this part] are—

''(1) to promote research into the causes, diagnosis, treatment, prevention, and control of injuries and rehabilitation from injuries;

''(2) to promote cooperation between specialists in fields involved in injury research; and

''(3) to promote coordination between Federal, State, and local governments and public and private entities in order to achieve a reduction in deaths from injuries.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b–1a of this title.

§ 280b–1. Prevention and control activities

(a) The Secretary, through the Director of the Centers for Disease Control and Prevention, shall—

(1) assist States and political subdivisions of States in activities for the prevention and control of injuries; and

(2) encourage regional activities between States designed to reduce injury rates.

(b) The Secretary, through the Director of the Centers for Disease Control and Prevention, may—

(1) enter into agreements between the Service and public and private community health agencies which provide for cooperative planning of activities to deal with problems relating to the prevention and control of injuries;

(2) work in cooperation with other Federal agencies, and with public and nonprofit private entities, to promote activities regarding the prevention and control of injuries; and

(3) make grants to States and, after consultation with State health agencies, to other public or nonprofit private entities for the purpose of carrying out demonstration projects for the prevention and control of injuries at sites that are not subject to the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.], including homes, elementary and secondary schools, and public buildings.

(July 1, 1944, ch. 373, title III, § 392, as added Pub. L. 99–649, § 3, Nov. 10, 1986, 100 Stat. 3634; amended Pub. L. 101–558, § 2(b), Nov. 15, 1990, 104 Stat. 2772; Pub. L. 102–531, title III, §§ 301, 312(d)(4), Oct. 27, 1992, 106 Stat. 3482, 3504; Pub. L. 103–183, title II, § 203(a)(2), (b)(1), Dec. 14, 1993, 107 Stat. 2232.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b)(3), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 280b–1, act July 1, 1944, ch. 373, title III, § 391, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1059; amended Mar. 13, 1970, Pub. L. 91–212, § 10(b)(3), 84 Stat. 66; July 23, 1974, Pub. L. 93–353, title II, § 202(b), 88 Stat. 372, defined ''sciences related to health'', ''National Medical Libraries Assistance Advi-

sory Board'', ''Board'', and ''medical library'', prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

A prior section 392 of act July 1, 1944, ch. 373, title III, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1060; amended Mar. 13, 1970, Pub. L. 91–212, § 10(b)(4), (d)(2)(A), 84 Stat. 66, 67; July 23, 1974, Pub. L. 93–353, title II, § 202(c), 88 Stat. 372, which related to composition, functions, etc., of the National Medical Libraries Assistance Advisory Board, was classified to section 280b–2 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1993—Pub. L. 103–183, § 203(a)(2)(A), substituted ''Prevention and control activities'' for ''Control activities'' in section catchline.

Subsec. (a)(1). Pub. L. 103–183, § 203(a)(2)(B), inserted ''and control'' after ''prevention''.

Subsec. (b)(1). Pub. L. 103–183, § 203(a)(2)(C), substituted ''the prevention and control of injuries'' for ''injuries and injury control''.

Subsec. (b)(2). Pub. L. 103–183, § 203(b)(1), substituted ''to promote activities regarding the prevention and control of injuries; and'' for ''to promote injury control. In carrying out the preceding sentence, the Secretary shall disseminate such information to the public, including through elementary and secondary schools; and''.

1992—Pub. L. 102–531, § 312(d)(4), substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'' in introductory provisions of subsecs. (a) and (b).

Subsec. (b)(1). Pub. L. 102–531, § 301(1), struck out ''and'' after semicolon at end.

Subsec. (b)(2). Pub. L. 102–531, § 301(2), inserted sentence requiring Secretary to disseminate information on injury control to the public, including through elementary and secondary schools and substituted ''; and'' for period at end.

Subsec. (b)(3). Pub. L. 102–531, § 301(3), added par. (3).

1990—Subsec. (b)(2). Pub. L. 101–558 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''work in cooperation with Federal, State, and local agencies to promote injury control.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b–1a of this title.

§ 280b–1a. Interpersonal violence within families and among acquaintances

(a) With respect to activities that are authorized in sections 280b and 280b–1 of this title, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out such activities with respect to interpersonal violence within families and among acquaintances. Activities authorized in the preceding sentence include the following:

(1) Collecting data relating to the incidence of such violence.

(2) Making grants to public and nonprofit private entities for the evaluation of programs whose purpose is to prevent such violence, including the evaluation of demonstration projects under paragraph (6).

(3) Making grants to public and nonprofit private entities for the conduct of research on identifying effective strategies for preventing such violence.

(4) Providing to the public information and education on such violence, including information and education to increase awareness of the public health consequences of such violence.

(5) Training health care providers as follows:

(A) To identify individuals whose medical conditions or statements indicate that the individuals are victims of such violence.

(B) To routinely determine, in examining patients, whether the medical conditions or statements of the patients so indicate.

(C) To refer individuals so identified to entities that provide services regarding such violence, including referrals for counseling, housing, legal services, and services of community organizations.

(6) Making grants to public and nonprofit private entities for demonstration projects with respect to such violence, including with respect to prevention.

(b) For purposes of this part, the term ''interpersonal violence within families and among acquaintances'' includes behavior commonly referred to as domestic violence, sexual assault, spousal abuse, woman battering, partner abuse, elder abuse, and acquaintance rape.

(July 1, 1944, ch. 373, title III, § 393, as added Pub. L. 103–183, title II, § 201(2), Dec. 14, 1993, 107 Stat. 2231.)

PRIOR PROVISIONS

A prior section 393 of act July 1, 1944, was renumbered section 394 and is classified to section 280b–2 of this title.

Another prior section 393 of act July 1, 1944, was renumbered section 394 and was classified to section 280b–4 of this title.

§ 280b–1b. Prevention of traumatic brain injury

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

(b) Certain activities

Activities under subsection (a) of this section may include—

(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

(c) Coordination of activities

The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

(d) "Traumatic brain injury" defined

For purposes of this section, the term ''traumatic brain injury'' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include

brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(July 1, 1944, ch. 373, title III, § 393A, as added Pub. L. 104–166, § 1, July 29, 1996, 110 Stat. 1445.)

§ 280b–2. General provisions

(a) Advisory committee

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish an advisory committee to advise the Secretary and such Director with respect to the prevention and control of injuries.

(b) Technical assistance

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may provide technical assistance to public and nonprofit private entities with respect to the planning, development, and operation of any program or service carried out pursuant to this part. The Secretary may provide such technical assistance directly or through grants or contracts.

(c) Biennial report

Not later than February 1 of 1995 and of every second year thereafter, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this part during the preceding 2 fiscal years. Such report shall include a description of such activities that were carried out with respect to interpersonal violence within families and among acquaintances and with respect to rural areas.

(July 1, 1944, ch. 373, title III, § 394, formerly § 393, as added Pub. L. 99–649, § 3, Nov. 10, 1986, 100 Stat. 3634; amended Pub. L. 101–558, § 2(c), Nov. 15, 1990, 104 Stat. 2772; Pub. L. 102–531, title III, § 312(d)(5), Oct. 27, 1992, 106 Stat. 3504; renumbered § 394 and amended Pub. L. 103–183, title II, §§ 201(1), 202, Dec. 14, 1993, 107 Stat. 2231, 2232.)

PRIOR PROVISIONS

A prior section 280b–2, act July 1, 1944, ch. 373, title III, § 392, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1060; amended Mar. 13, 1970, Pub. L. 91–212, § 10(b)(4), (d)(2)(A), 84 Stat. 66, 67; July 23, 1974, Pub. L. 93–353, title II, § 202(c), 88 Stat. 372, related to composition, functions, etc., of National Medical Libraries Assistance Advisory Board, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

A prior section 394 of act July 1, 1944, was renumbered section 394A and is classified to section 280b–3 of this title.

AMENDMENTS

1993—Pub. L. 103–183, § 202, amended section generally. Prior to amendment, section read as follows: ''By not later than September 30, 1992, the Secretary, through the Director of the Centers for Disease Control and Prevention, shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities conducted or supported under this part. The report shall include—

''(1) information regarding the practical applications of research conducted pursuant to subsection (a) of section 280b of this title, including information that has not been disseminated under subsection (b) of such section; and

''(2) information on such activities regarding the prevention and control of injuries in rural areas, including information regarding injuries that are particular to rural areas.''

1992—Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'' in introductory provisions.

1990—Pub. L. 101–558 amended section generally. Prior to amendment, section read as follows: ''By January 1, 1989, the Secretary, through the Director of the Centers for Disease Control, shall prepare and transmit to the Congress a report analyzing the incidence and causes of childhood injuries in the United States and containing recommendations for such legislation with respect to injury control as the Secretary considers appropriate.''

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 280b–3. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

(July 1, 1944, ch. 373, title III, § 394A, formerly § 394, as added Pub. L. 99–649, § 3, Nov. 10, 1986, 100 Stat. 3634; amended Pub. L. 101–558, § 2(d), Nov. 15, 1990, 104 Stat. 2773; renumbered § 394A and amended Pub. L. 103–183, title II, §§ 201(1), 204, Dec. 14, 1993, 107 Stat. 2231, 2233.)

PRIOR PROVISIONS

A prior section 280b–3, act July 1, 1944, ch. 373, title III, § 393, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1060; amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(a), 3, 10(d)(2), 84 Stat. 63, 64, 67, related to grants for construction of medical library facilities, prior to repeal by Pub. L. 93–353, title II, § 202(d), July 23, 1974, 88 Stat. 372.

Prior sections 280b–4 to 280b–11 were repealed by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

Section 280b–4, act July 1, 1944, ch. 373, title III, § 393, formerly § 394, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1062; amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(b), 10(d)(2)(A), 84 Stat. 63, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(a), 87 Stat. 92; renumbered § 393 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(a), 204, 88 Stat. 372, 373, related to grants for training in medical library sciences.

Section 280b–5, act July 1, 1944, ch. 373, title III, § 394, formerly § 395, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1062; amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(c), (d), 4(a), 5(a), 10(c)(1)(A), (B), (2)(A)–(C), (d)(2)(A), 84 Stat. 63, 64, 66, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(b), (c), 87 Stat. 92; renumbered § 394 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(b), 204, 88 Stat. 372, 373, related to assistance for special scientific projects; research and development in medical library science and related fields.

Section 280b–6, act July 1, 1944, ch. 373, title III, § 396, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1063, was redesignated as subsecs. (b) and (c) of section 280b–5 of this title by Pub. L. 91–212, § 10(c)(2), Mar. 13, 1970, 84 Stat. 66.

Section 280b–7, act July 1, 1944, ch. 373, title III, § 395, formerly § 397, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1063; renumbered § 396 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(e), 6(a)(1), (2), 10(c)(3), (d)(2)(A), 84 Stat. 63, 64, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(d), 87 Stat. 92; renumbered § 395 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(c), 204, 88 Stat. 372, 373, related to grants for establishing, expanding, and improving basic medical library or related resources.

Section 280b–8, act July 1, 1944, ch. 373, title III, § 396, formerly § 398, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1065; renumbered § 397 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(f), 7, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(e), 87 Stat. 92; renumbered § 396 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 202(e), (f), 203(d), 204, 88 Stat. 372, 373, related to grants for establishment of regional medical libraries.

Section 280b–9, act July 1, 1944, ch. 373, title III, § 397, formerly § 399, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1066; renumbered § 398 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(g), 8, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(f), 87 Stat. 92; renumbered § 397 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(e), 204, 88 Stat. 372, 373, related to grants to provide support for biomedical scientific publications.

Section 280b–10, act July 1, 1944, ch. 373, title III, § 398, formerly § 399a, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1066; renumbered § 399, Mar. 13, 1970, Pub. L. 91–212, § 10(c)(3), 84 Stat. 67; renumbered § 398, July 23, 1974, Pub. L. 93–353, title II, § 204, 88 Stat. 373, related to the continuing availability of appropriated funds.

Section 280b–11, act July 1, 1944, ch. 373, title III, § 399, formerly § 399b, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1066; renumbered § 399a and amended Mar. 13, 1970, Pub. L. 91–212, § 10(c)(3), (d)(2)(A), 84 Stat. 67; renumbered § 399, July 23, 1974, Pub. L. 93–353, title II, § 204, 88 Stat. 373; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695, related to the maintenance of records by recipients of grants and audits thereof by the Secretary of Health and Human Services and the Comptroller General of the United States.

A prior section 280b–12, act July 1, 1944, ch. 373, title III, § 399b, as added Mar. 13, 1970, Pub. L. 91–212, § 9, 84 Stat. 65, related to transfer of funds, prior to repeal by Pub. L. 93–353, title II, § 204, July 23, 1974, 88 Stat. 373, applicable with respect to fiscal years beginning after June 30, 1974.

AMENDMENTS

1993—Pub. L. 103–183, § 204, amended section generally. Prior to amendment, section read as follows: ''To carry out sections 280b and 280b–1 of this title, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1988, 1989, and 1990, $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.''

1990—Pub. L. 101–558 struck out subsec. (a) designation, inserted before period at end of first sentence '', $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993'', and struck out at end ''Of the amounts appropriated under this section for any fiscal year, not more than 20 percent may be used for Federal administrative expenses to carry out such section for such fiscal year.''

PART K—HEALTH CARE SERVICES IN THE HOME

AMENDMENTS

1993—Pub. L. 103–43, title XX, § 2008(i)(2)(B)(i), June 10, 1993, 107 Stat. 213, redesignated part L ''Health Care Services in the Home'' as K. Former part K ''Injury Control'' redesignated J.

1990—Pub. L. 101–616, title I, § 101(a)(1), Nov. 16, 1990, 104 Stat. 3279, redesignated part J ''Injury Control'' as K. Former part K ''Health Care Services in the Home'' redesignated L.

PRIOR PROVISIONS

A prior part K, added Pub. L. 93–222, § 3, Dec. 29, 1973, 87 Stat. 934, related to quality assurance, prior to repeal by Pub. L. 95–623, § 11(b), Nov. 9, 1978, 92 Stat. 3455.

SUBPART I—GRANTS FOR DEMONSTRATION PROJECTS

§ 280c. Establishment of program

(a) In general

The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make not less than 5, and not more than 20, grants to States for the purpose of assisting grantees in carrying out demonstration projects—

(1) to identify low-income individuals who can avoid institutionalization or prolonged hospitalization if skilled medical services, skilled nursing care services, homemaker or home health aide services, or personal care services are provided in the homes of the individuals;

(2) to pay the costs of the provision of such services in the homes of such individuals; and

(3) to coordinate the provision by public and private entities of such services, and other long-term care services, in the homes of such individuals.

(b) Requirement with respect to age of recipients of services

The Secretary may not make a grant under subsection (a) of this section to a State unless the State agrees to ensure that—

(1) not less than 25 percent of the grant is expended to provide services under such subsection to individuals who are not less than 65 years of age; and

(2) of the portion of the grant reserved by the State for purposes of complying with paragraph (1), not less than 10 percent is expended to provide such services to individuals who are not less than 85 years of age.

(c) Relationship to items and services under other programs

A State may not make payments from a grant under subsection (a) of this section for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(2) by an entity that provides health services on a prepaid basis.

(July 1, 1944, ch. 373, title III, § 395, as added Pub. L. 100–175, title VI, § 602, Nov. 29, 1987, 101 Stat. 979; amended Pub. L. 101–557, title I, § 101(a)–(c),

Nov. 15, 1990, 104 Stat. 2766; Pub. L. 102–108, § 2(f), Aug. 17, 1991, 105 Stat. 550.)

PRIOR PROVISIONS

A prior section 280C, act July 1, 1944, ch. 373, title III, § 399A, formerly § 399c, as added Dec. 29, 1973, Pub. L. 93–222, § 3, 87 Stat. 934; renumbered § 399A, July 29, 1975, Pub. L. 94–63, title VI, § 607(a), (c), 89 Stat. 351, provided for programs designed to assure the quality of health care, prior to repeal by Pub. L. 95–623, § 11(b), Nov. 9, 1978, 92 Stat. 3455.

A prior section 395 of act July 1, 1944, ch. 373, title III, formerly § 397, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1063; renumbered § 396 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(e), 6(a)(1), (2), 10(c)(3), (d)(2)(A), 84 Stat. 63, 64, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(d), 87 Stat. 92; renumbered § 395 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(c), 204, 88 Stat. 372, 373, which related to grants for establishing, expanding, and improving basic medical library or related resources, was classified to section 280b–7 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–108 inserted ''skilled medical services,'' after ''if''.

1990—Subsec. (a). Pub. L. 101–557, § 101(a), substituted ''shall make not less than 5, and not more than 20, grants'' for ''shall make not less than 3, and not more than 5, grants''.

Subsec. (a)(1). Pub. L. 101–557, § 101(b), substituted ''skilled nursing care services, homemaker or home health aide services, or personal care services are provided in the homes of the individuals'' for ''skilled medical services or related health services (or both) are provided in the homes of the individuals''.

Subsec. (b). Pub. L. 101–557, § 101(c), substituted ''to ensure that—'' and pars. (1) and (2) for ''to ensure that not less than 25 percent of individuals receiving services pursuant to subsection (a) of this section are individuals who are not less than 65 years of age''.

EFFECTIVE DATE

Part effective Oct. 1, 1987, see section 701(a) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

SHORT TITLE

For short title of title VI of Pub. L. 100–175, which enacted this part as the ''Health Care Services in the Home Act of 1987'', see section 601 of Pub. L. 100–175, set out as a Short Title of 1987 Amendments note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280c–1, 280c–2 of this title.

§ 280c–1. Limitation on duration of grant and requirement of matching funds

(a) Limitation on duration of grant

The period during which payments are made to a State from a grant under section 280c(a) of this title may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

(b) Requirement of matching funds

(1)(A) For the first year of payments to a State from a grant under section 280c(a) of this title, the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

(2) The Secretary may not make a grant under section 280c(a) of this title to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c) of this section) for each $75 of Federal funds provided in the grant;

(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c) of this section) for each $65 of such Federal funds; and

(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c) of this section) for each $55 of such Federal funds.

(c) Determination of amount of non-Federal contribution

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

(July 1, 1944, ch. 373, title III, § 396, as added Pub. L. 100–175, title VI, § 602, Nov. 29, 1987, 101 Stat. 979.)

PRIOR PROVISIONS

A prior section 396 of act July 1, 1944, ch. 373, title III, formerly § 398, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1065; renumbered § 397 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(f), 7, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(e), 87 Stat. 92; renumbered § 396 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 202(e), (f), 203(d), 204, 88 Stat. 372, 373, which related to grants for establishment of regional medical libraries, was classified to section 280b–8 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

§ 280c–2. General provisions

(a) Limitation on administrative expenses

The Secretary may not make a grant under section 280c(a) of this title to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(b) Description of intended use of grant

The Secretary may not make a grant under section 280c(a) of this title to a State unless—

(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

(A) the number of individuals who will receive services pursuant to section 280c(a) of this title and the average costs of providing such services to each such individual; and

(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

(c) Requirement of application

The Secretary may not make a grant under section 280c(a) of this title to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

(1) contain the description of intended expenditures required in subsection (b) of this section;

(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

(d) Evaluations and report by Secretary

The Secretary shall—

(1) provide for an evaluation of each demonstration project for which a grant is made under section 280c(a) of this title; and

(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

(e) Authorizations of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990, $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

(July 1, 1944, ch. 373, title III, § 397, as added Pub. L. 100–175, title VI, § 602, Nov. 29, 1987, 101 Stat. 980; amended Pub. L. 101–557, title I, § 101(d), Nov. 15, 1990, 104 Stat. 2766.)

PRIOR PROVISIONS

A prior section 397 of act July 1, 1944, ch. 373, title III, formerly § 399, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1066; renumbered § 398 and amended Mar. 13, 1970, Pub. L. 91–212, §§ 2(g), 8, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67; June 18, 1973, Pub. L. 93–45, title I, § 107(f), 87 Stat. 92; renumbered § 397 and amended July 23, 1974, Pub. L. 93–353, title II, §§ 203(e), 204, 88 Stat. 372, 373, which related to grants to provide support for biomedical scientific publications, was classified to section 280b–9 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Subsec. (e). Pub. L. 101–557 substituted ''there are'' for ''there is'' and inserted before period at end '', $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993''.

SUBPART II—GRANTS FOR DEMONSTRATION PROJECTS WITH RESPECT TO ALZHEIMER'S DISEASE

§ 280c–3. Establishment of program

(a) In general

The Secretary shall make grants to States for the purpose of assisting grantees in carrying out demonstration projects for planning, establishing, and operating programs—

(1) to coordinate the development and operation with public and private organizations of diagnostic, treatment, care management, respite care, legal counseling, and education services provided within the State to individuals with Alzheimer's disease or related disorders and to the families and care providers of such individuals;

(2) to provide home health care, personal care, day care, companion services, short-term care in health facilities, and other respite care to individuals with Alzheimer's disease or related disorders who are living in single family homes or in congregate settings;

(3) to improve the access of such individuals to home-based or community-based long-term care services (subject to the services being provided by entities that were providing such services in the State involved as of October 1, 1995), particularly such individuals who are members of racial or ethnic minority groups, who have limited proficiency in speaking the English language, or who live in rural areas; and

(4) to provide to health care providers, to individuals with Alzheimer's disease or related disorders, to the families of such individuals, to organizations established for such individuals and such families, and to the general public, information with respect to—

(A) diagnostic services, treatment services, and related services available to such individuals and to the families of such individuals;

(B) sources of assistance in obtaining such services, including assistance under entitlement programs; and

(C) the legal rights of such individuals and such families.

(b) Requirement with respect to certain expenditures

The Secretary may not make a grant under subsection (a) of this section to a State unless the State agrees to expend not less than 50 percent of the grant for the provision of services described in subsection (a)(2) of this section.

(c) Relationship to items and services under other programs

A State may not make payments from a grant under subsection (a) of this section for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(2) by an entity that provides health services on a prepaid basis.

(July 1, 1944, ch. 373, title III, § 398, as added Pub. L. 100–175, title VI, § 602, Nov. 29, 1987, 101 Stat. 981; amended Pub. L. 101–557, title I, § 102(a), (b), Nov. 15, 1990, 104 Stat. 2767; Pub. L. 105–392, title III, § 302(a), Nov. 13, 1998, 112 Stat. 3586.)

PRIOR PROVISIONS

A prior section 398 of act July 1, 1944, ch. 373, title III, formerly § 399a, as added Oct. 22, 1965, Pub. L. 89–291, § 2,

79 Stat. 1066; renumbered § 399, Mar. 13, 1970, Pub. L. 91–212, § 10(c)(3), 84 Stat. 67; renumbered § 398, July 23, 1974, Pub. L. 93–353, title II, § 204, 88 Stat. 373, which related to the continuing availability of appropriated funds, was classified to section 280b–10 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 302(a)(1), struck out ''not less than 5, and not more than 15,'' after ''shall make'' in introductory provisions.

Subsec. (a)(2). Pub. L. 105–392, § 302(a)(2), inserted ''who are living in single family homes or in congregate settings'' after ''disorders'' and struck out ''and'' at end.

Subsec. (a)(3), (4). Pub. L. 105–392, § 302(a)(3), (4), added par. (3) and redesignated former par. (3) as (4).

1990—Subsec. (a). Pub. L. 101–557, § 102(a), substituted ''shall make not less than 5, and not more than 15, grants'' for ''shall make not less than 3, and not more than 5, grants''.

Subsec. (a)(1). Pub. L. 101–557, § 102(b), substituted ''with public and private organizations'' for ''by public and private organizations''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280c–4, 280c–5 of this title.

§ 280c–4. Requirement of matching funds

(a) Requirement of matching funds

(1)(A) For the first year of payments to a State from a grant under section 280c–3(a) of this title, the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

(C) For the third or subsequent year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

(2) The Secretary may not make a grant under section 280c–3(a) of this title to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c) of this section) for each $75 of Federal funds provided in the grant;

(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c) of this section) for each $65 of such Federal funds; and

(C) for the third or subsequent year of such payments to the State, not less than $45 (in cash or in kind under subsection (c) of this section) for each $55 of such Federal funds.

(b) Determination of amount of non-Federal contribution

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

(July 1, 1944, ch. 373, title III, § 398A, formerly § 399, as added Pub. L. 100–175, title VI, § 602, Nov. 29, 1987, 101 Stat. 982; renumbered § 398A, Pub. L. 102–321, title V, § 502(1), July 10, 1992, 106 Stat. 427; amended Pub. L. 105–392, title III, § 302(b), Nov. 13, 1998, 112 Stat. 3586.)

AMENDMENTS

1998—Pub. L. 105–392, § 302(b)(1), substituted ''Requirement of matching funds'' for ''Limitation on duration of grant and requirement of matching funds'' in section catchline.

Subsec. (a). Pub. L. 105–392, § 302(b)(2)–(4), redesignated subsec. (b) as (a), substituted ''third or subsequent year'' for ''third year'' in pars. (1)(C) and (2)(C), and struck out heading and text of former subsec. (a). Text read as follows: ''The period during which payments are made to a State from a grant under section 280c–3(a) of this title may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.''

Subsecs. (b), (c). Pub. L. 105–392, § 302(b)(3), redesignated subsecs. (b) and (c) as (a) and (b), respectively.

§ 280c–5. General provisions

(a) Limitation on administrative expenses

The Secretary may not make a grant under section 280c–3(a) of this title to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(b) Description of intended use of grant

The Secretary may not make a grant under section 280c–3(a) of this title to a State unless—

(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

(A) the number of individuals who will receive services pursuant to section 280c–3(a) of this title and the average costs of providing such services to each such individual; and

(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

(c) Requirement of application

The Secretary may not make a grant under section 280c–3(a) of this title to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

(1) contain the description of intended expenditures required in subsection (b) of this section;

(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

(d) Evaluations and report by Secretary

The Secretary shall—

(1) provide for an evaluation of each demonstration project for which a grant is made under section 280c–3(a) of this title; and

(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

(e) Authorizations of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990, $7,500,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993, $8,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(July 1, 1944, ch. 373, title III, § 398B, formerly § 399A, as added Pub. L. 100–175, title VI, § 602, Nov. 29, 1987, 101 Stat. 982; amended Pub. L. 101–557, title I, § 102(c), Nov. 15, 1990, 104 Stat. 2767; renumbered § 398B, Pub. L. 102–321, title V, § 502(1), July 10, 1992, 106 Stat. 427; Pub. L. 105–392, title III, § 302(c), Nov. 13, 1998, 112 Stat. 3586.)

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–392 substituted ''1991, such sums'' for ''1991, and such sums'' and inserted before period at end '', $8,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002''.

1990—Subsec. (e). Pub. L. 101–557 substituted ''there are'' for ''there is'' and inserted before period at end '', $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993''.

SUBPART III—GRANTS FOR HOME VISITING SERVICES FOR AT-RISK FAMILIES

§ 280c–6. Projects to improve maternal, infant, and child health

(a) In general

(1) Establishment of program

The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible entities to pay the Federal share of the cost of providing the services specified in subsection (b) of this section to families in which a member is—

(A) a pregnant woman at risk of delivering an infant with a health or developmental complication; or

(B) a child less than 3 years of age—

(i) who is experiencing or is at risk of a health or developmental complication, or of child abuse or neglect; or

(ii) who has been prenatally exposed to maternal substance abuse.

(2) Minimum period of awards; administrative consultations

(A) The Secretary shall award grants under paragraph (1) for periods of at least three years.

(B) The Administrator of the Administration for Children, Youth, and Families and the Director of the National Commission to Prevent Infant Mortality shall be consulted regarding the promulgation of program guidelines and funding priorities under this section.

(3) Requirement of status as medicaid provider

(A) Subject to subparagraph (B), the Secretary may make a grant under paragraph (1) only if, in the case of any service under such paragraph that is covered in the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(i) the entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under paragraph (1), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

(b) Home visiting services for eligible families

With respect to an eligible family, each of the following services shall, directly or through arrangement with other public or nonprofit private entities, be available (as applicable to the family member involved) in each project operated with a grant under subsection (a) of this section:

(1) Prenatal and postnatal health care.

(2) Primary health care for the children, including developmental assessments.

(3) Education for the parents concerning infant care and child development, including the development and utilization of parent and teacher resource networks and other family resource and support networks where such networks are available.

(4) Upon the request of a parent, providing the education described in paragraph (3) to other individuals who have responsibility for caring for the children.

(5) Education for the parents concerning behaviors that adversely affect health.

(6) Assistance in obtaining necessary health, mental health, developmental, social, housing, and nutrition services and other assistance, including services and other assistance under maternal and child health programs; the spe-

cial supplemental nutrition program for women, infants, and children; section 1786 of this title; title V of the Social Security Act [42 U.S.C. 701 et seq.]; title XIX of such Act [42 U.S.C. 1396 et seq.] (including the program for early and periodic screening, diagnostic, and treatment services described in section 1905(r) of such Act [42 U.S.C. 1396d(r)]); titles IV and XIX of the Social Security Act [42 U.S.C. 601 et seq., 1396 et seq.]; housing programs; other food assistance programs; and appropriate alcohol and drug dependency treatment programs, according to need.

(c) Considerations in making grants

In awarding grants under subsection (a) of this section, the Secretary shall take into consideration—

(1) the ability of the entity involved to provide, either directly or through linkages, a broad range of preventive and primary health care services and related social, family support, and developmental services;

(2) different combinations of professional and lay home visitors utilized within programs that are reflective of the identified service needs and characteristics of target populations;

(3) the extent to which the population to be targeted has limited access to health care, and related social, family support, and developmental services; and

(4) whether such grants are equitably distributed among urban and rural settings and whether entities serving Native American communities are represented among the grantees.

(d) Federal share

With respect to the costs of carrying out a project under subsection (a) of this section, a grant under such subsection for the project may not exceed 90 percent of such costs. To be eligible to receive such a grant, an applicant must provide assurances that the applicant will obtain at least 10 percent of such costs from non-Federal funds (and such contributions to such costs may be in cash or in-kind, including facilities and personnel).

(e) Rule of construction regarding at-risk births

For purposes of subsection (a)(1) of this section, a pregnant woman shall be considered to be at risk of delivering an infant with a health or developmental complication if during the pregnancy the woman—

(1) lacks appropriate access to, or information concerning, early and routine prenatal care;

(2) lacks the transportation necessary to gain access to the services described in subsection (b) of this section;

(3) lacks appropriate child care assistance, which results in impeding the ability of such woman to utilize health and related social services;

(4) is fearful of accessing substance abuse services or child and family support services; or

(5) is a minor with a low income.

(f) Delivery of services and case management

(1) Case management model

Home visiting services provided under this section shall be delivered according to a case management model, and a registered nurse, licensed social worker, or other licensed health care professional with experience and expertise in providing health and related social services in home and community settings shall be assigned as the case manager for individual cases under such model.

(2) Case manager

A case manager assigned under paragraph (1) shall have primary responsibility for coordinating and overseeing the development of a plan for each family that is to receive home visiting services under this section, and for coordinating the delivery of such services provided through appropriate personnel.

(3) Appropriate personnel

In determining which personnel shall be utilized in the delivery of services, the case manager shall consider—

(A) the stated objective of the project to be operated with the grant, as determined after considering identified gaps in the current service delivery system; and

(B) the nature of the needs of the family to be served, as determined at the initial assessment of the family that is conducted by the case manager, and through follow-up contacts by other providers of home visiting services.

(4) Family service plan

A case manager, in consultation with a team established in accordance with paragraph (5) for the family involved, shall develop a plan for the family following the initial visit to the home of the family. Such plan shall reflect—

(A) an assessment of the health and related social service needs of the family;

(B) a structured plan for the delivery of home visiting services to meet the identified needs of the family;

(C) the frequency with which such services are to be provided to the family;

(D) ongoing revisions made as the needs of family members change; and

(E) the continuing voluntary participation of the family in the plan.

(5) Home visiting services team

The team to be consulted under paragraph (4) on behalf of a family shall include, as appropriate, other nursing professionals, physician assistants, social workers, child welfare professionals, infant and early childhood specialists, nutritionists, and laypersons trained as home visitors. The case manager shall ensure that the plan is coordinated with those physician services that may be required by the mother or child.

(g) Outreach

Each grantee under subsection (a) of this section shall provide outreach and casefinding services to inform eligible families of the availability of home visiting services from the project.

(h) Confidentiality

In accordance with applicable State law, an entity receiving a grant under subsection (a) of

this section shall maintain confidentiality with respect to services provided to families under this section.

(i) Certain assurances

The Secretary may award a grant under subsection (a) of this section only if the entity involved provides assurances satisfactory to the Secretary that—

(1) the entity will provide home visiting services with reasonable frequency—

(A) to families with pregnant women, as early in the pregnancy as is practicable, and until the infant reaches at least 2 years of age; and

(B) to other eligible families, for at least 2 years; and

(2) the entity will coordinate with public health and related social service agencies to prevent duplication of effort and improve the delivery of comprehensive health and related social services.

(j) Submission to Secretary of certain information

The Secretary may award a grant under subsection (a) of this section only if the entity involved submits to the Secretary—

(1) a description of the population to be targeted for home visiting services and methods of outreach and casefinding for identifying eligible families, including the use of lay home visitors where appropriate;

(2) a description of the types and qualifications of home visitors used by the entity and the process by which the entity will provide continuing training and sufficient support to the home visitors; and

(3) such other information as the Secretary determines to be appropriate.

(k) Limitation regarding administrative expenses

Not more than 10 percent of a grant under subsection (a) of this section may be expended for administrative expenses with respect to the grant. The costs of training individuals to serve in the project involved are not subject to the preceding sentence.

(*l*) Restrictions on use of grant

To be eligible to receive a grant under this section, an entity must agree that the grant will not be expended—

(1) to provide inpatient hospital services;

(2) to make cash payments to intended recipients of services;

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(m) Reports to Secretary

To be eligible to receive a grant under this section, an entity must agree to submit an annual report on the services provided under this section to the Secretary in such manner and containing such information as the Secretary by regulation requires. At a minimum, the entity shall report information concerning eligible families, including—

(1) the characteristics of the families and children receiving services under this section;

(2) the usage, nature, and location of the provider, of preventive health services, including prenatal, primary infant, and child health care;

(3) the incidence of low birthweight and premature infants;

(4) the length of hospital stays for pre- and post-partum women and their children;

(5) the incidence of substantiated child abuse and neglect for all children within participating families;

(6) the number of emergency room visits for routine health care;

(7) the source of payment for health care services and the extent to which the utilization of health care services, other than routine screening and medical care, available to the individuals under the program established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and under other Federal, State, and local programs, is reduced;

(8) the number and type of referrals made for health and related social services, including alcohol and drug treatment services, and the utilization of such services provided by the grantee; and

(9) the incidence of developmental disabilities.

(n) Requirement of application

The Secretary may make a grant under subsection (a) of this section only if—

(1) an application for the grant is submitted to the Secretary;

(2) the application contains the agreements and assurances required in this section, and the information required in subsection (j) of this section;

(3) the application contains evidence that the preparation of the application has been coordinated with the State agencies responsible for maternal and child health and child welfare, and coordinated with services provided under part H[1] of the Individuals with Disabilities Education Act; and

(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(*o*) Peer review

(1) Requirement

In making determinations for awarding grants under subsection (a) of this section, the Secretary shall rely on the recommendations of the peer review panel established under paragraph (2).

(2) Composition

The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of—

[1] See References in Text note below.

(A) national experts in the fields of maternal and child health, child abuse and neglect, and the provision of community-based primary health services; and

(B) representatives of relevant Federal agencies, including the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, the Administration for Children, Youth, and Families, the U.S. Advisory Board on Child Abuse and Neglect, and the National Commission to Prevent Infant Mortality.

(p) Evaluations

(1) In general

The Secretary shall, directly or through contracts with public or private entities—

(A) conduct evaluations to determine the effectiveness of projects under subsection (a) of this section in reducing the incidence of children born with health or developmental complications, the incidence among children less than 3 years of age of such complications, and the incidence of child abuse and neglect; and

(B) not less than once during each 3-year period, prepare and submit to the appropriate committees of Congress a report concerning the results of such evaluations.

(2) Contents

The evaluations conducted under paragraph (1) shall—

(A) include a summary of the data contained in the annual reports submitted under subsection (m) of this section;

(B) assess the relative effectiveness of projects under subsection (a) of this section in urban and rural areas, and among programs utilizing differing combinations of professionals and trained home visitors recruited from the community to meet the needs of defined target service populations; and

(C) make further recommendations necessary or desirable to increase the effectiveness of such projects.

(q) Definitions

For purposes of this section:

(1) The term ''eligible entity'' includes public and nonprofit private entities that provide health or related social services, including community-based organizations, visiting nurse organizations, hospitals, local health departments, community health centers, Native Hawaiian health centers, nurse managed clinics, family service agencies, child welfare agencies, developmental service providers, family resource and support programs, and resource mothers projects.

(2) The term ''eligible family'' means a family described in subsection (a) of this section.

(3) The term ''health or developmental complication'', with respect to a child, means—

(A) being born in an unhealthy or potentially unhealthy condition, including premature birth, low birthweight, and prenatal exposure to maternal substance abuse;

(B) a condition arising from a condition described in subparagraph (A);

(C) a physical disability or delay; and

(D) a developmental disability or delay.

(4) The term ''home visiting services'' means the services specified in subsection (b) of this section, provided at the residence of the eligible family involved or provided pursuant to arrangements made for the family (including arrangements for services in community settings).

(5) The term ''home visitors'' means providers of home visiting services.

(r) Authorization of appropriations

For the purpose of carrying out this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years 1993 and 1994.

(July 1, 1944, ch. 373, title III, § 399, as added Pub. L. 102–321, title V, § 502(2), July 10, 1992, 106 Stat. 427; amended Pub. L. 103–448, title II, § 204(w)(2)(D), Nov. 2, 1994, 108 Stat. 4746.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(3)(A), (b)(6), and (m)(7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles IV, V, and XIX of the Act are classified generally to subchapters IV (§ 601 et seq.), V (§ 701 et seq.), and XIX (§ 1396 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.

The Individuals with Disabilities Education Act, referred to in subsec. (n)(3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part H of the Act was classified generally to subchapter VIII (§ 1471 et seq.) of chapter 33 of Title 20, Education, prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 399 of act July 1, 1944, was renumbered section 398A by section 502(1) of Pub. L. 102–321 and is classified to section 280c–4 of this title.

Another prior section 399 of act July 1, 1944, ch. 373, title III, formerly § 399b, as added Oct. 22, 1965, Pub. L. 89–291, § 2, 79 Stat. 1066; renumbered § 399a and amended Mar. 13, 1970, Pub. L. 91–212, § 10(c)(3), (d)(2)(A), 84 Stat. 67; renumbered § 399, July 23, 1974, Pub. L. 93–353, title II, § 204, 88 Stat. 373; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695, which related to the maintenance of records by recipients of grants and audits thereof by the Secretary of Health and Human Services and the Comptroller General of the United States, was classified to section 280b–11 of this title, prior to repeal by Pub. L. 99–158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1994—Subsec. (b)(6). Pub. L. 103–448 substituted ''special supplemental nutrition program'' for ''special supplemental food program''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE

Section effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, see section 801(b), (d)(1) of Pub. L.

102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

PURPOSE

Section 501 of title V of Pub. L. 102–321 provided that: ''The purpose of this title [enacting this section] is—

''(1) to increase the use of, and to provide information on the availability of early, continuous and comprehensive prenatal care;

''(2) to reduce the incidence of infant mortality and of infants born prematurely, with low birthweight, or with other impairments including those associated with maternal substance abuse;

''(3) for pregnant women and mothers of children below the age of 3 whose children have experienced or are at risk of experiencing a health or developmental complication, to provide assistance in obtaining health and related social services necessary to meet the special needs of the women and their children;

''(4) to assist, when requested, women who are pregnant and at-risk for poor birth outcomes, or who have young children and are abusing alcohol or other drugs, in obtaining appropriate treatment; and

''(5) to reduce the incidence of child abuse and neglect.''

PART L—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS

AMENDMENTS

1993—Pub. L. 103–43, title XX, § 2008(i)(2)(B)(ii), June 10, 1993, 107 Stat. 213, redesignated part M ''Services for Children of Substance Abusers'' as L. Former part L ''Health Care Services in the Home'' redesignated K.

1990—Pub. L. 101–616, title I, § 101(a)(1), Nov. 16, 1990, 104 Stat. 3279, redesignated part K ''Health Care Services in the Home'' as L.

§ 280d. Grants for services for children of substance abusers

(a) Establishment

(1) In general

The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to public and nonprofit private entities for the purpose of carrying out programs—

(A) to provide the services described in subsection (b) of this section to children of substance abusers;

(B) to provide the applicable services described in subsection (c) of this section to families in which a member is a substance abuser; and

(C) to identify such children and such families.

(2) Administrative consultations

The Administrator of the Administration for Children, Youth, and Families and the Administrator of the Substance Abuse and Mental Health Services Administration shall be consulted regarding the promulgation of program guidelines and funding priorities under this section.

(3) Requirement of status as medicaid provider

(A) Subject to subparagraph (B), the Secretary may make a grant under paragraph (1) only if, in the case of any service under such paragraph that is covered in the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(i) the entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under paragraph (1), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

(b) Services for children of substance abusers

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees to make available (directly or through agreements with other entities) to children of substance abusers each of the following services:

(1) Periodic evaluation of children for developmental, psychological, and medical problems.

(2) Primary pediatric care.

(3) Other necessary health and mental health services.

(4) Therapeutic intervention services for children, including provision of therapeutic child care.

(5) Preventive counseling services.

(6) Counseling related to the witnessing of chronic violence.

(7) Referrals for, and assistance in establishing eligibility for, services provided under—

(A) education and special education programs;

(B) Head Start programs established under the Head Start Act [42 U.S.C. 9831 et seq.];

(C) other early childhood programs;

(D) employment and training programs;

(E) public assistance programs provided by Federal, State, or local governments; and

(F) programs offered by vocational rehabilitation agencies, recreation departments, and housing agencies.

(8) Additional developmental services that are consistent with the provision of early

intervention services, as such term is defined in part H[1] of the Individuals with Disabilities Education Act.

(c) Services for affected families

The Secretary may make a grant under subsection (a) of this section only if, in the case of families in which a member is a substance abuser, the applicant involved agrees to make available (directly or through agreements with other entities) each of the following services, as applicable to the family member involved:

(1) Services as follows, to be provided by a public health nurse, social worker, or similar professional, or by a trained worker from the community who is supervised by a professional:

(A) Counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers.

(B) Assistance to substance abusers in obtaining and using substance abuse treatment services and in obtaining the services described in subsection (b) of this section for their children.

(C) Visiting and providing support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or whose children are receiving services under subsection (b) of this section.

(2) In the case of substance abusers:

(A) Encouragement and, where necessary, referrals to participate in appropriate substance abuse treatment.

(B) Primary health care and mental health services, including prenatal and post partum care for pregnant women.

(C) Consultation and referral regarding subsequent pregnancies and life options, including education and career planning.

(D) Where appropriate, counseling regarding family conflict and violence.

(E) Remedial education services.

(F) Referrals for, and assistance in establishing eligibility for, services described in subsection (b)(7) of this section.

(3) In the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers:

(A) An assessment of the strengths and service needs of the family and the assignment of a case manager who will coordinate services for the family.

(B) Therapeutic intervention services, such as parental counseling, joint counseling sessions for families and children, and family therapy.

(C) Child care or other care for the child to enable the parent to attend treatment or other activities and respite care services.

(D) Parenting education services and parent support groups.

(E) Support services, including, where appropriate, transportation services.

(F) Where appropriate, referral of other family members to related services such as job training.

(G) Aftercare services, including continued support through parent groups and home visits.

(d) Considerations in making grants

In making grants under subsection (a) of this section, the Secretary shall ensure that the grants are reasonably distributed among the following types of entities:

(1) Alcohol and drug treatment programs, especially those providing treatment to pregnant women and mothers and their children.

(2) Public or nonprofit private entities that provide health or social services to disadvantaged populations, and that have—

(A) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

(B) an affiliation or contractual relationship with one or more substance abuse treatment programs.

(3) Consortia of public or nonprofit private entities that include at least one substance abuse treatment program.

(4) Indian tribes.

(e) Federal share

The Federal share of a program carried out under subsection (a) of this section shall be 90 percent. The Secretary shall accept the value of in-kind contributions, including facilities and personnel, made by the grant recipient as a part or all of the non-Federal share of grants.

(f) Coordination with other providers

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees to coordinate its activities with those of the State lead agency, and the State Interagency Coordinating Council, under part H[1] of the Individuals with Disabilities Education Act.

(g) Restrictions on use of grant

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that the grant will not be expended—

(1) to provide inpatient hospital services;

(2) to make cash payments to intended recipients of services;

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(h) Submission to Secretary of certain information

The Secretary may make a grant under subsection (a) of this section only if the applicant involved submits to the Secretary—

(1) a description of the population that is to receive services under this section and a de-

[1] See References in Text note below.

scription of such services that are to be provided and measurable goals and objectives;

(2) a description of the mechanism that will be used to involve the local public agencies responsible for health, mental health, child welfare, education, juvenile justice, developmental disabilities, and substance abuse treatment programs in planning and providing services under this section, as well as evidence that the proposal has been coordinated with the State agencies responsible for administering those programs and the State agency responsible for administering public maternal and child health services;

(3) information demonstrating that the applicant has established a collaborative relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

(B) provide services to help prevent the unnecessary placement of children in substitute care; and

(C) promote reunification of families or permanent plans for the placement of the child; and

(4) such other information as the Secretary determines to be appropriate.

(i) Reports to Secretary

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that for each fiscal year for which the applicant receives such a grant the applicant, in accordance with uniform standards developed by the Secretary, will submit to the Secretary a report containing—

(1) a description of specific services and activities provided under the grant;

(2) information regarding progress toward meeting the program's stated goals and objectives;

(3) information concerning the extent of use of services provided under the grant, including the number of referrals to related services and information on other programs or services accessed by children, parents, and other caretakers;

(4) information concerning the extent to which parents were able to access and receive treatment for alcohol and drug abuse and sustain participation in treatment over time until the provider and the individual receiving treatment agree to end such treatment, and the extent to which parents re-enter treatment after the successful or unsuccessful termination of treatment;

(5) information concerning the costs of the services provided and the source of financing for health care services;

(6) information concerning—

(A) the number and characteristics of families, parents, and children served, including a description of the type and severity of childhood disabilities, and an analysis of the number of children served by age;

(B) the number of children served who remained with their parents during the period in which entities provided services under this section;

(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

(D) the number of children described in subparagraph (C) who were reunited with their families; and

(E) the number of children described in subparagraph (C) for whom a permanent plan has not been made or for whom the permanent plan is other than family reunification;

(7) information on hospitalization or emergency room use by the family members participating in the program; and

(8) such other information as the Secretary determines to be appropriate.

(j) Requirement of application

The Secretary may make any grant under subsection (a) of this section only if—

(1) an application for the grant is submitted to the Secretary;

(2) the application contains the agreements required in this section and the information required in subsection (h) of this section; and

(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(k) Peer review

(1) Requirement

In making determinations for awarding grants under subsection (a) of this section, the Secretary shall rely on the recommendations of the peer review panel established under paragraph (2).

(2) Composition

The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of—

(A) national experts in the fields of maternal and child health, substance abuse treatment, and child welfare; and

(B) representatives of relevant Federal agencies, including the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and the Administration for Children, Youth, and Families.

***(l)* Evaluations**

The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a) of this section—

(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

(2) in preventing adverse health conditions in children of substance abusers;

(3) in promoting better utilization of health and developmental services and improving the health, developmental, and psychological status of children receiving services under the program;

(4) in improving parental and family functioning;

(5) in reducing the incidence of out-of-home placement for children whose parents receive services under the program; and

(6) in facilitating the reunification of families after children have been placed in out-of-home care.

(m) Report to Congress

Not later than 2 years after the date on which amounts are first appropriated under subjection[2] (*o*) of this section, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report that contains a description of programs carried out under this section. At a minimum, the report shall contain—

(1) information concerning the number and type of programs receiving grants;

(2) information concerning the type and use of services offered;

(3) information concerning—

(A) the number and characteristics of families, parents, and children served;

(B) the number of children served who remained with their parents during or after the period in which entities provided services under this section;

(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

(D) the number of children described in subparagraph (C) who were reunited with their families; and

(E) the number of children described in subparagraph (C) who were permanently placed in out-of-home care;

analyzed by the type of entity described in subsection (d) of this section that provided services;

(4) an analysis of the access provided to, and use of, related services and alcohol and drug treatment through programs carried out under this section; and

(5) a comparison of the costs of providing services through each of the types of entities described in subsection (d) of this section.

(n) Data collection

The Secretary shall periodically collect and report on information concerning the numbers of children in substance abusing families, including information on the age, gender and ethnicity of the children, the composition and income of the family, and the source of health care finances.

(*o*) Definitions

For purposes of this section:

(1) The term ''caretaker'', with respect to a child of a substance abuser, means any individual acting in a parental role regarding the child (including any birth parent, foster parent, adoptive parent, relative of such a child, or other individual acting in such a role).

(2) The term ''children of substance abusers'' means—

(A) children who have lived or are living in a household with a substance abuser who is acting in a parental role regarding the children; and

(B) children who have been prenatally exposed to alcohol or other dangerous drugs.

(3) The term ''Indian tribe'' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term ''public or nonprofit private entities that provide health or social services to disadvantaged populations'' includes community-based organizations, local public health departments, community action agencies, hospitals, community health centers, child welfare agencies, developmental disabilities service providers, and family resource and support programs.

(5) The term ''substance abuse'' means the abuse of alcohol or other drugs.

(p) Funding

(1) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Contingent authority regarding training of certain individuals

Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $25,000,000, the Secretary may make available not more than 15 percent for the training of health care professionals and other personnel (including child welfare providers) who provide services to children and families of substance abusers.

(July 1, 1944, ch. 373, title III, §399D, as added Pub. L. 102–321, title IV, §401(a), July 10, 1992, 106 Stat. 419.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Head Start Act, referred to in subsec. (b)(7)(B), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (b)(8) and (f), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part H of the Act was classified generally to subchapter VIII (§1471 et seq.) of chapter 33 of Title 20, Education, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (*o*)(3), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

[2] So in original. Probably should be ''subsection''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE

Section effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, see section 801(b), (d)(1) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

CONSTRUCTION

Section 401(b) of Pub. L. 102–321 provided that: ''With respect to the program established in section 399D of the Public Health Service Act [this section] (as added by subsection (a) of this section), nothing in such section 399D may be construed as establishing for any other Federal program any requirement, authority, or prohibition, including with respect to recipients of funds under such other Federal programs.''

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

PART [1] N—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

§ 280d–11. Establishment and duties of Foundation

(a) In general

There shall be established in accordance with this section a nonprofit private corporation to be known as the National Foundation for the Centers for Disease Control and Prevention (in this part referred to as the ''Foundation''). The Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of the Foundation shall not be officers or employees of the Federal Government.

(b) Purpose of Foundation

The purpose of the Foundation shall be to support and carry out activities for the prevention and control of diseases, disorders, injuries, and disabilities, and for promotion of public health.

(c) Endowment fund

(1) In general

In carrying out subsection (b) of this section, the Foundation shall establish a fund for providing endowments for positions that are associated with the Centers for Disease Control and Prevention and dedicated to the purpose described in such subsection. Subject to subsection (f)(1)(B) of this section, the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

(2) Authorized expenditures of fund

The provision of endowments under paragraph (1) shall be the exclusive function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

(d) Certain activities of Foundation

In carrying out subsection (b) of this section, the Foundation may provide for the following with respect to the purpose described in such subsection:

(1) Programs of fellowships for State and local public health officials to work and study in association with the Centers for Disease Control and Prevention.

(2) Programs of international arrangements to provide opportunities for public health officials of other countries to serve in public health capacities in the United States in association with the Centers for Disease Control and Prevention or elsewhere, or opportunities for employees of such Centers (or other public health officials in the United States) to serve in such capacities in other countries, or both.

(3) Studies, projects, and research (which may include applied research on the effectiveness of prevention activities, demonstration projects, and programs and projects involving international, Federal, State, and local governments).

(4) Forums for government officials and appropriate private entities to exchange information. Participants in such forums may include institutions of higher education and appropriate international organizations.

(5) Meetings, conferences, courses, and training workshops.

(6) Programs to improve the collection and analysis of data on the health status of various populations.

(7) Programs for writing, editing, printing, and publishing of books and other materials.

(8) Other activities to carry out the purpose described in subsection (b) of this section.

(e) General structure of Foundation; nonprofit status

(1) Board of directors

The Foundation shall have a board of directors (in this part referred to as the ''Board''), which shall be established and conducted in accordance with subsection (f) of this section. The Board shall establish the general policies of the Foundation for carrying out subsection (b) of this section, including the establishment of the bylaws of the Foundation.

(2) Executive director

The Foundation shall have an executive director (in this part referred to as the ''Director''), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by

[1] So in original. Probably should be part ''M''.

the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b) of this section.

(3) Nonprofit status

In carrying out subsection (b) of this section, the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

(A) is described in subsection (c)(3) of section 501 of title 26; and

(B) is, under subsection (a) of such section, exempt from taxation.

(f) Board of directors

(1) Certain bylaws

(A) In establishing bylaws under subsection (e)(1) of this section, the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

(ii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

(iii) Policies for the conduct of the general operations of the Foundation.

(iv) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

(B) In establishing bylaws under subsection (e)(1) of this section, the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

(i) reflect unfavorably upon the ability of the Foundation, or the Centers for Disease Control and Prevention, to carry out its responsibilities or official duties in a fair and objective manner; or

(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

(2) Composition

(A) Subject to subparagraph (B), the Board shall be composed of 7 individuals, appointed in accordance with paragraph (4), who collectively possess education or experience appropriate for representing the general field of public health, the general field of international health, and the general public. Each such individual shall be a voting member of the Board.

(B) The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be a greater number than the number specified in subparagraph (A).

(3) Chair

The Board shall, from among the members of the Board, designate an individual to serve as the chair of the Board (in this subsection referred to as the ''Chair'').

(4) Appointments, vacancies, and terms

Subject to subsection (j) of this section (regarding the initial membership of the Board), the following shall apply to the Board:

(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chair and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until the expiration of the 180-day period beginning on the date on which the term of the member expires.

(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(5) Compensation

Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

(g) Certain responsibilities of executive director

In carrying out subsection (e)(2) of this section, the Director shall carry out the following functions:

(1) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees.

(2) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

(3) Establish a process for the selection of candidates for holding endowed positions under subsection (c) of this section.

(4) Enter into such financial agreements as are appropriate in carrying out the activities of the Foundation.

(5) Take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation.

(6) Adopt, alter, and use a corporate seal, which shall be judicially noticed.

(7) Commence and respond to judicial proceedings in the name of the Foundation.

(8) Other functions that are appropriate in the determination of the Director.

(h) General provisions

(1) Authority for accepting funds

The Director of the Centers for Disease Control and Prevention may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of such Cen-

ters. Funds may be accepted and utilized by such Director under the preceding sentence without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

(2) Authority for acceptance of voluntary services

(A) The Director of the Centers for Disease Control and Prevention may accept, on behalf of the Federal Government, any voluntary services provided to such Centers by the Foundation for the purpose of aiding or facilitating the work of such Centers. In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual for not more than 2 years.

(B) The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control and Prevention pursuant to financial support from the Foundation.

(3) Administrative control

No officer, employee, or member of the Board of the Foundation may exercise any administrative or managerial control over any Federal employee.

(4) Applicability of certain standards to non-Federal employees

In the case of any individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control and Prevention pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Director of the Centers for Disease Control and Prevention specifying that the individual—

(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the Centers for Disease Control and Prevention, including standards under this chapter, the Ethics in Government Act, and the Technology Transfer Act;[1] and

(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18 (relating to conflicts of interest), as the Director of such Centers determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of title 18.

(5) Financial conflicts of interest

Any individual who is an officer, employee, or member of the Board of the Foundation may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

(A) any direct or indirect financial interest of the individual; or

(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

(6) Audits; availability of records

The Foundation shall—

(A) provide for biennial audits of the financial condition of the Foundation; and

(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

(7) Reports

(A) Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(8) Liaison from Centers for Disease Control and Prevention

The Director of the Centers for Disease Control and Prevention shall serve as the liaison representative of such Centers to the Board and the Foundation.

(i) Federal funding

(1) Authority for annual grants

(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall—

(i) for fiscal year 1993, make a grant to an entity described in subsection (j)(9) of this section (relating to the establishment of a committee to establish the Foundation);

(ii) for fiscal year 1994, make a grant to the committee established under such subsection, or if the Foundation has been established, to the Foundation; and

(iii) for fiscal year 1995 and each subsequent fiscal year, make a grant to the Foundation.

(B) A grant under subparagraph (A) may be expended—

(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (j)(9) of this section for the entity;

(ii) in the case of the committee established under such subsection, only for the purpose of carrying out the duties estab-

[1] See References in Text note below.

lished in subsection (j) of this section for the committee; and

(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

(C) A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c) of this section.

(D) For the purposes described in subparagraph (B)—

(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 1993 that remains unobligated after the entity receiving the grant completes the duties established in subsection (j)(9) of this section for the entity shall be available to the committee established under such subsection; and

(ii) any portion of a grant under subparagraph (A) made for fiscal year 1993 or 1994 that remains unobligated after such committee completes the duties established in such subsection for the committee shall be available to the Foundation.

(2) Funding for grants

(A) For the purpose of grants under paragraph (1), there is authorized to be appropriated $500,000 for each fiscal year.

(B) For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than $500,000 from the amounts appropriated for the fiscal year for the programs of the Department of Health and Human Services. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).

(3) Certain restriction

If the Foundation receives Federal funds for the purpose of serving as a fiscal intermediary between Federal agencies, the Foundation may not receive such funds for the indirect costs of carrying out such purpose in an amount exceeding 10 percent of the direct costs of carrying out such purpose. The preceding sentence may not be construed as authorizing the expenditure of any grant under paragraph (1) for such purpose.

(j) Committee for establishment of Foundation

(1) In general

There shall be established in accordance with this subsection a committee to carry out the functions described in paragraph (2) (which committee is referred to in this subsection as the ''Committee'').

(2) Functions

The functions referred to in paragraph (1) for the Committee are as follows:

(A) To carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this part (or any successor to this part), including such provisions as may be in effect pursuant to amendments enacted after October 27, 1992.

(B) To ensure that the Foundation qualifies for and maintains the status described in subsection (e)(3) of this section (regarding taxation).

(C) To establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (e)(3) and (f)(1) of this section.

(D) To provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

(E) To appoint the initial members of the Board in accordance with the requirements established in subsection (f)(2)(A) of this section for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the members so appointed—

(i) 2 shall be appointed to serve for a term of 3 years;

(ii) 2 shall be appointed to serve for a term of 4 years; and

(iii) 3 shall be appointed to serve for a term of 5 years.

(3) Completion of functions of Committee; initial meeting of Board

(A) The Committee shall complete the functions required in paragraph (1) not later than September 30, 1994. The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions have been completed.

(B) The initial meeting of the Board shall be held not later than November 1, 1994.

(4) Composition

The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

(A) no fewer than 2 shall have broad, general experience in public health; and

(B) no fewer than 2 shall have broad, general experience in nonprofit private organizations (without regard to whether the individuals have experience in public health).

(5) Chair

The Committee shall, from among the members of the Committee, designate an individual to serve as the chair of the Committee.

(6) Terms; vacancies

The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the Committee. If a member of the Committee does not serve the full term, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(7) Compensation

Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary ex-

penses incurred in carrying out the duties of the Committee.

(8) Committee support

The Director of the Centers for Disease Control and Prevention may, from amounts available to the Director for the general administration of such Centers, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Director may both detail employees and contract for assistance.

(9) Grant for establishment of Committee

(A) With respect to a grant under paragraph (1)(A)(i) of subsection (i) of this section for fiscal year 1993, an entity described in this paragraph is a private nonprofit entity with significant experience in domestic and international issues of public health. Not later than 180 days after October 27, 1992, the Secretary shall make the grant to such an entity (subject to the availability of funds under paragraph (2) of such subsection).

(B) The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

(C) The Secretary may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Secretary containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Secretary determines to be necessary to carry out this paragraph.

(July 1, 1944, ch. 373, title III, § 399F, as added Pub. L. 102–531, title II, § 201, Oct. 27, 1992, 106 Stat. 3474.)

REFERENCES IN TEXT

The Ethics in Government Act, referred to in subsec. (h)(4)(A), probably means the Ethics in Government Act of 1978, Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

The Technology Transfer Act, referred to in subsec. (h)(4)(A), may mean the Federal Technology Transfer Act of 1986, Pub. L. 99–502, Oct. 20, 1986, 100 Stat. 1785, as amended, or the National Competitiveness Technology Transfer Act of 1989, part C (§§ 3131–3133) of title XXXI of div. C of Pub. L. 101–189, Nov. 29, 1989, 103 Stat. 1674. For complete classification of these Acts to the Code, see Short Title of 1986 Amendment note and Short Title of 1989 Amendment note both set out under section 3701 of Title 15, Commerce and Trade, and Tables.

PART [1] M—NATIONAL PROGRAM OF CANCER REGISTRIES

§ 280e. National program of cancer registries

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

(1) demographic information about each case of cancer;

(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

(3) administrative information, including date of diagnosis and source of information;

(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

(5) other elements determined appropriate by the Secretary.

(b) Matching funds

(1) In general

The Secretary may make a grant under subsection (a) of this section only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution; maintenance of effort

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

(B) With respect to a State in which the purpose described in subsection (a) of this section is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) of this section is made with respect to the State. The Secretary may decrease the

[1] So in original. Probably should be part "N".

amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

(c) Eligibility for grants

(1) In general

No grant shall be made by the Secretary under subsection (a) of this section unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with the peer review requirements under sections 289 and 289a of this title.

(2) Assurances

Each applicant, prior to receiving Federal funds under subsection (a) of this section, shall provide assurances satisfactory to the Secretary that the applicant will—

(A) provide for the establishment of a registry in accordance with subsection (a) of this section;

(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

(C) provide for the annual publication of reports of cancer data under subsection (a) of this section; and

(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

(i) a means to assure complete reporting of cancer cases (as described in subsection (a) of this section) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a) of this section) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer registry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

(d) Relationship to certain programs

(1) In general

This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

(2) Supplanting of activities

In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2)(C) and (D) of this section and are appropriately coordinated with the existing SEER program.

(3) Transfer of responsibility

The Secretary may not transfer administration responsibility for such SEER program from such Director.

(4) Coordination

To encourage the greatest possible efficiency and effectiveness of Federally supported ef-

forts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

(e) Requirement regarding certain study on breast cancer

In the case of a grant under subsection (a) of this section to any State specified in section 280e–3(b) of this title, the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.[1]

(July 1, 1944, ch. 373, title III, § 399H, as added Pub. L. 102–515, § 3, Oct. 24, 1992, 106 Stat. 3372.)

REFERENCES IN TEXT

Section 399C, included within the phrase ''study carried out under section 399C'', referred to in subsec. (e), was not translated because title III of act July 1, 1944, which is classified to this subchapter, does not contain a section 399C. Provisions in this subchapter relating to a study are contained in section 399K which is classified to section 280e–3 of this title.

CODIFICATION

Another section 399H of act July 1, 1944, is classified to section 280f–1 of this title.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

CONGRESSIONAL FINDINGS AND PURPOSE

Section 2 of Pub. L. 102–515 provided that:

''(a) FINDINGS.—Congress finds that—

''(1) cancer control efforts, including prevention and early detection, are best addressed locally by State health departments that can identify unique needs;

''(2) cancer control programs and existing statewide population-based cancer registries have identified cancer incidence and cancer mortality rates that indicate the burden of cancer for Americans is substantial and varies widely by geographic location and by ethnicity;

''(3) statewide cancer incidence and cancer mortality data, can be used to identify cancer trends, patterns, and variation for directing cancer control intervention;

''(4) the American Association of Central Cancer Registries (AACCR) cites that of the 50 States, approximately 38 have established cancer registries, many are not statewide and 10 have no cancer registry; and

''(5) AACCR also cites that of the 50 States, 39 collect data on less than 100 percent of their population, and less than half have adequate resources for insuring minimum standards for quality and for completeness of case information.

''(b) PURPOSE.—It is the purpose of this Act [enacting this part and provisions set out as a note under section 201 of this title] to establish a national program of cancer registries.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280e–1, 280e–3 of this title.

[1] See References in Text note below.

§ 280e–1. Planning grants regarding registries

(a) In general

(1) States

The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).[1]

(2) Other entities

For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

(b) Application

The Secretary may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) of this section (if the application is for a grant under such subsection), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(July 1, 1944, ch. 373, title III, § 399I, as added Pub. L. 102–515, § 3, Oct. 24, 1992, 106 Stat. 3375.)

REFERENCES IN TEXT

Section 399B(c)(2), included within the phrase ''assurances required by the Secretary under section 399B(c)(2)'', referred to in subsec. (a)(1), was not translated because title III of act July 1, 1944, which is classified to this subchapter, does not contain a section 399B. Provisions relating to assurances required by the Secretary are contained in section 399H(c)(2), which is classified to section 280e(c)(2) of this title.

CODIFICATION

Another section 399I of act July 1, 1944, is classified to section 280f–2 of this title.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280e–4 of this title.

§ 280e–2. Technical assistance in operations of statewide cancer registries

The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

(July 1, 1944, ch. 373, title III, § 399J, as added Pub. L. 102–515, § 3, Oct. 24, 1992, 106 Stat. 3376.)

[1] See References in Text note below.

CODIFICATION

Another section 399J of act July 1, 1944, is classified to section 280f–3 of this title.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280e–4 of this title.

§ 280e–3. Study in certain States to determine factors contributing to elevated breast cancer mortality rates

(a) In general

Subject to subsections (c) and (d) of this section, the Secretary, acting through the Director of the National Cancer Institute, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) of this section are elevated compared to rates in other States.

(b) Relevant States

The States referred to in subsection (a) of this section are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

(c) Cooperation of State

The Secretary may conduct the study required in subsection (a) of this section in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 280e(a) of this title.

(d) Planning, commencement, and duration

The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a) of this section. The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

(e) Report

Not later than September 30, 1999, the Secretary shall complete the study required in subsection (a) of this section and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and recommendations made as a result of the study.

(July 1, 1944, ch. 373, title III, § 399K, as added Pub. L. 102–515, § 3, Oct. 24, 1992, 106 Stat. 3376.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

POTENTIAL ENVIRONMENTAL AND OTHER RISKS CONTRIBUTING TO INCIDENCE OF BREAST CANCER

Pub. L. 103–43, title XIX, § 1911, June 10, 1993, 107 Stat. 205, provided that:

''(a) REQUIREMENT OF STUDY.—

''(1) IN GENERAL.—The Director of the National Cancer Institute (in this section referred to as the 'Director'), in collaboration with the Director of the National Institute of Environmental Health Sciences, shall conduct a case-control study to assess biological markers of environmental and other potential risk factors contributing to the incidence of breast cancer in—

''(A) the Counties of Nassau and Suffolk, in the State of New York; and

''(B) the 2 counties in the northeastern United States that, as identified in the report specified in paragraph (2), had the highest age-adjusted mortality rate of such cancer that reflected not less than 30 deaths during the 5-year period for which findings are made in the report.

''(2) RELEVANT REPORT.—The report referred to in paragraph (1)(B) is the report of the findings made in the study entitled 'Survival, Epidemiology, and End Results', relating to cases of cancer during the years 1983 through 1987.

''(b) CERTAIN ELEMENTS OF STUDY.—Activities of the Director in carrying out the study under subsection (a) shall include the use of a geographic system to evaluate the current and past exposure of individuals, including direct monitoring and cumulative estimates of exposure, to—

''(1) contaminated drinking water;

''(2) sources of indoor and ambient air pollution, including emissions from aircraft;

''(3) electromagnetic fields;

''(4) pesticides and other toxic chemicals;

''(5) hazardous and municipal waste; and

''(6) such other factors as the Director determines to be appropriate.

''(c) REPORT.—Not later than 30 months after the date of the enactment of this Act [June 10, 1993], the Director shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce [now Committee on Commerce] of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

''(d) FUNDING.—Of the amounts appropriated for fiscal years 1994 and 1995 for the National Institute of Environmental Health Sciences and the National Cancer Institute, the Director of the National Institutes of Health shall make available amounts for carrying out the study required in subsection (a).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280e, 280e–4 of this title.

§ 280e–4. Authorization of appropriations

(a) Registries

For the purpose of carrying out this part, there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003. Of the amounts appropriated under the preceding sentence for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 280e–1 of this title, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection[1] 280e–2 of this title.

(b) Breast cancer study

Of the amounts appropriated for the National Cancer Institute under subpart 1 of part C of

[1] So in original. Probably should be ''section''.

subchapter III of this chapter for any fiscal year in which the study required in section 280e–3 of this title is being carried out, the Secretary shall expend not less than $1,000,000 for the study.

(July 1, 1944, ch. 373, title III, § 399L, as added Pub. L. 102–515, § 3, Oct. 24, 1992, 106 Stat. 3376; amended Pub. L. 103–43, title XX, § 2003, June 10, 1993, 107 Stat. 208; Pub. L. 103–183, title VII, § 705(c), Dec. 14, 1993, 107 Stat. 2241; Pub. L. 105–340, title II, § 202, Oct. 31, 1998, 112 Stat. 3194.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–340 substituted ''2003'' for ''1998''.

1993—Subsec. (a). Pub. L. 103–183 substituted ''through 1998'' for ''through 1996''.

Pub. L. 103–43 substituted ''there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1996'' for ''the Secretary may use $30,000,000 for each of the fiscal years 1993 through 1997'' in first sentence and ''Of the amounts appropriated under the preceding sentence'' for ''Out of any amounts used'' in second sentence.

PART O—FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES PROGRAM

§ 280f. Establishment of Fetal Alcohol Syndrome prevention and services program

(a) Fetal Alcohol Syndrome prevention, intervention and services delivery program

The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effect prevention, intervention and services delivery program that shall include—

(1) an education and public awareness program to support, conduct, and evaluate the effectiveness of—

(A) educational programs targeting medical schools, social and other supportive services, educators and counselors and other service providers in all phases of childhood development, and other relevant service providers, concerning the prevention, identification, and provision of services for children, adolescents and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(B) strategies to educate school-age children, including pregnant and high risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(C) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

(D) strategies to coordinate information and services across affected community agencies, including agencies providing social services such as foster care, adoption, and social work, medical and mental health services, and agencies involved in education, vocational training and civil and criminal justice;

(2) a prevention and diagnosis program to support clinical studies, demonstrations and other research as appropriate to—

(A) develop appropriate medical diagnostic methods for identifying Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

(B) develop effective prevention services and interventions for pregnant, alcohol-dependent women; and

(3) an applied research program concerning intervention and prevention to support and conduct service demonstration projects, clinical studies and other research models providing advocacy, educational and vocational training, counseling, medical and mental health, and other supportive services, as well as models that integrate and coordinate such services, that are aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families.

(b) Grants and technical assistance

The Secretary may award grants, cooperative agreements and contracts and provide technical assistance to eligible entities described in section 280f–1 of this title to carry out subsection (a) of this section.

(c) Dissemination of criteria

In carrying out this section, the Secretary shall develop a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effect diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act to health care providers, educators, social workers, child welfare workers, and other individuals.

(d) National Task Force

(1) In general

The Secretary shall establish a task force to be known as the National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (referred to in this subsection as the ''Task Force'') to foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

(2) Membership

The Task Force established pursuant to paragraph (1) shall—

(A) be chaired by an individual to be appointed by the Secretary and staffed by the Administration; and

(B) include the Chairperson of the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services, individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and representatives from advocacy and research organizations such as the Research Society on Alcoholism, the FAS Family Resource Institute, the National Organization of Fetal Alcohol Syndrome, the Arc, the academic community, and Federal, State and local government agencies and offices.

(3) Functions

The Task Force shall—

(A) advise Federal, State and local programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect, including programs and research concerning

education and public awareness for relevant service providers, school-age children, women at-risk, and the general public, medical diagnosis, interventions for women at-risk of giving birth to children with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and beneficial services for individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect and their families;

(B) coordinate its efforts with the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services; and

(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies.

(4) Time for appointment

The members of the Task Force shall be appointed by the Secretary not later than 6 months after November 13, 1998.

(July 1, 1944, ch. 373, title III, § 399G, as added Pub. L. 105–392, title IV, § 419(d), Nov. 13, 1998, 112 Stat. 3593.)

REFERENCES IN TEXT

Section 705 of the ADAMHA Reorganization Act, referred to in subsec. (c), is section 705 of Pub. L. 102–321, title VII, July 10, 1992, 106 Stat. 438, which was formerly set out as a note under section 285n of this title.

CONGRESSIONAL FINDINGS AND PURPOSE

Pub. L. 105–392, title IV, § 419(b), (c), Nov. 13, 1998, 112 Stat. 3591, 3592, provided that:

''(b) FINDINGS.—Congress finds that—

''(1) Fetal Alcohol Syndrome is the leading preventable cause of mental retardation, and it is 100 percent preventable;

''(2) estimates on the number of children each year vary, but according to some researchers, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

''(3) thousands more infants are born each year with Fetal Alcohol Effect, also known as Alcohol Related Neurobehavioral Disorder (ARND), a related and equally tragic syndrome;

''(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1,000) than children of those women who do not use alcohol (8.6 per 1,000);

''(5) Fetal Alcohol Syndrome and Fetal Alcohol Effect are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

''(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effect are up to 30 times greater than national averages;

''(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effect pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

''(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately $2,500,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least $1,400,000;

''(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effect increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

''(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

''(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effect nationwide and to provide effective intervention programs and services for children, adolescents and adults already affected by these conditions. Such program shall—

''(1) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effect;

''(2) coordinate, support, and conduct prevention and intervention studies as well as epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

''(3) coordinate, support and conduct research and demonstration projects to develop effective developmental and behavioral interventions and programs that foster effective advocacy, educational and vocational training, appropriate therapies, counseling, medical and mental health, and other supportive services, as well as models that integrate or coordinate such services, aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families; and

''(4) foster coordination among all Federal, State and local agencies, and promote partnerships between research institutions and communities that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, surveillance, prevention, and interventions and otherwise meet the general needs of populations already affected or at risk of being impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280f–2, 280f–3 of this title.

§ 280f–1. Eligibility

To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

(July 1, 1944, ch. 373, title III, § 399H, as added Pub. L. 105–392, title IV, § 419(d), Nov. 13, 1998, 112 Stat. 3594.)

CODIFICATION

Another section 399H of act July 1, 1944, is classified to section 280e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280f of this title.

§ 280f–2. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this part, $27,000,000 for each of the fiscal years 1999 through 2003.

(b) Task Force

From amounts appropriated for a fiscal year under subsection (a) of this section, the Secretary may use not to exceed $2,000,000 of such amounts for the operations of the National Task Force under section 280f(d) of this title.

(July 1, 1944, ch. 373, title III, § 399I, as added Pub. L. 105–392, title IV, § 419(d), Nov. 13, 1998, 112 Stat. 3595.)

CODIFICATION

Another section 399I of act July 1, 1944, is classified to section 280e–1 of this title.

§ 280f–3. Sunset provision

This part shall not apply on the date that is 7 years after the date on which all members of the National Task Force have been appointed under section 280f(d)(1) of this title.

(July 1, 1944, ch. 373, title III, § 399J, as added Pub. L. 105–392, title IV, § 419(d), Nov. 13, 1998, 112 Stat. 3595.)

CODIFICATION

Another section 399J of act July 1, 1944, is classified to section 280e–2 of this title.

SUBCHAPTER III—NATIONAL RESEARCH INSTITUTES

CODIFICATION

Title IV of the Public Health Service Act, comprising this subchapter, was originally enacted by act July 1, 1944, ch. 373, 58 Stat. 707, at which time title IV related solely to the National Cancer Institute. Because of the extensive amendments, reorganization of the subject matter, and expansion of title IV by the acts listed below, title IV is shown herein as having been added by Pub. L. 99–158, without reference to intervening amendments.

The provisions of title IV as originally enacted were subsequently redesignated as part A of title IV and amended, and parts B to I of title IV were added and amended by the following acts: June 16, 1948, ch. 481, 62 Stat. 464; June 24, 1948, ch. 621, 62 Stat. 598; Aug. 15, 1950, ch. 714, 64 Stat. 443; Oct. 5, 1961, Pub. L. 87–395, 75 Stat. 824; Oct. 17, 1962, Pub. L. 87–838, 76 Stat. 1072; Aug. 16, 1968, Pub. L. 90–489, 82 Stat. 771; Oct. 30, 1970, Pub. L. 91–515, 84 Stat. 1297; Dec. 23, 1971, Pub. L. 92–218, 85 Stat. 778; May 19, 1972, Pub. L. 92–305, 86 Stat. 162; Sept. 19, 1972, Pub. L. 92–423, 86 Stat. 679; Apr. 22, 1974, Pub. L. 93–270, 88 Stat. 90; May 14, 1974, Pub. L. 93–282, 88 Stat. 126; May 31, 1974, Pub. L. 93–296, 88 Stat. 184; July 12, 1974, Pub. L. 93–348, 88 Stat. 342; July 23, 1974, Pub. L. 93–352, 88 Stat. 358; July 23, 1974, Pub. L. 93–354, 88 Stat. 373; Jan. 4, 1975, Pub. L. 93–640, 88 Stat. 2217; July 29, 1975, Pub. L. 94–63, 89 Stat. 304; Nov. 28, 1975, Pub. L. 94–135, 89 Stat. 713; Apr. 21, 1976, Pub. L. 94–273, 90 Stat. 375; Apr. 22, 1976, Pub. L. 94–278, 90 Stat. 401; Oct. 19, 1976, Pub. L. 94–562, 90 Stat. 2645; Aug. 1, 1977, Pub. L. 95–83, 91 Stat. 383; Nov. 9, 1978, Pub. L. 95–622, 92 Stat. 3412; Nov. 9, 1978, Pub. L. 95–623, 92 Stat. 3443; July 10, 1979, Pub. L. 96–32, 93 Stat. 82; Oct. 7, 1980, Pub. L. 96–398, 94 Stat. 1564; Dec. 17, 1980, Pub. L. 96–538, 94 Stat. 3183; Aug. 13, 1981, Pub. L. 97–35, 95 Stat. 358; Apr. 26, 1984, Pub. L. 98–24, 97 Stat. 175.

Title IV was subsequently amended generally and completely reorganized by Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 822.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 9660 of this title.

PART A—NATIONAL INSTITUTES OF HEALTH

§ 281. Organization of National Institutes of Health

(a) Agency of Public Health Service

The National Institutes of Health is an agency of the Service.

(b) Agencies within

(1) The following national research institutes are agencies of the National Institutes of Health:

(A) The National Cancer Institute.

(B) The National Heart, Lung, and Blood Institute.

(C) The National Institute of Diabetes and Digestive and Kidney Diseases.

(D) The National Institute of Arthritis and Musculoskeletal and Skin Diseases.

(E) The National Institute on Aging.

(F) The National Institute of Allergy and Infectious Diseases.

(G) The National Institute of Child Health and Human Development.

(H) The National Institute of Dental and Craniofacial Research.

(I) The National Eye Institute.

(J) The National Institute of Neurological Disorders and Stroke.

(K) The National Institute of General Medical Sciences.

(L) The National Institute of Environmental Health Sciences.

(M) The National Institute on Deafness and Other Communication Disorders.

(N) The National Institute on Alcohol Abuse and Alcoholism.

(O) The National Institute on Drug Abuse.

(P) The National Institute of Mental Health.

(Q) The National Institute of Nursing Research.

(2) The following entities are agencies of the National Institutes of Health:

(A) The National Library of Medicine.

(B) The National Center for Research Resources.

(C) The John E. Fogarty International Center for Advanced Study in the Health Sciences.

(D) The National Center for Human Genome Research.

(E) The Office of Dietary Supplements.

(F) The National Center for Complementary and Alternative Medicine.

(c) Establishment of additional national research institutes; reorganization or abolition of institutes

(1) The Secretary may establish in the National Institutes of Health one or more additional national research institutes to conduct and support research, training, health information, and other programs with respect to any particular disease or groups of diseases or any other aspect of human health if—

(A) the Secretary determines that an additional institute is necessary to carry out such activities; and

(B) the additional institute is not established before the expiration of 180 days after the Secretary has provided the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate written notice of the determination made under subparagraph (A) with respect to the institute.

(2) The Secretary may reorganize the functions of any national research institute and may abolish any national research institute if the Secretary determines that the institute is no longer required. A reorganization or abolition may not take effect under this paragraph before the expiration of 180 days after the Secretary has provided the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate written notice of the reorganization or abolition.

(d) "National research institute" defined

For purposes of this subchapter, the term ''national research institute'' means a national research institute listed in subsection (b) of this section or established under subsection (c) of this section. A reference to the National Institutes of Health includes its agencies.

(July 1, 1944, ch. 373, title IV, § 401, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 822; amended Pub. L. 100–553, § 2(1), Oct. 28, 1988, 102 Stat. 2769; Pub. L. 100–607, title I, § 101(1), Nov. 4, 1988, 102 Stat. 3048; Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238; Pub. L. 102–321, title I, § 121(a), July 10, 1992, 106 Stat. 358; Pub. L. 103–43, title XV, §§ 1501(1), 1511(b)(1), 1521(1), June 10, 1993, 107 Stat. 172, 179, 180; Pub. L. 103–417, § 13(b), Oct. 25, 1994, 108 Stat. 4335; Pub. L. 105–277, div. A, § 101(f) [title II, § 212, title VI, § 601(k)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–359, 2681–388.)

AMENDMENTS

1998—Subsec. (b)(1)(H). Pub. L. 105–277, § 101(f) [title II, § 212], substituted ''National Institute of Dental and Craniofacial Research'' for ''National Institute of Dental Research''.

Subsec. (b)(2)(F). Pub. L. 105–277, § 101(f) [title VI, § 601(k)], added subpar. (F).

1994—Subsec. (b)(2)(E). Pub. L. 103–417 added subpar. (E).

1993—Subsec. (b)(1)(Q). Pub. L. 103–43, § 1511(b)(1)(A), added subpar. (Q).

Subsec. (b)(2)(B). Pub. L. 103–43, § 1501(1), amended subpar. (B) generally, substituting ''National Center for Research Resources'' for ''Division of Research Resources''.

Subsec. (b)(2)(D). Pub. L. 103–43, §§ 1511(b)(1)(B), 1521(1), added subpar. (D) and struck out former subpar. (D) which read as follows: ''The National Center for Nursing Research.''

1992—Subsec. (b)(1)(N) to (P). Pub. L. 102–321 added subpars. (N) to (P).

1988—Subsec. (b)(1)(J), (M). Pub. L. 100–553 and Pub. L. 100–607 made identical amendments, striking out ''and Communicative'' after ''Neurological'' in subpar. (J), and adding subpar. (M). Pub. L. 100–690 amended subsec. (b)(1) to read as if the amendments by Pub. L. 100–607 had not been enacted.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

REPORT ON MEDICAL USES OF BIOLOGICAL AGENTS IN DEVELOPMENT OF DEFENSES AGAINST BIOLOGICAL WARFARE

Section 1904 of Pub. L. 103–43 directed Secretary of Health and Human Services, in consultation with Secretary of Defense and with heads of other appropriate executive agencies, to report to Congress, not later than 12 months after June 10, 1993, on the appropriateness and impact of the National Institutes of Health assuming responsibility for the conduct of all Federal research, development, testing, and evaluation functions relating to medical countermeasures against biowarfare threat agents.

RESEARCH ON LUPUS ERYTHEMATOSUS

Section 5 of Pub. L. 99–158, as amended by Pub. L. 102–531, title III, § 312(f), Oct. 27, 1992, 106 Stat. 3506, directed Secretary of Health and Human Resources to establish a Lupus Erythematosus Coordinating Committee to plan, develop, coordinate, and implement comprehensive Federal initiatives in research on Lupus Erythematosus, provided for composition of committee and meetings, and directed Committee to prepare a report for Congress on its activities, to be submitted not later than 18 months after Nov. 20, 1985, with Committee to terminate one month after the report was submitted.

INTERAGENCY COMMITTEE ON LEARNING DISABILITIES

Section 9 of Pub. L. 99–158 directed Director of the National Institutes of Health, not later than 90 days after Nov. 20, 1985, to establish an Interagency Committee on Learning Disabilities to review and assess Federal research priorities, activities, and findings regarding learning disabilities (including central nervous system dysfunction in children), provided for composition of the Committee, directed Committee to report to Congress on its activities not later than 18 months after Nov. 20, 1985, and provided that the Committee terminate 90 days after submission of the report.

§ 282. Director of National Institutes of Health

(a) Appointment

The National Institutes of Health shall be headed by the Director of the National Institutes of Health (hereafter in this subchapter referred to as the ''Director of NIH'') who shall be appointed by the President by and with the advice and consent of the Senate. The Director of NIH shall perform functions as provided under subsection (b) of this section and as the Secretary may otherwise prescribe.

(b) Duties and authority

In carrying out the purposes of section 241 of this title, the Secretary, acting through the Director of NIH—

(1) shall be responsible for the overall direction of the National Institutes of Health and for the establishment and implementation of general policies respecting the management

and operation of programs and activities within the National Institutes of Health;

(2) shall coordinate and oversee the operation of the national research institutes and administrative entities within the National Institutes of Health;

(3) shall assure that research at or supported by the National Institutes of Health is subject to review in accordance with section 289a of this title;

(4) for the national research institutes and administrative entities within the National Institutes of Health—

(A) may acquire, construct, improve, repair, operate, and maintain, at the site of such institutes and entities, laboratories, and other research facilities, other facilities, equipment, and other real or personal property, and

(B) may acquire, without regard to section 34 of title 40, by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed ten years;

(5) may secure resources for research conducted by or through the National Institutes of Health;

(6) 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, establish such technical and scientific peer review groups and scientific program advisory committees as are needed to carry out the requirements of this subchapter and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups;

(7) may secure for the National Institutes of Health consultation services and advice of persons from the United States or abroad;

(8) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(9) may, for purposes of study, admit and treat at facilities of the National Institutes of Health individuals not otherwise eligible for such treatment;

(10) may accept voluntary and uncompensated services;

(11) may perform such other administrative functions as the Secretary determines are needed to effectively carry out this subchapter;

(12) after consultation with the Director of the Office of Research on Women's Health, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects of research on women's health that are identified under section 287d(b) of this title;

(13) may conduct and support research training—

(A) for which fellowship support is not provided under section 288 of this title; and

(B) which does not consist of residency training of physicians or other health professionals; and

(14) may appoint physicians, dentists, and other health care professionals, subject to the provisions of title 5 relating to appointments and classifications in the competitive service, and may compensate such professionals subject to the provisions of chapter 74 of title 38.

The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under paragraph (6). The members of such a group shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of such group. Not more than one-fourth of the members of any such group shall be officers or employees of the United States.

(c) Availability of substances and organisms for research

The Director of NIH 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.

(d) Services of experts or consultants; number; payment of expenses, conditions, recovery

(1) The Director of NIH may obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the period of service) the services of not more than 220 experts or consultants, with scientific or other professional qualifications, for the National Institutes of Health.

(2)(A) Except as provided in subparagraph (B), experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed, in accordance with title 5, for their travel to and from their place of service and for other expenses associated with their assignment.

(B) Expenses specified in subparagraph (A) shall not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless the expert or consultant has agreed in writing to complete the entire period of the assignment or one year of the assignment, whichever is shorter, unless separated or reassigned for reasons which are beyond the control of the expert or consultant and which are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for such expenses is recoverable from the expert or consultant as a debt due the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

(e) Dissemination of research information

The Director of NIH shall—

(1) advise the agencies of the National Institutes of Health on medical applications of research;

(2) coordinate, review, and facilitate the systematic identification and evaluation of, clinically relevant information from research con-

ducted by or through the national research institutes;

(3) promote the effective transfer of the information described in paragraph (2) to the health care community and to entities that require such information;

(4) monitor the effectiveness of the activities described in paragraph (3); and

(5) ensure that, after January 1, 1994, all new or revised health education and promotion materials developed or funded by the National Institutes of Health and intended for the general public are in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102–73).

(f) Associate Director for Prevention; functions

There shall be in the National Institutes of Health an Associate Director for Prevention. The Director of NIH shall delegate to the Associate Director for Prevention the functions of the Director relating to the promotion of the disease prevention research programs of the national research institutes and the coordination of such programs among the national research institutes and between the national research institutes and other public and private entities, including elementary, secondary, and post-secondary schools. The Associate Director shall—

(1) annually review the efficacy of existing policies and techniques used by the national research institutes to disseminate the results of disease prevention and behavioral research programs; and

(2) recommend, coordinate, and oversee the modification or reconstruction of such policies and techniques to ensure maximum dissemination, using advanced technologies to the maximum extent practicable, of research results to such entities.

(g) Enhancing competitiveness of certain entities in obtaining research funds

(1)(A) In the case of entities described in subparagraph (B), the Director of NIH, acting through the Director of the National Center for Research Resources, shall establish a program to enhance the competitiveness of such entities in obtaining funds from the national research institutes for conducting biomedical and behavioral research.

(B) The entities referred to in subparagraph (A) are entities that conduct biomedical and behavioral research and are located in a State in which the aggregate success rate for applications to the national research institutes for assistance for such research by the entities in the State has historically constituted a low success rate of obtaining such funds, relative to such aggregate rate for such entities in other States.

(C) With respect to enhancing competitiveness for purposes of subparagraph (A), the Director of NIH, in carrying out the program established under such subparagraph, may—

(i) provide technical assistance to the entities involved, including technical assistance in the preparation of applications for obtaining funds from the national research institutes;

(ii) assist the entities in developing a plan for biomedical or behavioral research proposals; and

(iii) assist the entities in implementing such plan.

(2) The Director of NIH shall establish a program of supporting projects of biomedical or behavioral research whose principal researchers are individuals who have not previously served as the principal researchers of such projects supported by the Director.

(h) Increased participation of women and disadvantaged individuals in biomedical and behavioral research

The Secretary, acting through the Director of NIH and the Directors of the agencies of the National Institutes of Health, shall, in conducting and supporting programs for research, research training, recruitment, and other activities, provide for an increase in the number of women and individuals from disadvantaged backgrounds (including racial and ethnic minorities) in the fields of biomedical and behavioral research.

(i) Discretionary fund; uses; report to Congressional committees; authorization of appropriations

(1) There is established a fund, consisting of amounts appropriated under paragraph (3) and made available for the fund, for use by the Director of NIH to carry out the activities authorized in this chapter for the National Institutes of Health. The purposes for which such fund may be expended include—

(A) providing for research on matters that have not received significant funding relative to other matters, responding to new issues and scientific emergencies, and acting on research opportunities of high priority;

(B) supporting research that is not exclusively within the authority of any single agency of such Institutes; and

(C) purchasing or renting equipment and quarters for activities of such Institutes.

(2) Not later than February 10 of each fiscal year, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities undertaken and expenditures made under this section during the preceding fiscal year. The report may contain such comments of the Secretary regarding this section as the Secretary determines to be appropriate.

(3) For the purpose of carrying out this subsection, there are authorized to be appropriated $25,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(j) Data bank of information on clinical trials for drugs for serious or life-threatening diseases and conditions

(1)(A) The Secretary, acting through the Director of NIH, shall establish, maintain, and operate a data bank of information on clinical trials for drugs for serious or life-threatening diseases and conditions (in this subsection referred to as the ''data bank''). The activities of the data bank shall be integrated and coordinated with related activities of other agencies of the Department of Health and Human Services,

and to the extent practicable, coordinated with other data banks containing similar information.

(B) The Secretary shall establish the data bank after consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention.

(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

(3) The data bank shall include the following:

(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to section 355(i) of title 21, which provides a description of the purpose of each experimental drug, either with the consent of the protocol sponsor, or when a trial to test effectiveness begins. Information provided shall consist of eligibility criteria for participation in the clinical trials, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information shall be forwarded to the data bank by the sponsor of the trial not later than 21 days after the approval of the protocol.

(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

(i) under a treatment investigational new drug application that has been submitted to the Secretary under section 360bbb(c) of title 21; or

(ii) as a Group C cancer drug (as defined by the National Cancer Institute).

The data bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

(4) The data bank shall not include information relating to an investigation if the sponsor has provided a detailed certification to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation, unless the Secretary, after the receipt of the certification, provides the sponsor with a detailed written determination that such disclosure would not substantially interfere with such enrollment.

(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 379h of title 21 shall not be used in carrying out this subsection.

(k) Day care for children of employees

(1) The Director of NIH may establish a program to provide day care services for the employees of the National Institutes of Health similar to those services provided by other Federal agencies (including the availability of day care service on a 24-hour-a-day basis).

(2) Any day care provider at the National Institutes of Health shall establish a sliding scale of fees that takes into consideration the income and needs of the employee.

(3) For purposes regarding the provision of day care services, the Director of NIH may enter into rental or lease purchase agreements.

(*l*) Interagency research on trauma

The Director of NIH shall carry out the program established in part F of subchapter X of this chapter (relating to interagency research on trauma).

(July 1, 1944, ch. 373, title IV, § 402, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 823; amended Pub. L. 100–607, title I, § 111, Nov. 4, 1988, 102 Stat. 3052; Pub. L. 102–321, title I, § 163(b)(3), July 10, 1992, 106 Stat. 376; Pub. L. 103–43, title I, § 141(b), title II, §§ 201, 202, 206, 208, 210(b), (c), title III, § 303(b), June 10, 1993, 107 Stat. 139, 144, 148–150, 153; Pub. L. 105–115, title I, § 113(a), Nov. 21, 1997, 111 Stat. 2310; Pub. L. 105–362, title VI, § 601(a)(1)(A), Nov. 10, 1998, 112 Stat. 3285; Pub. L. 105–392, title IV, § 409, Nov. 13, 1998, 112 Stat. 3589.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(6), (14), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (b)(6), is set out under section 5332 of Title 5, Government Organization and Employees.

The provisions of title 5 relating to classifications, referred to in subsec. (b)(14), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The provisions of title 5 relating to reimbursement for travel expenses, referred to in subsec. (d)(2)(A), are classified generally to section 5701 et seq. of Title 5, Government Organization and Employees.

The National Literacy Act of 1991, referred to in subsec. (e)(5), is Pub. L. 102–73, July 25, 1991, 105 Stat. 333, as amended, which was repealed by Pub. L. 105–220, title II, § 251(a)(2), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Subsec. (b)(13), (14). Pub. L. 105–392 added pars. (13) and (14).

Subsec. (f). Pub. L. 105–362 inserted ''and'' at end of par. (1), substituted a period for ''; and'' at end of par. (2), and struck out par. (3) which read as follows: ''annually prepare and submit to the Director of NIH a report concerning the prevention and dissemination activities undertaken by the Associate Director, including—

''(A) a summary of the Associate Director's review of existing dissemination policies and techniques together with a detailed statement concerning any modification or restructuring, or recommendations for modification or restructuring, of such policies and techniques; and

''(B) a detailed statement of the expenditures made for the prevention and dissemination activities reported on and the personnel used in connection with such activities.''

1997—Subsecs. (j) to (*l*). Pub. L. 105–115 added subsec. (j) and redesignated former subsecs. (j) and (k) as (k) and (*l*), respectively.

1993—Subsec. (b)(12). Pub. L. 103–43, §141(b), added par. (12).

Subsec. (e)(5). Pub. L. 103–43, §210(b), added par. (5).

Subsec. (f). Pub. L. 103–43, §201, substituted ''other public and private entities, including elementary, secondary, and post-secondary schools. The Associate Director shall—'' and pars. (1) to (3) for ''other public and private entities. The Associate Director shall annually report to the Director of NIH on the prevention activities undertaken by the Associate Director. The report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities''.

Subsec. (g). Pub. L. 103–43, §202, added subsec. (g).

Subsec. (h). Pub. L. 103–43, §206, added subsec. (h).

Subsec. (i). Pub. L. 103–43, §208, added subsec. (i).

Subsec. (j). Pub. L. 103–43, §210(c), added subsec. (j).

Subsec. (k). Pub. L. 103–43, §303(b), added subsec. (k).

1992—Subsec. (d)(1). Pub. L. 102–321 substituted ''220'' for ''two hundred''.

1988—Subsec. (b)(6). Pub. L. 100–607 inserted ''and scientific program advisory committees'' after ''peer review groups''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–115 effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as a note under section 321 of Title 21, Food and Drugs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

COLLABORATION AND REPORT

Section 113(b) of Pub. L. 105–115 provided that:

''(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the data bank under section 402(j) of the Public Health Service Act [subsec. (j) of this section].

''(2) REPORT.—Not later than two years after the date of enactment of this section [Nov. 21, 1997], the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report—

''(A) of the public health need, if any, for inclusion of device investigations within the scope of the data bank under section 402(j) of the Public Health Service Act;

''(B) on the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigations is required to be publicly disclosed; and

''(C) on such other issues relating to such section 402(j) as the Secretary determines to be appropriate.''

CHRONIC FATIGUE SYNDROME; EXPERTS AND RESEARCH REPRESENTATIVES ON ADVISORY COMMITTEES AND BOARDS

Section 902(c) of Pub. L. 103–43 provided that: ''The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall ensure that appropriate individuals with expertise in chronic fatigue syndrome or neuromuscular diseases and representative of a variety of disciplines and fields within the research community are appointed to appropriate National Institutes of Health advisory committees and boards.''

THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS AND CERTAIN LIFE-THREATENING ILLNESSES

Section 1901(a) of Pub. L. 103–43 provided that: ''The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

''(1) determining the policies of third-party payors regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome, cancer, and other life-threatening illnesses; and

''(2) developing recommendations regarding such policies.''

PERSONNEL STUDY OF RECRUITMENT, RETENTION AND TURNOVER

Section 1905 of Pub. L. 103–43 directed Secretary of Health and Human Services, acting through Director of National Institutes of Health, to conduct a study to review the retention, recruitment, vacancy and turnover rates of support staff, including firefighters, law enforcement, procurement officers, technicians, nurses and clerical employees, to ensure that National Institutes of Health is adequately supporting conduct of efficient, effective and high quality research for the American public, and to submit a report to Congress on results of such study not later than 1 year after June 10, 1993.

CHRONIC PAIN CONDITIONS

Section 1907 of Pub. L. 103–43 directed Director of the National Institutes of Health to submit to Congress, not later than 2 years after June 10, 1993, a report and study on the incidence in the United States of cases of chronic pain, including chronic pain resulting from back injuries, reflex sympathetic dystrophy syndrome, temporomandibular joint disorder, post-herpetic neuropathy, painful diabetic neuropathy, phantom pain, and post-stroke pain, and the effect of such cases on the costs of health care in the United States.

SUPPORT FOR BIOENGINEERING RESEARCH

Section 1912 of Pub. L. 103–43 directed Secretary of Health and Human Services, acting through Director of the National Institutes of Health, to conduct a study for the purpose of determining the sources and amounts of public and private funding devoted to basic research in bioengineering, including biomaterials sciences, cellular bioprocessing, tissue and rehabilitation engineering, evaluating whether that commitment is sufficient to maintain the innovative edge that the United States has in these technologies, evaluating the role of the National Institutes of Health or any other Federal agency to achieve a greater commitment to innovation in bioengineering, and evaluating the need for better coordination and collaboration among Federal agencies and between the public and private sectors, and, not later than 1 year after June 10, 1993, to prepare and submit to Committee on Labor and Human Resources of Senate, and Committee on Energy and Commerce of House of Representatives, a report containing the findings of the study together with recommendations concerning the enactment of legislation to implement the results of such study.

MASTER PLAN FOR PHYSICAL INFRASTRUCTURE FOR RESEARCH

Section 2002 of Pub. L. 103–43 directed Secretary of Health and Human Services, acting through Director of

the National Institutes of Health, not later than June 1, 1994, to present to Congress a master plan to provide for replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide electrical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deemed necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health, and provided that the plan could make recommendations for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institutes of Health Federal enclave with an adequate chilled water conduit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 283, 284, 285g–4, 289a of this title; title 21 section 360bbb.

§ 283. Biennial report of Director to President and Congress; contents

The Secretary shall transmit to the President and to the Congress a biennial report which shall be prepared by the Director of NIH and which shall consist of—

(1) a description of the activities carried out by and through the National Institutes of Health and the policies respecting the programs of the National Institutes of Health and such recommendations respecting such policies as the Secretary considers appropriate;

(2) a description of the activities undertaken to improve grants and contracting accountability and technical and scientific peer review procedures of the National Institutes of Health and the national research institutes;

(3) the reports made by the Associate Director for Prevention under section 282(f) of this title during the period for which the biennial report is prepared;

(4) a description of the health related behavioral research that has been supported by the National Institutes of Health in the preceding 2-year period, and a description of any plans for future activity in such area; and

(5) the biennial reports of the Directors of each of the national research institutes, the Director of the Division of Research Resources, and the Director of the National Center for Nursing Research.

The first report under this section shall be submitted not later than July 1, 1986, and shall relate to the fiscal year ending September 30, 1985. The next report shall be submitted not later than December 30, 1988, and shall relate to the two-fiscal-year period ending on the preceding September 30. Each subsequent report shall be submitted not later than 90 days after the end of the two-fiscal-year period for which the report is to be submitted.

(July 1, 1944, ch. 373, title IV, § 403, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 826; amended Pub. L. 100–607, title I, § 112, Nov. 4, 1988, 102 Stat. 3052.)

AMENDMENTS

1988—Pars. (4), (5). Pub. L. 100–607 added par. (4) and redesignated former par. (4) as (5).

CHANGE OF NAME

Division of Research Resources changed to National Center for Research Resources by Pub. L. 103–43, title XV, § 1501, June 10, 1993, 107 Stat. 172.

National Center for Nursing Research changed to National Institute of Nursing Research by Pub. L. 103–43, title XV, § 1511, June 10, 1993, 107 Stat. 178.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 283e, 284b, 285g–4, 285q–3, 287a–1, 287d, 287d–2, 289a–2 of this title.

§ 283a. Establishment of program regarding DES

(a) In general

The Director of NIH shall establish a program for the conduct and support of research and training, the dissemination of health information, and other programs with respect to the diagnosis and treatment of conditions associated with exposure to the drug diethylstilbestrol (in this section referred to as ''DES'').

(b) Education programs

In carrying out subsection (a) of this section, the Director of NIH, after consultation with nonprofit private entities representing individuals who have been exposed to DES, shall conduct or support programs to educate health professionals and the public on the drug, including the importance of identifying and treating individuals who have been exposed to the drug.

(c) Longitudinal studies

After consultation with the Office of Research on Women's Health, the Director of NIH, acting through the appropriate national research institutes, shall in carrying out subsection (a) of this section conduct or support one or more longitudinal studies to determine the incidence of the following diseases or disorders in the indicated populations and the relationship of DES to the diseases or disorders:

(1) In the case of women to whom (on or after January 1, 1938) DES was administered while the women were pregnant, the incidence of all diseases and disorders (including breast cancer, gynecological cancers, and impairments of the immune system, including autoimmune disease).

(2) In the case of women exposed to DES in utero, the incidence of clear cell cancer (including recurrences), the long-term health effects of such cancer, and the effects of treatments for such cancer.

(3) In the case of men and women exposed to DES in utero, the incidence of all diseases and disorders (including impairments of the reproductive and autoimmune systems).

(4) In the case of children of men or women exposed to DES in utero, the incidence of all diseases and disorders.

(d) Exposure to DES in utero

For purposes of this section, an individual shall be considered to have been exposed to DES in utero if, during the pregnancy that resulted in the birth of such individual, DES was (on or after January 1, 1938) administered to the biological mother of the individual.

(e) Authorization of appropriations

In addition to any other authorization of appropriations available for the purpose of carrying out this section, there are authorized to be appropriated for such purpose such sums as may be necessary for each of the fiscal years 1993 through 2003.

(July 1, 1944, ch. 373, title IV, § 403A, as added Pub. L. 102–409, § 2, Oct. 13, 1992, 106 Stat. 2092; amended Pub. L. 105–340, title I, § 101(a), Oct. 31, 1998, 112 Stat. 3191.)

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–340 substituted ''2003'' for ''1996''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u–9 of this title.

§ 283b. Office of Research on Minority Health

(a) Establishment

There is established within the Office of the Director of NIH an office to be known as the Office of Research on Minority Health (in this section referred to as the ''Office''). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

(b) Purpose

The Director of the Office shall—

(1) identify projects of research on minority health that should be conducted or supported by the national research institutes;

(2) identify multidisciplinary research relating to research on minority health that should be so conducted or supported;

(3) promote coordination and collaboration among entities conducting research identified under paragraph (1) or (2);

(4) encourage the conduct of such research by entities receiving funds from the national research institutes;

(5) recommend an agenda for conducting and supporting such research;

(6) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research; and

(7) assist in the administration of section 289a–2 of this title with respect to the inclusion of members of minority groups as subjects in clinical research.

(July 1, 1944, ch. 373, title IV, § 404, as added Pub. L. 103–43, title I, § 151, June 10, 1993, 107 Stat. 139.)

§ 283c. Office of Behavioral and Social Sciences Research

(a) There is established within the Office of the Director of NIH an office to be known as the Office of Behavioral and Social Sciences Research (in this section referred to as the ''Office''). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

(b)(1) With respect to research on the relationship between human behavior and the development, treatment, and prevention of medical conditions, the Director of the Office shall—

(A) coordinate research conducted or supported by the agencies of the National Institutes of Health; and

(B) identify projects of behavioral and social sciences research that should be conducted or supported by the national research institutes, and develop such projects in cooperation with such institutes.

(2) Research authorized under paragraph (1) includes research on teen pregnancy, infant mortality, violent behavior, suicide, and homelessness. Such research does not include neurobiological research, or research in which the behavior of an organism is observed for the purpose of determining activity at the cellular or molecular level.

(July 1, 1944, ch. 373, title IV, § 404A, as added Pub. L. 103–43, title II, § 203(a), June 10, 1993, 107 Stat. 145.)

EFFECTIVE DATE

Section 203(c) of Pub. L. 103–43 provided that: ''The amendment described in subsection (a) [enacting this section] is made upon the date of the enactment of this Act [June 10, 1993] and takes effect July 1, 1993. Subsection (b) [107 Stat. 145] takes effect on such date.''

§ 283d. Children's Vaccine Initiative

(a) Development of new vaccines

The Secretary, in consultation with the Director of the National Vaccine Program under subchapter XIX of this chapter and acting through the Directors of the National Institute for Allergy and Infectious Diseases, the National Institute for Child Health and Human Development, the National Institute for Aging, and other public and private programs, shall carry out activities, which shall be consistent with the global Children's Vaccine Initiative, to develop affordable new and improved vaccines to be used in the United States and in the developing world that will increase the efficacy and efficiency of the prevention of infectious diseases. In carrying out such activities, the Secretary shall, to the extent practicable, develop and make available vaccines that require fewer contacts to deliver, that can be given early in life, that provide long lasting protection, that obviate refrigeration, needles and syringes, and that protect against a larger number of diseases.

(b) Report

In the report required in section 300aa–4[1] of this title, the Secretary, acting through the Director of the National Vaccine Program under subchapter XIX of this chapter, shall include information with respect to activities and the progress made in implementing the provisions of this section and achieving its goals.

(c) Authorization of appropriations

In addition to any other amounts authorized to be appropriated for activities of the type described in this section, there are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(July 1, 1944, ch. 373, title IV, § 404B, as added Pub. L. 103–43, title II, § 204, June 10, 1993, 107 Stat. 146.)

REFERENCES IN TEXT

Section 300aa–4 of this title, referred to in subsec. (b), was repealed by Pub. L. 105–362, title VI, § 601(a)(1)(H), Nov. 10, 1998, 112 Stat. 3285.

[1] See References in Text note below.

§ 283e. Plan for use of animals in research

(a) Preparation

The Director of NIH, after consultation with the committee established under subsection (e) of this section, shall prepare a plan—

(1) for the National Institutes of Health to conduct or support research into—

(A) methods of biomedical research and experimentation that do not require the use of animals;

(B) methods of such research and experimentation that reduce the number of animals used in such research;

(C) methods of such research and experimentation that produce less pain and distress in such animals; and

(D) methods of such research and experimentation that involve the use of marine life (other than marine mammals);

(2) for establishing the validity and reliability of the methods described in paragraph (1);

(3) for encouraging the acceptance by the scientific community of such methods that have been found to be valid and reliable; and

(4) for training scientists in the use of such methods that have been found to be valid and reliable.

(b) Submission to Congressional committees

Not later than October 1, 1993, the Director of NIH shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the plan required in subsection (a) of this section and shall begin implementation of the plan.

(c) Periodic review and revision

The Director of NIH shall periodically review, and as appropriate, make revisions in the plan required under subsection (a) of this section. A description of any revision made in the plan shall be included in the first biennial report under section 283 of this title that is submitted after the revision is made.

(d) Dissemination of information

The Director of NIH shall take such actions as may be appropriate to convey to scientists and others who use animals in biomedical or behavioral research or experimentation information respecting the methods found to be valid and reliable under subsection (a)(2) of this section.

(e) Interagency Coordinating Committee on the Use of Animals in Research

(1) The Director of NIH shall establish within the National Institutes of Health a committee to be known as the Interagency Coordinating Committee on the Use of Animals in Research (in this subsection referred to as the ''Committee'').

(2) The Committee shall provide advice to the Director of NIH on the preparation of the plan required in subsection (a) of this section.

(3) The Committee shall be composed of—

(A) the Directors of each of the national research institutes and the Director of the Center for Research Resources (or the designees of such Directors); and

(B) representatives of the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, the National Science Foundation, and such additional agencies as the Director of NIH determines to be appropriate, which representatives shall include not less than one veterinarian with expertise in laboratory-animal medicine.

(July 1, 1944, ch. 373, title IV, § 404C, as added Pub. L. 103–43, title II, § 205(a), June 10, 1993, 107 Stat. 146.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 283f. Requirements regarding surveys of sexual behavior

With respect to any survey of human sexual behavior proposed to be conducted or supported through the National Institutes of Health, the survey may not be carried out unless—

(1) the proposal has undergone review in accordance with any applicable requirements of sections 289 and 289a of this title; and

(2) the Secretary, in accordance with section 289a–1 of this title, makes a determination that the information expected to be obtained through the survey will assist—

(A) in reducing the incidence of sexually transmitted diseases, the incidence of infection with the human immunodeficiency virus, or the incidence of any other infectious disease; or

(B) in improving reproductive health or other conditions of health.

(July 1, 1944, ch. 373, title IV, § 404D, as added Pub. L. 103–43, title II, § 207, June 10, 1993, 107 Stat. 148.)

PROHIBITION AGAINST SHARP ADULT SEX SURVEY AND AMERICAN TEENAGE SEX SURVEY

Section 2015 of Pub. L. 103–43 provided that: ''The Secretary of Health and Human Services may not during fiscal year 1993 or any subsequent fiscal year conduct or support the SHARP survey of adult sexual behavior or the American Teenage Study of adolescent sexual behavior. This section becomes effective on the date of the enactment of this Act [June 10, 1993].''

§ 283g. Repealed. Pub. L. 105–277, div. A, § 101(f) [title VI, § 601(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–387

Section, act July 1, 1944, ch. 373, title IV, § 404E, as added Pub. L. 103–43, title II, § 209, June 10, 1993, 107 Stat. 149, related to Office of Alternative Medicine.

PART B—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

§ 284. Directors of national research institutes

(a) Appointment

The Director of the National Cancer Institute shall be appointed by the President and the Directors of the other national research institutes shall be appointed by the Secretary. Each Director of a national research institute shall report directly to the Director of NIH.

(b) Duties and authority; grants, contracts, and cooperative agreements

(1) In carrying out the purposes of section 241 of this title with respect to human diseases or disorders or other aspects of human health for which the national research institutes were established, the Secretary, acting through the Director of each national research institute—

(A) shall encourage and support research, investigations, experiments, demonstrations, and studies in the health sciences related to—

(i) the maintenance of health,

(ii) the detection, diagnosis, treatment, and prevention of human diseases and disorders,

(iii) the rehabilitation of individuals with human diseases, disorders, and disabilities, and

(iv) the expansion of knowledge of the processes underlying human diseases, disorders, and disabilities, the processes underlying the normal and pathological functioning of the body and its organ systems, and the processes underlying the interactions between the human organism and the environment;

(B) may, subject to the peer review prescribed under section 289a(b) of this title and any advisory council review under section 284a(a)(3)(A)(i) of this title, conduct the research, investigations, experiments, demonstrations, and studies referred to in subparagraph (A);

(C) may conduct and support research training (i) for which fellowship support is not provided under section 288 of this title, and (ii) which is not residency training of physicians or other health professionals;

(D) may develop, implement, and support demonstrations and programs for the application of the results of the activities of the institute to clinical practice and disease prevention activities;

(E) may develop, conduct, and support public and professional education and information programs;

(F) may secure, develop and maintain, distribute, and support the development and maintenance of resources needed for research;

(G) may make available the facilities of the institute to appropriate entities and individuals engaged in research activities and cooperate with and assist Federal and State agencies charged with protecting the public health;

(H) may accept unconditional gifts made to the institute for its activities, and, in the case of gifts of a value in excess of $50,000, establish suitable memorials to the donor;

(I) may secure for the institute consultation services and advice of persons from the United States or abroad;

(J) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(K) may accept voluntary and uncompensated services; and

(L) may perform such other functions as the Secretary determines are needed to carry out effectively the purposes of the institute.

The indemnification provisions of section 2354 of title 10 shall apply with respect to contracts entered into under this subsection and section 282(b) of this title.

(2) Support for an activity or program under this subsection may be provided through grants, contracts, and cooperative agreements. The Secretary, acting through the Director of each national research institute—

(A) may enter into a contract for research, training, or demonstrations only if the contract has been recommended after technical and scientific peer review required by regulations under section 289a of this title;

(B) may make grants and cooperative agreements under paragraph (1) for research, training, or demonstrations, except that—

(i) if the direct cost of the grant or cooperative agreement to be made does not exceed $50,000, such grant or cooperative agreement may be made only if such grant or cooperative agreement has been recommended after technical and scientific peer review required by regulations under section 289a of this title, and

(ii) if the direct cost of the grant or cooperative agreement to be made exceeds $50,000, such grant or cooperative agreement may be made only if such grant or cooperative agreement has been recommended after technical and scientific peer review required by regulations under section 289a of this title and is recommended under section 284a(a)(3)(A)(ii) of this title by the advisory council for the national research institute involved; and

(C) shall, subject to section 300cc–40b(d)(2) of this title, receive from the President and the Office of Management and Budget directly all funds appropriated by the Congress for obligation and expenditure by the Institute.

(c) Coordination with other public and private entities; cooperation with other national research institutes; appointment of additional peer review groups

In carrying out subsection (b) of this section, each Director of a national research institute—

(1) shall coordinate, as appropriate, the activities of the institute with similar programs of other public and private entities;

(2) shall cooperate with the Directors of the other national research institutes in the development and support of multidisciplinary research and research that involves more than one institute;

(3) may, in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

(A) establish technical and scientific peer review groups in addition to those appointed under section 282(b)(6) of this title; and

(B) appoint the members of peer review groups established under subparagraph (A); and

(4) may publish, or arrange for the publication of, information with respect to the purpose of the Institute without regard to section 501 of title 44.

The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under paragraph (3).

(July 1, 1944, ch. 373, title IV, § 405, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 826; amended Pub. L. 100–607, title I, § 116, Nov. 4, 1988, 102 Stat. 3053; Pub. L. 100–690, title II, § 2613(c), Nov. 18, 1988, 102 Stat. 4239; Pub. L. 103–43, title III, § 301(a)(1), (b), June 10, 1993, 107 Stat. 150.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1993—Subsec. (b)(2)(C). Pub. L. 103–43, § 301(a)(1), added subpar. (C).

Subsec. (c). Pub. L. 103–43, § 301(b)(2), inserted concluding provisions relating to Federal Advisory Committee Act.

Subsec. (c)(3). Pub. L. 103–43, § 301(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''may, in consultation with the advisory council for the Institute and the approval of the Director of NIH, establish and appoint technical and scientific peer review groups in addition to those established and appointed under section 282(b)(6) of this title; and''.

1988—Subsec. (b)(1). Pub. L. 100–607, § 116(1), struck out ''the'' after ''with respect to'' in introductory provisions.

Subsec. (c)(3). Pub. L. 100–690 substituted ''establish and appoint'' and ''established and appointed'' for ''establish'' and ''established'', respectively.

Pub. L. 100–607, § 116(2)(A), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''may, with the approval of the advisory council for the institute and the Director of NIH, appoint technical and scientific peer review groups in addition to those appointed under section 282(b)(6) of this title.''

Subsec. (c)(4). Pub. L. 100–607, § 116(2)(C), added par. (4).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 284a, 285a–2, 285b–3, 289a, 300cc–41 of this title.

§ 284a. Advisory councils

(a) Establishment; acceptance of conditional gifts; functions

(1) Except as provided in subsection (h) of this section, the Secretary shall appoint an advisory council for each national research institute which (A) shall advise, assist, consult with, and make recommendations to the Secretary and the Director of such institute on matters related to the activities carried out by and through the institute and the policies respecting such activities, and (B) shall carry out the special functions prescribed by part C of this subchapter.

(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section 238 of this title, of conditional gifts for study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established, for the acquisition of grounds, or for the construction, equipping, or maintenance of facilities for the institute.

(3) Each advisory council for a national research institute—

(A)(i) may on the basis of the materials provided under section 289a(b)(2) of this title respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research,

(ii) may review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 284(b)(2) of this title and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge, and

(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the institute;

(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the institute was established and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

(C) may appoint subcommittees and convene workshops and conferences.

(b) Membership; compensation

(1) Each advisory council shall consist of ex officio members and not more than eighteen members appointed by the Secretary. The ex officio members shall be nonvoting members.

(2) The ex officio members of an advisory council shall consist of—

(A) the Secretary, the Director of NIH, the Director of the national research institute for which the council is established, the Under Secretary for Health of the Department of Veterans Affairs or the Chief Dental Director of the Department of Veterans Affairs, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

(A) Two-thirds of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including not less than two individuals who are leaders in the fields of public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

(B) One-third of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

(4) Members of an advisory council who are officers or employees of the United States shall

not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule.

(c) Term of office; reappointment; vacancy

The term of office of an appointed member of an advisory council is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term for 180 days after the date of such expiration. A member who has been appointed for a term of four years may not be reappointed to an advisory council before two years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

(d) Chairman; term of office

The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the national research institute for which the advisory council is established to be the chairman of the advisory council. The term of office of the chairman shall be two years.

(e) Meetings

The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least three times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the national research institute for which the advisory council was established.

(f) Appointment of executive secretary; training and orientation for new members

The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

(g) Comments and recommendations for inclusion in biennial report; additional reports

Each advisory council may prepare, for inclusion in the biennial report made under section 284b of this title, (1) comments respecting the activities of the advisory council in the fiscal years respecting which the report is prepared, (2) comments on the progress of the national research institute for which it was established in meeting its objectives, and (3) recommendations respecting the future directions and program and policy emphasis of the institute. Each advisory council may prepare such additional reports as it may determine appropriate.

(h) Advisory councils in existence; application of section to National Cancer Advisory Board and advisory council to National Heart, Lung, and Blood Institute

(1) Except as provided in paragraph (2), this section does not terminate the membership of any advisory council for a national research institute which was in existence on November 20, 1985. After November 20, 1985—

(A) the Secretary shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by this section;

(B) each advisory council shall organize itself in accordance with this section and exercise the functions prescribed by this section; and

(C) the Director of each national research institute shall perform for such advisory council the functions prescribed by this section.

(2)(A) The National Cancer Advisory Board shall be the advisory council for the National Cancer Institute. This section applies to the National Cancer Advisory Board, except that—

(i) appointments to such Board shall be made by the President;

(ii) the term of office of an appointed member shall be 6 years;

(iii) of the members appointed to the Board not less than five members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors);

(iv) the chairman of the Board shall be selected by the President from the appointed members and shall serve as chairman for a term of two years;

(v) the ex officio members of the Board shall be nonvoting members and shall be the Secretary, the Director of the Office of Science and Technology Policy, the Director of NIH, the Under Secretary for Health of the Department of Veterans Affairs, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission, the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Science of the Department of Energy (or the designees of such officers); and

(vi) the Board shall meet at least four times each fiscal year.

(B) This section applies to the advisory council to the National Heart, Lung, and Blood Institute, except that the advisory council shall meet at least four times each fiscal year.

(July 1, 1944, ch. 373, title IV, § 406, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 828; amended

Pub. L. 100–607, title I, § 117, Nov. 4, 1988, 102 Stat. 3053; Pub. L. 101–381, title I, § 102(1), Aug. 18, 1990, 104 Stat. 585; Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 103–43, title II, § 210(a), title XX, §§ 2008(b)(1), 2010(b)(2), June 10, 1993, 107 Stat. 149, 210, 214; Pub. L. 105–245, title III, § 309(b)(2)(C), Oct. 7, 1998, 112 Stat. 1853.)

AMENDMENTS

1998—Subsec. (h)(2)(A)(v). Pub. L. 105–245 substituted ''Science of the Department of Energy'' for ''Energy Research of the Department of Energy''.

1993—Subsec. (a)(2). Pub. L. 103–43, § 2010(b)(2), substituted ''section 238'' for ''section 300aaa''.

Subsec. (b)(2)(A). Pub. L. 103–43, § 2008(b)(1)(A), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'' in two places.

Subsec. (c). Pub. L. 103–43, § 210(a), substituted ''for 180 days after the date of such expiration'' for ''until a successor has taken office''.

Subsec. (h)(2)(A)(v). Pub. L. 103–43, § 2008(b)(1)(B), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1992—Subsecs. (b)(2)(A), (h)(2)(A)(v). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1990—Subsec. (a)(2). Pub. L. 101–381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (b)(1). Pub. L. 100–607, § 117(a), inserted at end ''The ex officio members shall be nonvoting members.''

Subsec. (b)(3)(A). Pub. L. 100–607, § 117(b), inserted ''not less than two individuals who are leaders in the fields of'' after ''(including''.

Subsec. (h)(2)(A)(v). Pub. L. 100–607, § 117(c), inserted ''shall be nonvoting members and'' after ''Board'' and substituted ''the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Energy Research of the Department of Energy'' for ''and the Assistant Secretary of Defense for Health Affairs''.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 284, 284b, 285b–7, 285c–6, 287c–21, 289c, 300cc–40a of this title.

§ 284b. Biennial report

The Director of each national research institute, after consultation with the advisory council for the institute, shall prepare for inclusion in the biennial report made under section 283 of this title a biennial report which shall consist of a description of the activities of the institute and program policies of the Director of the institute in the fiscal years respecting which the report is prepared. The Director of each national research institute may prepare such additional reports as the Director determines appropriate. The Director of each national research institute shall provide the advisory council for the institute an opportunity for the submission of the written comments referred to in section 284a(g) of this title.

(July 1, 1944, ch. 373, title IV, § 407, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 831.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 284a, 285a–2, 285a–5, 285a–6, 285b–6, 285c–7, 285g–4, 285n–1, 285*o*–1, 285p–1 of this title.

§ 284c. Certain uses of funds

(a)(1) Except as provided in paragraph (2), the sum of the amounts obligated in any fiscal year for administrative expenses of the National Institutes of Health may not exceed an amount which is 5.5 percent of the total amount appropriated for such fiscal year for the National Institutes of Health.

(2) Paragraph (1) does not apply to the National Library of Medicine, the National Center for Nursing Research, the John E. Fogarty International Center for Advanced Study in the Health Sciences, the Warren G. Magnuson Clinical Center, and the Office of Medical Applications of Research.

(3) For purposes of paragraph (1), the term ''administrative expenses'' means expenses incurred for the support of activities relevant to the award of grants, contracts, and cooperative agreements and expenses incurred for general administration of the scientific programs and activities of the National Institutes of Health.

(b) For fiscal year 1989 and subsequent fiscal years, amounts made available to the National Institutes of Health shall be available for payment of nurses and allied health professionals in accordance with payment authorities, scheduling options, benefits, and other authorities provided under chapter 73 of title 38 for nurses of the Department of Veterans Affairs.

(July 1, 1944, ch. 373, title IV, § 408, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 831; amended Pub. L. 100–607, title I, § 118, Nov. 4, 1988, 102 Stat. 3053; Pub. L. 100–690, title II, § 2613(d), Nov. 18, 1988, 102 Stat. 4239; Pub. L. 103–43, title IV, § 403(b)(1), title XX, § 2008(b)(2), June 10, 1993, 107 Stat. 158, 211; Pub. L. 104–316, title I, § 122(a), Oct. 19, 1996, 110 Stat. 3836; Pub. L. 105–362, title VI, § 601(a)(1)(B), Nov. 10, 1998, 112 Stat. 3285.)

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–362 struck out par. (4) which read as follows: ''Not later than December 31, 1987, and December 31 of each succeeding year, the Secretary shall report to the Congress the amount obli-

gated in the fiscal year preceding such date for administrative expenses of the National Institutes of Health and the total amount appropriated for the National Institutes of Health for such fiscal year. The Secretary shall consult with the Comptroller General of the United States in preparing each report.''

1996—Subsec. (a)(3). Pub. L. 104–316 struck out at end ''In identifying expenses incurred for such support and administration the Secretary shall consult with the Comptroller General of the United States.''

1993—Pub. L. 103–43 amended section catchline generally, redesignated subsec. (b) as (a) and par. (5) of subsec. (a) as (b), struck out former subsec. (a) which authorized appropriations in addition to amounts otherwise appropriated under this subchapter for the National Cancer Institute for programs other than under section 285a–1 of this title and for its program under section 285a–1 of this title and for the National Heart, Lung, and Blood Institute for programs other than under section 285b–1 of this title and for its program under section 285b–1 of this title, and substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'' in subsec. (b).

1988—Subsec. (a)(1), (2). Pub. L. 100–607, § 118(a), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

''(1)(A) For the National Cancer Institute (other than its programs under section 285a–1 of this title), there are authorized to be appropriated $1,194,000,000 for fiscal year 1986, $1,270,000,000 for fiscal year 1987, and $1,344,000,000 for fiscal year 1988.

''(B) For the programs under section 285a–1 of this title, there are authorized to be appropriated $68,000,000 for fiscal year 1986, $74,000,000 for fiscal year 1987, and $80,000,000 for fiscal year 1988.

''(2)(A) For the National Heart, Lung, and Blood Institute (other than its programs under section 285b–1 of this title), there are authorized to be appropriated $809,000,000 for fiscal year 1986, $871,000,000 for fiscal year 1987, and $927,000,000 for fiscal year 1988. Of the amount appropriated under this subsection for such fiscal year, not less than 15 percent of such amount shall be reserved for programs respecting diseases of the lung and not less than 15 percent of such amount shall be reserved for programs respecting blood diseases and blood resources.

''(B) For the programs under section 285b–1 of this title, there are authorized to be appropriated $82,000,000 for fiscal year 1986, $90,000,000 for fiscal year 1987, and $98,000,000 for fiscal year 1988.''

Subsec. (a)(2)(B). Pub. L. 100–690 inserted a comma after ''section 285b–1 of this title''.

Subsec. (b)(5). Pub. L. 100–607, § 118(b), added par. (5).

CHANGE OF NAME

National Center for Nursing Research changed to National Institute of Nursing Research by Pub. L. 103–43, title XV, § 1511, June 10, 1993, 107 Stat. 178.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

WARREN G. MAGNUSON CLINICAL CENTER; AVAILABILITY OF FUNDS FOR PAYMENT OF NURSES; RATE OF PAY AND OPTIONS AND BENEFITS

Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 738, provided that: ''Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson Clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with schedule options and benefits authorized for the Veterans Administration pursuant to 38 U.S.C. 4107.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285m–6 of this title.

§ 284d. "Health services research" defined

For purposes of this subchapter, the term ''health services research'' means research endeavors that study the impact of the organization, financing and management of health services on the quality, cost, access to and outcomes of care. Such term does not include research on the efficacy of services to prevent, diagnose, or treat medical conditions.

(July 1, 1944, ch. 373, title IV, § 409, as added Pub. L. 102–321, title I, § 121(b), July 10, 1992, 106 Stat. 358; amended Pub. L. 103–43, title XX, § 2016(a), June 10, 1993, 107 Stat. 218.)

AMENDMENTS

1993—Pub. L. 103–43 inserted at end ''Such term does not include research on the efficacy of services to prevent, diagnose, or treat medical conditions.''

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 284e. Research on osteoporosis, Paget's disease, and related bone disorders

(a) Establishment

The Directors of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Dental Research, and the National Institute of Diabetes and Digestive and Kidney Diseases, shall expand and intensify the programs of such Institutes with respect to research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

(b) Coordination

The Directors referred to in subsection (a) of this section shall jointly coordinate the programs referred to in such subsection and consult with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the Interagency Task Force on Aging Research.

(c) Information clearinghouse

(1) In general

In order to assist in carrying out the purpose described in subsection (a) of this section, the Director of NIH shall provide for the establishment of an information clearinghouse on osteoporosis and related bone disorders to facilitate and enhance knowledge and understanding on the part of health professionals, patients, and the public through the effective dissemination of information.

(2) Establishment through grant or contract

For the purpose of carrying out paragraph (1), the Director of NIH shall enter into a grant, cooperative agreement, or contract with a nonprofit private entity involved in activities regarding the prevention and control of osteoporosis and related bone disorders.

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1994, and such sums as

may be necessary for each of the fiscal years 1995 through 2003.

(July 1, 1944, ch. 373, title IV, § 409A, as added Pub. L. 103–43, title III, § 302, June 10, 1993, 107 Stat. 151; amended Pub. L. 105–340, title I, § 102, Oct. 31, 1998, 112 Stat. 3192.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–340 substituted ''through 2003'' for ''and 1996''.

§ 284f. Parkinson's disease

(a) In general

The Director of NIH shall establish a program for the conduct and support of research and training with respect to Parkinson's disease (subject to the extent of amounts appropriated under subsection (e) of this section).

(b) Inter-institute coordination

(1) In general

The Director of NIH shall provide for the coordination of the program established under subsection (a) of this section among all of the national research institutes conducting Parkinson's disease research.

(2) Conference

Coordination under paragraph (1) shall include the convening of a research planning conference not less frequently than once every 2 years. Each such conference shall prepare and submit to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Commerce of the House of Representatives a report concerning the conference.

(c) Morris K. Udall research centers

(1) In general

The Director of NIH is authorized to award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's disease. The Director is authorized to award not more than 10 Core Center Grants and designate each center funded under such grants as a Morris K. Udall Center for Research on Parkinson's Disease.

(2) Requirements

(A) In general

With respect to Parkinson's disease, each center assisted under this subsection shall—

(i) use the facilities of a single institution or a consortium of cooperating institutions, and meet such qualifications as may be prescribed by the Director of the NIH; and

(ii) conduct basic and clinical research.

(B) Discretionary requirements

With respect to Parkinson's disease, each center assisted under this subsection may—

(i) conduct training programs for scientists and health professionals;

(ii) conduct programs to provide information and continuing education to health professionals;

(iii) conduct programs for the dissemination of information to the public;

(iv) separately or in collaboration with other centers, establish a nationwide data system derived from patient populations with Parkinson's disease, and where possible, comparing relevant data involving general populations;

(v) separately or in collaboration with other centers, establish a Parkinson's Disease Information Clearinghouse to facilitate and enhance knowledge and understanding of Parkinson's disease; and

(vi) separately or in collaboration with other centers, establish a national education program that fosters a national focus on Parkinson's disease and the care of those with Parkinson's disease.

(3) Stipends regarding training programs

A center may use funds provided under paragraph (1) to provide stipends for scientists and health professionals enrolled in training programs under paragraph (2)(B).

(4) Duration of support

Support of a center under this subsection may be for a period not exceeding five years. Such period may be extended by the Director of NIH for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(d) Morris K. Udall Awards for Excellence in Parkinson's Disease Research

The Director of NIH is authorized to establish a grant program to support investigators with a proven record of excellence and innovation in Parkinson's disease research and who demonstrate potential for significant future breakthroughs in the understanding of the pathogensis,[1] diagnosis, and treatment of Parkinson's disease. Grants under this subsection shall be available for a period of not to exceed 5 years.

(e) Authorization of appropriations

For the purpose of carrying out this section and section 241 of this title and this subchapter with respect to research focused on Parkinson's disease, there are authorized to be appropriated up to $100,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 and 2000.

(July 1, 1944, ch. 373, title IV, § 409B, as added Pub. L. 105–78, title VI, § 603(c), Nov. 13, 1997, 111 Stat. 1520.)

FINDING AND PURPOSE

Section 603(b) of Pub. L. 105–78 provided that:

''(1) FINDING.—Congress finds that to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in Parkinson's disease must be expanded, as well as the coordination strengthened among the National Institutes of Health research institutes.

''(2) PURPOSE.—It is the purpose of this section [enacting this section] to provide for the expansion and coordination of research regarding Parkinson's disease, and to improve care and assistance for afflicted individuals and their family caregivers.''

[1] So in original. Probably should be ''pathogenesis,''.

PART C—SPECIFIC PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 284a, 289c–1 of this title.

SUBPART 1—NATIONAL CANCER INSTITUTE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 280e–4 of this title.

§ 285. Purpose of Institute

The general purpose of the National Cancer Institute (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of research, training, health information dissemination, and other programs with respect to the cause, diagnosis, prevention, and treatment of cancer, rehabilitation from cancer, and the continuing care of cancer patients and the families of cancer patients.

(July 1, 1944, ch. 373, title IV, § 410, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 832; amended Pub. L. 100–607, title I, § 121, Nov. 4, 1988, 102 Stat. 3054.)

AMENDMENTS

1988—Pub. L. 100–607 inserted '', rehabilitation from cancer,'' after ''treatment of cancer''.

§ 285a. National Cancer Program

The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other national research institutes, including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute.

(July 1, 1944, ch. 373, title IV, § 411, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 832.)

§ 285a–1. Cancer control programs

The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include—

(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting—

(A) the detection, diagnosis, prevention, and treatment of cancer,

(B) the continuing care of cancer patients and the families of cancer patients, and

(C) rehabilitation and counseling respecting cancer,

to physicians and other health professionals who provide care to individuals who have cancer;

(2) the demonstration of and the education of students of the health professions and health professionals in—

(A) effective methods for the prevention and early detection of cancer and the identification of individuals with a high risk of developing cancer, and

(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

(3) the demonstration of new methods for the dissemination of information to the general public concerning the prevention, early detection, diagnosis, and treatment and control of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

(July 1, 1944, ch. 373, title IV, § 412, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 832.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 285a–6, 285a–7, 285a–8 of this title.

§ 285a–2. Special authorities of Director

(a)(1) The Director of the Institute shall establish an information and education program to collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to cancer patients and their families, physicians and other health professionals, and the general public, information on cancer research, diagnosis, prevention, and treatment (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer). The Director of the Institute may take such action as may be necessary to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and the public and between the Institute and other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

(2) In carrying out paragraph (1), the Director of the Institute shall—

(A) provide public and patient information and education programs, providing information that will help individuals take personal steps to reduce their risk of cancer, to make them aware of early detection techniques and to motivate appropriate utilization of those techniques, to help individuals deal with cancer if it strikes, and to provide information to improve long-term survival;

(B) continue and expand programs to provide physicians and the public with state-of-the-art information on the treatment of particular forms of cancers, and to identify those clinical trials that might benefit patients while advancing knowledge of cancer treatment;

(C) assess the incorporation of state-of-the-art cancer treatments into clinical practice and the extent to which cancer patients receive such treatments and include the results of such assessments in the biennial reports required under section 284b of this title;

(D) maintain and operate the International Cancer Research Data Bank, which shall collect, catalog, store, and disseminate insofar as feasible the results of cancer research and treatment undertaken in any country for the

use of any person involved in cancer research and treatment in any country; and

(E) to the extent practicable, in disseminating the results of such cancer research and treatment, utilize information systems available to the public.

(b) The Director of the Institute in carrying out the National Cancer Program—

(1) shall establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for cancer research and set standards of safety and care for persons using such materials;

(2) shall, in consultation with the advisory council for the Institute, support (A) research in the cancer field outside the United States by highly qualified foreign nationals which can be expected to benefit the American people, (B) collaborative research involving American and foreign participants, and (C) the training of American scientists abroad and foreign scientists in the United States;

(3) shall, in consultation with the advisory council for the Institute, support appropriate programs of education and training (including continuing education and laboratory and clinical research training);

(4) shall encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

(5) may obtain (after consultation with the advisory council for the Institute and in accordance with section 3109 of title 5, but without regard to the limitation in such section on the period of service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

(6)(A) may, in consultation with the advisory council for the Institute, acquire, construct, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director determines necessary;

(B) may, in consultation with the advisory council for the Institute, make grants for construction or renovation of facilities; and

(C) may, in consultation with the advisory council for the Institute, acquire, without regard to section 34 of title 40, by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

(7) may, in consultation with the advisory council for the Institute, appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments to advise the Director with respect to the Director's functions;

(8) may, subject to section 284(b)(2) of this title and without regard to section 3324 of title 31 and section 5 of title 41, enter into such contracts, leases, cooperative agreements, as may be necessary in the conduct of functions of the Director, with any public agency, or with any person, firm, association, corporation, or educational institution; and

(9) shall, notwithstanding section 284(a) of this title, prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of NIH, and the Institute's advisory council.

Except as otherwise provided, experts and consultants whose services are obtained under paragraph (5) shall be paid or reimbursed, in accordance with title 5 for their travel to and from their place of service and for other expenses associated with their assignment. Such expenses shall not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (5) unless the expert or consultant has agreed in writing to complete the entire period of the assignment or one year of the assignment, whichever is shorter, unless separated or reassigned for reasons which are beyond the control of the expert or consultant and which are acceptable to the Director of the Institute. If the expert or consultant violates the agreement, the money spent by the United States for such expenses is recoverable from the expert or consultant as a debt due the United States. The Secretary may waive in whole or in part a right of recovery under the preceding sentence.

(July 1, 1944, ch. 373, title IV, § 413, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 833; amended Pub. L. 100–607, title I, § 122, Nov. 4, 1988, 102 Stat. 3054; Pub. L. 101–93, § 5(c), Aug. 16, 1989, 103 Stat. 611; Pub. L. 103–43, title III, § 301(a)(2), June 10, 1993, 107 Stat. 150.)

References in Text

The provisions of title 5 relating to reimbursement for travel expenses, referred to in subsec. (b), are classified generally to section 5701 et seq. of Title 5, Government Organization and Employees.

Amendments

1993—Subsec. (b)(9). Pub. L. 103–43 struck out subpar. (A) designation and subpar. (B) which permitted Director to receive from President and Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by Institute.

1989—Subsec. (a)(1). Pub. L. 101–93 substituted ''Institute and'' for ''Institute and and''.

1988—Subsec. (a). Pub. L. 100–607, § 122(1), designated existing provisions as par. (1), substituted ''education program'' for ''education center'', inserted ''and the public and between the Institute and'' after ''between the Institute'', and added par. (2).

Subsec. (b)(5). Pub. L. 100–607, § 122(2)(A), substituted ''after consultation with'' for ''with the approval of''.

Subsec. (b)(8) to (10). Pub. L. 100–607, § 122(2)(B), inserted ''and'' after ''or educational institution;'' in par. (8), redesignated par. (10) as (9), and struck out former par. (9) which related to International Cancer Research Data Bank.

Section Referred to in Other Sections

This section is referred to in sections 285a–6, 285a–7, 285a–8 of this title.

§ 285a–3. National cancer research and demonstration centers

(a) Cooperative agreements and grants for establishing and supporting

(1) The Director of the Institute may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, control, and treatment methods for cancer.

(2) A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH and after consultation with the Institute's advisory council.

(b) Uses for Federal payments under cooperative agreements or grants

Federal payments made under a cooperative agreement or grant under subsection (a) of this section may be used for—

(1) construction (notwithstanding any limitation under section 289e of this title);

(2) staffing and other basic operating costs, including such patient care costs as are required for research;

(3) clinical training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer; and

(4) demonstration purposes.

As used in this paragraph, the term ''construction'' does not include the acquisition of land, and the term ''training'' does not include research training for which National Research Service Awards may be provided under section 288 of this title.

(c) Period of support; additional periods

Support of a center under subsection (a) of this section may be for a period of not to exceed five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(July 1, 1944, ch. 373, title IV, § 414, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 835; amended Pub. L. 100–607, title I, § 123, Nov. 4, 1988, 102 Stat. 3055.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–607 inserted ''control,'' after ''prevention,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 285a–6, 285a–7 of this title.

§ 285a–4. President's Cancer Panel; establishment, membership, etc., functions

(a)(1) The President's Cancer Panel (hereafter in this section referred to as the ''Panel'') shall be composed of three persons appointed by the President who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two members of the Panel shall be distinguished scientists or physicians.

(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term, and (ii) a member may serve until the member's successor has taken office. If a vacancy occurs in the Panel, the President shall make an appointment to fill the vacancy not later than 90 days after the date the vacancy occurred.

(B) The President shall designate one of the members to serve as the chairman of the Panel for a term of one year.

(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties as members of the Panel and shall be paid or reimbursed, in accordance with title 5, for their travel to and from their place of service and for other expenses associated with their assignment.

(3) The Panel shall meet at the call of the chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the chairman shall make such transcript available to the public.

(b) The Panel shall monitor the development and execution of the activities of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the National Cancer Program and shall submit to the President, the Secretary, and the Congress an annual evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct.

(July 1, 1944, ch. 373, title IV, § 415, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 835.)

REFERENCES IN TEXT

The provisions of title 5 relating to reimbursement for travel expenses, referred to in subsec. (a)(2)(C), are classified generally to section 5701 et seq. of Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 285a–5. Associate Director for Prevention; appointment; function

(a) There shall be in the Institute an Associate Director for Prevention to coordinate and promote the programs in the Institute concerning the prevention of cancer. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or experience are experts in public health or preventive medicine.

(b) The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 284b of this title a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

(July 1, 1944, ch. 373, title IV, § 416, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 836.)

§ 285a–6. Breast and gynecological cancers

(a) Expansion and coordination of activities

The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

(b) Coordination with other institutes

The Director of the Institute shall coordinate the activities of the Director under subsection (a) of this section with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes[1] and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

(c) Programs for breast cancer

(1) In general

In carrying out subsection (a) of this section, the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, breast cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

(A) basic research concerning the etiology and causes of breast cancer;

(B) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

(C) control programs with respect to breast cancer in accordance with section 285a–1 of this title, including community-based programs designed to assist women who are members of medically underserved populations, low-income populations, or minority groups;

(D) information and education programs with respect to breast cancer in accordance with section 285a–2 of this title; and

(E) research and demonstration centers with respect to breast cancer in accordance with section 285a–3 of this title, including the development and operation of centers for breast cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on breast cancer.

Not less than six centers shall be operated under subparagraph (E). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

(2) Implementation of plan for programs

(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 285a–2(9)[2] of this title. The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

(B) Not later than October 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(d) Other cancers

In carrying out subsection (a) of this section, the Director of the Institute shall conduct or support research on ovarian cancer and other cancers of the reproductive system of women. Activities under such subsection shall provide for the conduct and support of—

(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

(2) clinical research and related activities into the causes, prevention, detection and

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be section "285a–2(b)(9)".

treatment of ovarian cancer and other cancers of the reproductive system of women;

(3) control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 285a–1 of this title;

(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 285a–2 of this title; and

(5) research and demonstration centers with respect to ovarian cancer and cancers of the reproductive system in accordance with section 285a–3 of this title.

(e) Report

The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 284b of this title, a report that describes the activities of the National Cancer Institute under the research programs referred to in subsection (a) of this section, that shall include—

(1) a description of the research plan with respect to breast cancer prepared under subsection (c) of this section;

(2) an assessment of the development, revision, and implementation of such plan;

(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

(5) such comments and recommendations as the Director considers appropriate.

(July 1, 1944, ch. 373, title IV, § 417, as added Pub. L. 103–43, title IV, § 401, June 10, 1993, 107 Stat. 153.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285a–8 of this title.

§ 285a–7. Prostate cancer

(a) Expansion and coordination of activities

The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on prostate cancer.

(b) Coordination with other institutes

The Director of the Institute shall coordinate the activities of the Director under subsection (a) of this section with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes[1] and agencies have responsibilities that are related to prostate cancer.

(c) Programs

(1) In general

In carrying out subsection (a) of this section, the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, prostate cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

(A) basic research concerning the etiology and causes of prostate cancer;

(B) clinical research and related activities concerning the causes, prevention, detection and treatment of prostate cancer;

(C) prevention and control and early detection programs with respect to prostate cancer in accordance with section 285a–1 of this title, particularly as it relates to intensifying research on the role of prostate specific antigen for the screening and early detection of prostate cancer;

(D) an Inter-Institute Task Force, under the direction of the Director of the Institute, to provide coordination between relevant National Institutes of Health components of research efforts on prostate cancer;

(E) control programs with respect to prostate cancer in accordance with section 285a–1 of this title;

(F) information and education programs with respect to prostate cancer in accordance with section 285a–2 of this title; and

(G) research and demonstration centers with respect to prostate cancer in accordance with section 285a–3 of this title, including the development and operation of centers for prostate cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and control, treatment, research, and related activities on prostate cancer.

Not less than six centers shall be operated under subparagraph (G). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

(2) Implementation of plan for programs

(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 285a–2(9)[2] of this title. The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

(B) Not later than October 1, 1993, the Director of the Institute shall submit a copy of the

[1] So in original. Probably should not be capitalized

[2] So in original. Probably should be section ''285a–2(b)(9)''.

plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(July 1, 1944, ch. 373, title IV, § 417A, as added Pub. L. 103–43, title IV, § 402, June 10, 1993, 107 Stat. 155.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285a–8 of this title.

§ 285a–8. Authorization of appropriations

(a) Activities generally

For the purpose of carrying out this subpart, there are authorized to be appropriated $2,728,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(b) Breast cancer and gynecological cancers

(1) Breast cancer

(A) For the purpose of carrying out subparagraph (A) of section 285a–6(c)(1) of this title, there are authorized to be appropriated $225,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) of this section with respect to such purpose.

(B) For the purpose of carrying out subparagraphs (B) through (E) of section 285a–6(c)(1) of this title, there are authorized to be appropriated $100,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) of this section with respect to such purpose.

(2) Other cancers

For the purpose of carrying out subsection (d) of section 285a–6 of this title, there are authorized to be appropriated $75,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 2003. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) of this section with respect to such purpose.

(c) Prostate cancer

For the purpose of carrying out section 285a–7 of this title, there are authorized to be appropriated $72,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) of this section with respect to such purpose.

(d) Allocation regarding cancer control

(1) In general

Of the amounts appropriated for the National Cancer Institute for a fiscal year, the Director of the Institute shall make available not less than the applicable percentage specified in paragraph (2) for carrying out the cancer control activities authorized in section 285a–1 of this title and for which budget estimates are made under section 285a–2(b)(9) of this title for the fiscal year.

(2) Applicable percentage

The percentage referred to in paragraph (1) is—

(A) 7 percent, in the case of fiscal year 1994;

(B) 9 percent, in the case of fiscal year 1995; and

(C) 10 percent, in the case of fiscal year 1996 and each subsequent fiscal year.

(July 1, 1944, ch. 373, title IV, § 417B, as added Pub. L. 103–43, title IV, § 403(a), June 10, 1993, 107 Stat. 157; amended Pub. L. 105–340, title I, § 103, Oct. 31, 1998, 112 Stat. 3192.)

AMENDMENTS

1998—Subsec. (b)(1)(A), (B), (2). Pub. L. 105–340 substituted "through 2003" for "and 1996".

SUBPART 2—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

§ 285b. Purpose of Institute

The general purpose of the National Heart, Lung, and Blood Institute (hereafter in this subpart referred to as the "Institute") is the conduct and support of research, training, health information dissemination, and other programs with respect to heart, blood vessel, lung, and blood diseases and with respect to the use of blood and blood products and the management of blood resources.

(July 1, 1944, ch. 373, title IV, § 418, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 836.)

§ 285b–1. Heart, blood vessel, lung, and blood disease prevention and control programs

(a) The Director of the Institute shall conduct and support programs for the prevention and control of heart, blood vessel, lung, and blood diseases. Such programs shall include community-based and population-based programs carried out in cooperation with other Federal agencies, with public health agencies of State or local governments, with nonprofit private entities that are community-based health agencies, or with other appropriate public or nonprofit private entities.

(b) In carrying out programs under subsection (a) of this section, the Director of the Institute shall give special consideration to the prevention and control of heart, blood vessel, lung, and

blood diseases in children, and in populations that are at increased risk with respect to such diseases.

(July 1, 1944, ch. 373, title IV, § 419, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 836; amended Pub. L. 103–43, title V, § 505, June 10, 1993, 107 Stat. 160.)

AMENDMENTS

1993—Pub. L. 103–43 substituted subsecs. (a) and (b) for former section which read as follows: ''The Director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council for the Institute, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.''

§ 285b–2. Information and education

The Director of the Institute shall collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to patients, families of patients, physicians and other health professionals, and the general public, information on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases, the maintenance of health to reduce the incidence of such diseases, and on the use of blood and blood products and the management of blood resources. In carrying out this section, the Director of the Institute shall place special emphasis upon the utilization of collaborative efforts with both the public and private sectors to—

(1) increase the awareness and knowledge of health care professionals and the public regarding the prevention of heart and blood vessel, lung, and blood diseases and the utilization of blood resources; and

(2) develop and disseminate to health professionals, patients and patient families, and the public information designed to encourage adults and children to adopt healthful practices concerning the prevention of such diseases.

(July 1, 1944, ch. 373, title IV, § 420, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 837; amended Pub. L. 100–607, title I, § 126, Nov. 4, 1988, 102 Stat. 3055.)

AMENDMENTS

1988—Pub. L. 100–607 amended second sentence generally. Prior to amendment, second sentence read as follows: ''In carrying out this section the Director of the Institute shall place special emphasis upon—

''(1) the dissemination of information regarding diet and nutrition, environmental pollutants, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary and blood diseases; and

''(2) the dissemination of information designed to encourage children to adopt healthful habits respecting the risk factors related to the prevention of such diseases.''

§ 285b–3. National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program; administrative provisions

(a)(1) The National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program (hereafter in this subpart referred to as the ''Program'') may provide for—

(A) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

(B) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

(C) research into the development, trial, and evaluation of techniques, drugs, and devices (including computers) used in, and approaches to, the diagnosis, treatment (including the provision of emergency medical services), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

(D) establishment of programs that will focus and apply scientific and technological efforts involving the biological, physical, and engineering sciences to all facets of heart, blood vessel, lung, and blood diseases with emphasis on the refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of and rehabilitation from such diseases;

(E) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

(F) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of blood resources in the United States, including the collection, preservation, fractionation, and distribution of blood and blood products;

(G) the education (including continuing education) and training of scientists, clinical investigators, and educators, in fields and specialties (including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases and blood resources;

(H) public and professional education relating to all aspects of such diseases, including the prevention of such diseases, and the use of blood and blood products and the management of blood resources;

(I) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, hemolytic diseases such as sickle cell anemia and Cooley's anemia, and hemophilic diseases) and for the development and demonstration of diagnostic,

treatment, and preventive approaches to such diseases; and

(J) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases.

(2) The Program shall be coordinated with other national research institutes to the extent that they have responsibilities respecting such diseases and shall give special emphasis to the continued development in the Institute of programs related to the causes of stroke and to effective coordination of such programs with related stroke programs in the National Institute of Neurological and Communicative Disorders and Stroke. The Director of the Institute, with the advice of the advisory council for the Institute, shall revise annually the plan for the Program and shall carry out the Program in accordance with such plan.

(b) In carrying out the Program, the Director of the Institute, under policies established by the Director of NIH—

(1) may, after consultation with the advisory council for the Institute, obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

(2)(A) may, in consultation with the advisory council for the Institute, acquire and construct, improve, repair, operate, alter, renovate, and maintain, heart, blood vessel, lung, and blood disease and blood resource laboratories, research, training, and other facilities, equipment, and such other real or personal property as the Director determines necessary;

(B) may, in consultation with the advisory council for the Institute, make grants for construction or renovation of facilities; and

(C) may, in consultation with the advisory council for the Institute, acquire, without regard to section 34 of title 40, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

(3) subject to section 284(b)(2) of this title and without regard to section 3324 of title 31 and section 5 of title 41, may enter into such contracts, leases, cooperative agreements, or other transactions, as may be necessary in the conduct of the Director's functions, with any public agency, or with any person, firm, association, corporation, or educational institutions;

(4) may make grants to public and nonprofit private entities to assist in meeting the cost of the care of patients in hospitals, clinics, and related facilities who are participating in research projects; and

(5) shall, in consultation with the advisory council for the Institute, conduct appropriate intramural training and education programs, including continuing education and laboratory and clinical research training programs.

Except as otherwise provided, experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed, in accordance with title 5, for their travel to and from their place of service and for other expenses associated with their assignment. Such expenses shall not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless the expert or consultant has agreed in writing to complete the entire period of the assignment or one year of the assignment, whichever is shorter, unless separated or reassigned for reasons which are beyond the control of the expert or consultant and which are acceptable to the Director of the Institute. If the expert or consultant violates the agreement, the money spent by the United States for such expenses is recoverable from the expert or consultant as a debt due the United States. The Secretary may waive in whole or in part a right of recovery under the preceding sentence.

(July 1, 1944, ch. 373, title IV, § 421, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 837; amended Pub. L. 100–607, title I, § 127, Nov. 4, 1988, 102 Stat. 3055; Pub. L. 103–43, title V, § 501, title XX, § 2008(b)(3), June 10, 1993, 107 Stat. 158, 211.)

REFERENCES IN TEXT

The provisions of title 5 relating to reimbursement for travel expenses, referred to in subsec. (b), are classified generally to section 5701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–43, § 2008(b)(3), inserted comma after ''may''.

Subsec. (b)(5). Pub. L. 103–43, § 501, added par. (5).

1988—Subsec. (a)(1)(D). Pub. L. 100–607, § 127(1), inserted ''and rehabilitation from'' after ''and treatment of''.

Subsec. (b)(1). Pub. L. 100–607, § 127(2), substituted ''after consultation with'' for '', after approval of''.

§ 285b–4. National research and demonstration centers

(a) Heart, blood vessel, lung, blood diseases, and blood resources; utilization of centers for prevention programs

(1) The Director of the Institute may provide, in accordance with subsection (c) of this section, for the development of—

(A) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment and rehabilitation methods (including methods of providing emergency medical services) for heart and blood vessel diseases;

(B) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment and rehabilitation methods (including methods of providing emergency medical services) for lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children);

(C) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood diseases

and research into blood, in the use of blood products and in the management of blood resources; and

(D) three centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment (including genetic studies, intrauterine environment studies, postnatal studies, heart arrhythmias, and acquired heart disease and preventive cardiology) for cardiovascular diseases in children.

(2) The centers developed under paragraph (1) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular, pulmonary, and blood diseases:

(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular, pulmonary, and blood diseases.

(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such diseases.

(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such diseases.

(D) Programs to develop improved methods of providing emergency medical services for persons with such diseases.

(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and the maintenance of health to reduce the incidence of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases and the maintenance of health.

(3) The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

(b) Sickle cell anemia

The Director of the Institute shall provide, in accordance with subsection (c) of this section, for the development of ten centers for basic and clinical research into the diagnosis, treatment, and control of sickle cell anemia.

(c) Cooperative agreements and grants for establishing and supporting; uses for Federal payments; period of support, additional periods

(1) The Director of the Institute may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for centers for basic and clinical research into, training in, and demonstration of the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases.

(2) A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH and after consultation with the Institute's advisory council.

(3) Federal payments made under a cooperative agreement or grant under paragraph (1) may be used for—

(A) construction (notwithstanding any limitation under section 289e of this title);

(B) staffing and other basic operating costs, including such patient care costs as are required for research;

(C) training, including training for allied health professionals; and

(D) demonstration purposes.

As used in this subsection, the term ''construction'' does not include the acquisition of land, and the term ''training'' does not include research training for which National Research Service Awards may be provided under section 288 of this title.

(4) Support of a center under paragraph (1) may be for a period of not to exceed five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(July 1, 1944, ch. 373, title IV, § 422, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 839; amended Pub. L. 100–607, title I, § 128, Nov. 4, 1988, 102 Stat. 3055; Pub. L. 103–43, title V, § 502, June 10, 1993, 107 Stat. 158.)

AMENDMENTS

1993—Subsec. (a)(1)(D). Pub. L. 103–43 added subpar. (D).

1988—Subsec. (a)(1)(A), (B). Pub. L. 100–607 inserted ''and rehabilitation'' after ''prevention, and treatment''.

§ 285b–5. Repealed. Pub. L. 100–607, title I, § 129, Nov. 4, 1988, 102 Stat. 3055

Section, act July 1, 1944, ch. 373, title IV, § 423, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 841, directed Secretary to establish an Interagency Technical Committee on Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources.

§ 285b–6. Associate Director for Prevention; appointment; function

(a) There shall be in the Institute an Associate Director for Prevention to coordinate and promote the programs in the Institute concerning the prevention of heart, blood vessel, lung, and blood diseases. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or experience are experts in public health or preventive medicine.

(b) The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 284b of this title a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

(July 1, 1944, ch. 373, title IV, § 423, formerly § 424, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 841; renumbered § 423, Pub. L. 100–607, title I, § 129, Nov. 4, 1988, 102 Stat. 3055.)

PRIOR PROVISIONS

A prior section 423 of act July 1, 1944, was classified to section 285b–5 of this title prior to repeal by Pub. L. 100–607.

§ 285b–7. National Center on Sleep Disorders Research

(a) Establishment

Not later than 1 year after June 10, 1993, the Director of the Institute shall establish the National Center on Sleep Disorders Research (in this section referred to as the ''Center''). The Center shall be headed by a director, who shall be appointed by the Director of the Institute.

(b) Purpose

The general purpose of the Center is—

(1) the conduct and support of research, training, health information dissemination, and other activities with respect to sleep disorders, including biological and circadian rhythm research, basic understanding of sleep, chronobiological and other sleep related research; and

(2) to coordinate the activities of the Center with similar activities of other Federal agencies, including the other agencies of the National Institutes of Health, and similar activities of other public entities and nonprofit entities.

(c) Sleep Disorders Research Advisory Board

(1) The Director of the National Institutes of Health shall establish a board to be known as the Sleep Disorders Research Advisory Board (in this section referred to as the ''Advisory Board'').

(2) The Advisory Board shall advise, assist, consult with, and make recommendations to the Director of the National Institutes of Health, through the Director of the Institute, and the Director of the Center concerning matters relating to the scientific activities carried out by and through the Center and the policies respecting such activities, including recommendations with respect to the plan required in subsection (c)[1] of this section.

(3)(A) The Director of the National Institutes of Health shall appoint to the Advisory Board 12 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, eight shall be representatives of health and scientific disciplines with respect to sleep disorders and four shall be individuals representing the interests of individuals with or undergoing treatment for sleep disorders.

(B) The following officials shall serve as ex officio members of the Advisory Board:

(i) The Director of the National Institutes of Health.

(ii) The Director of the Center.

(iii) The Director of the National Heart, Lung and Blood Institute.

(iv) The Director of the National Institute of Mental Health.

(v) The Director of the National Institute on Aging.

(vi) The Director of the National Institute of Child Health and Human Development.

(vii) The Director of the National Institute of Neurological Disorders and Stroke.

(viii) The Assistant Secretary for Health.

(ix) The Assistant Secretary of Defense (Health Affairs).

(x) The Chief Medical Director of the Veterans' Administration.

(4) The members of the Advisory Board shall, from among the members of the Advisory Board, designate an individual to serve as the chair of the Advisory Board.

(5) Except as inconsistent with, or inapplicable to, this section, the provisions of section 284a of this title shall apply to the advisory board[2] established under this section in the same manner as such provisions apply to any advisory council established under such section.

(d) Development of comprehensive research plan; revision

(1) After consultation with the Director of the Center and the advisory board[2] established under subsection (c) of this section, the Director of the National Institutes of Health shall develop a comprehensive plan for the conduct and support of sleep disorders research.

(2) The plan developed under paragraph (1) shall identify priorities with respect to such research and shall provide for the coordination of such research conducted or supported by the agencies of the National Institutes of Health.

(3) The Director of the National Institutes of Health (after consultation with the Director of the Center and the advisory board[2] established under subsection (c) of this section) shall revise the plan developed under paragraph (1) as appropriate.

(e) Collection and dissemination of information

The Director of the Center, in cooperation with the Centers for Disease Control and Prevention, is authorized to coordinate activities with the Department of Transportation, the Department of Defense, the Department of Education, the Department of Labor, and the Department of Commerce to collect data, conduct studies, and disseminate public information concerning the impact of sleep disorders and sleep deprivation.

(July 1, 1944, ch. 373, title IV, § 424, as added Pub. L. 103–43, title V, § 503, June 10, 1993, 107 Stat. 159.)

CHANGE OF NAME

Reference to Chief Medical Director of Department of Veterans Affairs deemed to refer to Under Secretary for Health of Department of Veterans Affairs pursuant to section 302(e) of Pub. L. 102–405, set out as a note under section 305 of Title 38, Veterans' Benefits.

Reference to Chief Medical Director of Veterans' Administration deemed to refer to Chief Medical Director of Department of Veterans Affairs pursuant to section 10 of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 201 of Title 38.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] So in original. Probably should be subsection ''(d)''.

[2] So in original. Probably should be capitalized.

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.

§ 285b–7a. Heart attack, stroke, and other cardiovascular diseases in women

(a) In general

The Director of the Institute shall expand, intensify, and coordinate research and related activities of the Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

(b) Coordination with other institutes

The Director of the Institute shall coordinate activities under subsection (a) of this section with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to heart attack, stroke, and other cardiovascular diseases in women.

(c) Certain programs

In carrying out subsection (a) of this section, the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to develop methods for preventing, cardiovascular diseases in women. Activities under such subsection shall include conducting and supporting the following:

(1) Research to determine the reasons underlying the prevalence of heart attack, stroke, and other cardiovascular diseases in women, including African-American women and other women who are members of racial or ethnic minority groups.

(2) Basic research concerning the etiology and causes of cardiovascular diseases in women.

(3) Epidemiological studies to address the frequency and natural history of such diseases and the differences among men and women, and among racial and ethnic groups, with respect to such diseases.

(4) The development of safe, efficient, and cost-effective diagnostic approaches to evaluating women with suspected ischemic heart disease.

(5) Clinical research for the development and evaluation of new treatments for women, including rehabilitation.

(6) Studies to gain a better understanding of methods of preventing cardiovascular diseases in women, including applications of effective methods for the control of blood pressure, lipids, and obesity.

(7) Information and education programs for patients and health care providers on risk factors associated with heart attack, stroke, and other cardiovascular diseases in women, and on the importance of the prevention or control of such risk factors and timely referral with appropriate diagnosis and treatment. Such programs shall include information and education on health-related behaviors that can improve such important risk factors as smoking, obesity, high blood cholesterol, and lack of exercise.

(d) 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 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.

(July 1, 1944, ch. 373, title IV, § 424A, as added Pub. L. 105–340, title I, § 104, Oct. 31, 1998, 112 Stat. 3192.)

§ 285b–8. Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $1,500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(July 1, 1944, ch. 373, title IV, § 425, as added Pub. L. 103–43, title V, § 504, June 10, 1993, 107 Stat. 160.)

SUBPART 3—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

§ 285c. Purpose of Institute

The general purpose of the National Institute of Diabetes and Digestive and Kidney Diseases (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of research, training, health information dissemination, and other programs with respect to diabetes mellitus and endocrine and metabolic diseases, digestive diseases and nutritional disorders, and kidney, urologic, and hematologic diseases.

(July 1, 1944, ch. 373, title IV, § 426, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 841.)

REVIEW OF DISEASE RESEARCH PROGRAMS OF THE NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Section 10 of Pub. L. 99–158 provided that: ''The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs of the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any of such programs could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within the one-year period beginning on the date of enactment of this Act [Nov. 20, 1985].''

§ 285c–1. Data systems and information clearinghouses

(a) National Diabetes Data System and National Diabetes Clearinghouse

The Director of the Institute shall (1) establish the National Diabetes Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with diabetes, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing diabetes, and (2) establish the National Diabetes Information Clearinghouse to facilitate and enhance knowledge and understanding of diabetes on the part of health professionals, patients, and the public through the effective dissemination of information.

(b) National Digestive Diseases Data System and National Digestive Diseases Information Clearinghouse

The Director of the Institute shall (1) establish the National Digestive Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with digestive diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing digestive diseases, and (2) establish the National Digestive Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of digestive diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

(c) National Kidney and Urologic Diseases Data System and National Kidney and Urologic Diseases Information Clearinghouse

The Director of the Institute shall (1) establish the National Kidney and Urologic Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with kidney and urologic diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing kidney and urologic diseases, and (2) establish the National Kidney and Urologic Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of kidney and urologic diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

(July 1, 1944, ch. 373, title IV, § 427, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 841.)

§ 285c–2. Division Directors for Diabetes, Endocrinology, and Metabolic Diseases, Digestive Diseases and Nutrition, and Kidney, Urologic, and Hematologic Diseases; functions

(a)(1) In the Institute there shall be a Division Director for Diabetes, Endocrinology, and Metabolic Diseases, a Division Director for Digestive Diseases and Nutrition, and a Division Director for Kidney, Urologic, and Hematologic Diseases. Such Division Directors, under the supervision of the Director of the Institute, shall be responsible for—

(A) developing a coordinated plan (including recommendations for expenditures) for each of the national research institutes within the National Institutes of Health with respect to research and training concerning diabetes, endocrine and metabolic diseases, digestive diseases and nutrition, and kidney, urologic, and hematologic diseases;

(B) assessing the adequacy of management approaches for the activities within such institutes concerning such diseases and nutrition and developing improved approaches if needed;

(C) monitoring and reviewing expenditures by such institutes concerning such diseases and nutrition; and

(D) identifying research opportunities concerning such diseases and nutrition and recommending ways to utilize such opportunities.

(2) The Director of the Institute shall transmit to the Director of NIH the plans, recommendations, and reviews of the Division Directors under subparagraphs (A) through (D) of paragraph (1) together with such comments and recommendations as the Director of the Institute determines appropriate.

(b) The Director of the Institute, acting through the Division Director for Diabetes, Endocrinology, and Metabolic Diseases, the Division Director for Digestive Diseases and Nutrition, and the Division Director for Kidney, Urologic, and Hematologic Diseases, shall—

(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 288 of this title) in the diagnosis, prevention, and treatment of diabetes mellitus and endocrine and metabolic diseases, digestive diseases and nutritional disorders, and kidney, urologic, and hematologic diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

(July 1, 1944, ch. 373, title IV, § 428, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 842; amended Pub. L. 103–43, title XX, § 2008(b)(4), June 10, 1993, 107 Stat. 211.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–43 substituted ''the'' for ''the the'' before ''Division Director for Diabetes'' in introductory provisions.

§ 285c–3. Interagency coordinating committees

(a) Establishment and purpose

For the purpose of—

(1) better coordination of the research activities of all the national research institutes relating to diabetes mellitus, digestive diseases, and kidney, urologic, and hematologic diseases; and

(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities;

the Secretary shall establish a Diabetes Mellitus Interagency Coordinating Committee, a Digestive Diseases Interagency Coordinating Committee, and a Kidney, Urologic, and Hematologic Diseases Coordinating Committee (hereafter in this section individually referred to as a ''Committee'').

(b) Membership; chairman; meetings

Each Committee shall be composed of the Directors of each of the national research institutes and divisions involved in research with respect to the diseases for which the Committee is established, the Division Director of the Institute for the diseases for which the Committee is established, the Under Secretary for Health of the Department of Veterans Affairs, and the As-

sistant Secretary of Defense for Health Affairs (or the designees of such officers) and shall include representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to such diseases, as determined by the Secretary. Each Committee shall be chaired by the Director of NIH (or the designee of the Director). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

(c) Annual report

Each Committee shall prepare an annual report for—

(1) the Secretary;

(2) the Director of NIH; and

(3) the Advisory Board established under section 285c–4 of this title for the diseases for which the Committee was established,

detailing the work of the Committee in carrying out paragraphs (1) and (2) of subsection (a) of this section in the fiscal year for which the report was prepared. Such report shall be submitted not later than 120 days after the end of each fiscal year.

(July 1, 1944, ch. 373, title IV, § 429, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 843; amended Pub. L. 100–527, § 10(4), Oct. 25, 1988, 102 Stat. 2641; Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–405 substituted ''Under Secretary for Health of the Department of Veterans Affairs'' for ''Chief Medical Director of the Department of Veterans Affairs''.

1988—Subsec. (b). Pub. L. 100–527 substituted ''Chief Medical Director of the Department of Veterans Affairs'' for ''Chief Medical Director of the Veterans' Administration''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

§ 285c–4. Advisory boards

(a) Establishment

The Secretary shall establish in the Institute the National Diabetes Advisory Board, the National Digestive Diseases Advisory Board, and the National Kidney and Urologic Diseases Advisory Board (hereafter in this section individually referred to as an ''Advisory Board'').

(b) Membership; ex officio members

Each Advisory Board shall be composed of eighteen appointed members and nonvoting ex officio members as follows:

(1) The Secretary shall appoint—

(A) twelve members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to the diseases with respect to which the Advisory Board is established; and

(B) six members from the general public who are knowledgeable with respect to such diseases, including at least one member who is a person who has such a disease and one member who is a parent of a person who has such a disease.

Of the appointed members at least five shall by virtue of training or experience be knowledgeable in the fields of health education, nursing, data systems, public information, and community program development.

(2)(A) The following shall be ex officio members of each Advisory Board:

(i) The Assistant Secretary for Health, the Director of NIH, the Director of the National Institute of Diabetes and Digestive and Kidney Diseases, the Director of the Centers for Disease Control and Prevention, the Under Secretary for Health of the Department of Veterans Affairs, the Assistant Secretary of Defense for Health Affairs, and the Division Director of the National Institute of Diabetes and Digestive and Kidney Diseases for the diseases for which the Board is established (or the designees of such officers).

(ii) Such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

(B) In the case of the National Diabetes Advisory Board, the following shall also be ex officio members: The Director of the National Heart, Lung, and Blood Institute, the Director of the National Eye Institute, the Director of the National Institute of Child Health and Human Development, and the Administrator of the Health Resources and Services Administration (or the designees of such officers).

(c) Compensation

Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

(d) Term of office; vacancy

The term of office of an appointed member of an Advisory Board is four years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in an Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days from the date the vacancy occurred.

(e) Chairman

The members of each Advisory Board shall select a chairman from among the appointed members.

(f) Executive director; professional and clerical staff; administrative support services and facilities

The Secretary shall, after consultation with and consideration of the recommendations of an Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, such services of consultants, such information, and (through contracts or other arrangements) such administrative support services and facilities, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

(g) Meetings

Each Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

(h) Functions of National Diabetes Advisory Board and National Digestive Diseases Advisory Board

The National Diabetes Advisory Board and the National Digestive Diseases Advisory Board shall—

(1) review and evaluate the implementation of the plan (referred to in section 285c–7 of this title) respecting the diseases with respect to which the Advisory Board was established and periodically update the plan to ensure its continuing relevance;

(2) for the purpose of assuring the most effective use and organization of resources respecting such diseases, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the Director of the Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan, the coordinating committee for such diseases, and with key non-Federal entities involved in activities affecting the control of such diseases.

(i) Subcommittees; establishment and membership

In carrying out its functions, each Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

(j) Termination of predecessor boards; time within which to appoint members

The National Diabetes Advisory Board and the National Digestive Diseases Advisory Board in existence on November 20, 1985, shall terminate upon the appointment of a successor Board under subsection (a) of this section. The Secretary shall make appointments to the Advisory Boards established under subsection (a) of this section before the expiration of 90 days after November 20, 1985. The members of the Boards in existence on November 20, 1985, may be appointed, in accordance with subsections (b) and (d) of this section, to the Boards established under subsection (a) of this section for diabetes and digestive diseases, except that at least one-half of the members of the National Diabetes Advisory Board in existence on November 20, 1985, shall be appointed to the National Diabetes Advisory Board first established under subsection (a) of this section.

(July 1, 1944, ch. 373, title IV, § 430, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 844; amended Pub. L. 100–607, title I, § 131, Nov. 4, 1988, 102 Stat. 3056; Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 102–531, title III, § 312(d)(6), Oct. 27, 1992, 106 Stat. 3504; Pub. L. 103–43, title XX, § 2008(b)(5), June 10, 1993, 107 Stat. 211; Pub. L. 105–362, title VI, § 601(a)(1)(C), Nov. 10, 1998, 112 Stat. 3285.)

AMENDMENTS

1998—Subsecs. (j), (k). Pub. L. 105–362 redesignated subsec. (k) as (j) and struck out former subsec. (j) which read as follows: ''Each Advisory Board shall prepare an annual report for the Secretary which—

''(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

''(2) describes and evaluates the progress made in such fiscal year in research, treatment, education, and training with respect to the diseases with respect to which the Advisory Board was established;

''(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such diseases in such fiscal year; and

''(4) contains the Advisory Board's recommendations (if any) for changes in the plan referred to in section 285c–7 of this title.''

1993—Subsec. (b)(2)(A)(i). Pub. L. 103–43 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1992—Subsec. (b)(2)(A)(i). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1988—Subsecs. (k), (*l*). Pub. L. 100–607 redesignated subsec. (*l*) as (k) and struck out former subsec. (k) which read as follows: ''Each Advisory Board shall expire on September 30, 1988.''

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285c–3 of this title.

§ 285c–5. Research and training centers; development or expansion

(a) Diabetes mellitus and related endocrine and metabolic diseases

(1) Consistent with applicable recommendations of the National Commission on Diabetes, the Director of the Institute shall provide for the development or substantial expansion of centers for research and training in diabetes mellitus and related endocrine and metabolic diseases. Each center developed or expanded under this subsection shall—

(A) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and

(B) conduct—

(i) research in the diagnosis and treatment of diabetes mellitus and related endocrine and metabolic diseases and the complications resulting from such diseases;

(ii) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such diseases and complications, and in research in diabetes; and

(iii) information programs for physicians and allied health personnel who provide primary care for patients with such diseases or complications.

(2) A center may use funds provided under paragraph (1) to provide stipends for nurses and allied health professionals enrolled in research training programs described in paragraph (1)(B)(ii).

(b) Digestive diseases and related functional, congenital, metabolic disorders, and normal development of digestive tract

Consistent with applicable recommendations of the National Digestive Diseases Advisory Board, the Director shall provide for the development or substantial expansion of centers for research in digestive diseases and related functional, congenital, metabolic disorders, and normal development of the digestive tract. Each center developed or expanded under this subsection—

(1) shall utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research qualifications as may be prescribed by the Secretary;

(2) shall develop and conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of digestive diseases and nutritional disorders and related functional, congenital, or metabolic complications resulting from such diseases or disorders;

(3) shall encourage research into and programs for—

(A) providing information for patients with such diseases and the families of such patients, physicians and others who care for such patients, and the general public;

(B) model programs for cost effective and preventive patient care; and

(C) training physicians and scientists in research on such diseases, disorders, and complications; and

(4) may perform research and participate in epidemiological studies and data collection relevant to digestive diseases and disorders and disseminate such research, studies, and data to the health care profession and to the public.

(c) Kidney and urologic diseases

The Director shall provide for the development or substantial expansion of centers for research in kidney and urologic diseases. Each center developed or expanded under this subsection—

(1) shall utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research qualifications as may be prescribed by the Secretary;

(2) shall develop and conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of kidney and urologic diseases;

(3) shall encourage research into and programs for—

(A) providing information for patients with such diseases, disorders, and complications and the families of such patients, physicians and others who care for such patients, and the general public;

(B) model programs for cost effective and preventive patient care; and

(C) training physicians and scientists in research on such diseases; and

(4) may perform research and participate in epidemiological studies and data collection relevant to kidney and urologic diseases in order to disseminate such research, studies, and data to the health care profession and to the public.

(d) Nutritional disorders

(1) The Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the development or substantial expansion of centers for research and training regarding nutritional disorders, including obesity.

(2) The Director of the Institute shall carry out paragraph (1) in collaboration with the Director of the National Cancer Institute and with the Directors of such other agencies of the National Institutes of Health as the Director of NIH determines to be appropriate.

(3) Each center developed or expanded under paragraph (1) shall—

(A) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director;

(B) conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of nutritional disorders, including obesity and the impact of nutrition and diet on child development;

(C) conduct training programs for physicians and allied health professionals in current methods of diagnosis and treatment of such diseases and complications, and in research in such disorders; and

(D) conduct information programs for physicians and allied health professionals who provide primary care for patients with such disorders or complications.

(e) Geographic distribution; period of support, additional periods

Insofar as practicable, centers developed or expanded under this section should be geographically dispersed throughout the United States and in environments with proven research capabilities. Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director of the Institute for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(July 1, 1944, ch. 373, title IV, § 431, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 846; amended Pub. L. 103–43, title VI, § 601(b), June 10, 1993, 107 Stat. 161.)

AMENDMENTS

1993—Subsecs. (d), (e). Pub. L. 103–43 added subsec. (d) and redesignated former subsec. (d) as (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285c–7 of this title.

§ 285c–6. Advisory council subcommittees

There are established within the advisory council for the Institute appointed under section 284a of this title a subcommittee on diabetes and endocrine and metabolic diseases, a subcommittee on digestive diseases and nutrition, and a subcommittee on kidney, urologic, and hematologic diseases. The subcommittees shall be composed of members of the advisory council who are outstanding in the diagnosis, prevention, and treatment of the diseases for which the subcommittees are established and members of the advisory council who are leaders in the fields of education and public affairs. The subcommittees are authorized to review applications made to the Director of the Institute for grants for research and training projects relating to the diagnosis, prevention, and treatment of the diseases for which the subcommittees are established and shall recommend to the advisory council those applications and contracts that the subcommittees determine will best carry out the purposes of the Institute. The subcommittees shall also review and evaluate the diabetes and endocrine and metabolic diseases, digestive diseases and nutrition, and kidney, urologic, and hematologic diseases programs of the Institute and recommend to the advisory council such changes in the administration of such programs as the subcommittees determine are necessary.

(July 1, 1944, ch. 373, title IV, § 432, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 847.)

§ 285c–7. Biennial report

The Director of the Institute shall prepare for inclusion in the biennial report made under section 284b of this title a description of the Institute's activities—

(1) under the current diabetes plan under the National Diabetes Mellitus Research and Education Act; and

(2) under the current digestive diseases plan formulated under the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976.

The description submitted by the Director shall include an evaluation of the activities of the centers supported under section 285c–5 of this title.

(July 1, 1944, ch. 373, title IV, § 433, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 848.)

REFERENCES IN TEXT

The National Diabetes Mellitus Research and Education Act, referred to in par. (1), is Pub. L. 93–354, July 23, 1974, 88 Stat. 373, as amended, which enacted former sections 289c–1a, 289c–2, and 289c–3 of this title, amended section 247b and former section 289c–1 of this title, and enacted provisions formerly set out as notes under section 289c–2 of this title. For complete classification of this Act to the Code, see Short Title of 1974 Amendments note set out under section 201 of this title and Tables.

The Arthritis, Diabetes, and Digestive Diseases Amendments of 1976, referred to in par. (2), is Pub. L. 94–562, Oct. 19, 1976, 90 Stat. 2645, as amended, which enacted former sections 289c–3a, 289c–7, and 289c–8 of this title, amended former sections 289c–2, 289c–5, and 289c–6 of this title, and enacted provisions formerly set out as notes under sections 289a, 289c–3a, and 289c–7 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendments note set out under section 201 of this title and Tables.

§ 285c–8. Nutritional disorders program

(a) Establishment

The Director of the Institute, in consultation with the Director of NIH, shall establish a program of conducting and supporting research, training, health information dissemination, and other activities with respect to nutritional disorders, including obesity.

(b) Support of activities

In carrying out the program established under subsection (a) of this section, the Director of the Institute shall conduct and support each of the activities described in such subsection.

(c) Dissemination of information

In carrying out the program established under subsection (a) of this section, the Director of the Institute shall carry out activities to facilitate and enhance knowledge and understanding of nutritional disorders, including obesity, on the part of health professionals, patients, and the public through the effective dissemination of information.

(July 1, 1944, ch. 373, title IV, § 434, as added Pub. L. 103–43, title VI, § 601[(a)], June 10, 1993, 107 Stat. 161.)

SUBPART 4—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

§ 285d. Purpose of Institute

The general purpose of the National Institute of Arthritis and Musculoskeletal and Skin Diseases (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of research and training, the dissemination of health information, and other programs with respect to arthritis and musculoskeletal and skin diseases (including sports-related disorders), with particular attention to the effect of these diseases on children.

(July 1, 1944, ch. 373, title IV, § 435, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 848; amended Pub. L. 103–43, title VII, § 701(a), June 10, 1993, 107 Stat. 162.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''(including sports-related disorders), with particular attention to the effect of these diseases on children'' for '', including sports-related disorders''.

§ 285d–1. National arthritis and musculoskeletal and skin diseases program

(a) Plan to expand, intensify, and coordinate activities; submission; periodic review and revision

The Director of the Institute, with the advice of the Institute's advisory council, shall prepare and transmit to the Director of NIH a plan for a national arthritis and musculoskeletal and skin diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis and musculoskeletal and skin diseases. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The plan shall place particular emphasis upon expanding research into better understanding the causes and the development of effective treatments for arthritis affecting children. The Director of the Institute shall periodically review and revise such plan and shall transmit any revisions of such plan to the Director of NIH.

(b) Coordination of activities with other national research institutes; minimum activities under program

Activities under the national arthritis and musculoskeletal and skin diseases program shall be coordinated with the other national research institutes to the extent that such institutes have responsibilities respecting arthritis and musculoskeletal and skin diseases, and shall, at least, provide for—

(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal and skin diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis and musculoskeletal and skin diseases;

(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation, and prevention of arthritis and musculoskeletal and skin diseases;

(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures;

(4) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields; and

(5) research into the causes of arthritis affecting children and the development, trial, and evaluation of techniques, drugs and devices used in the diagnosis, treatment (including medical rehabilitation), and prevention of arthritis in children.

(c) Program to be carried out in accordance with plan

The Director of the Institute shall carry out the national arthritis and musculoskeletal and skin diseases program in accordance with the plan prepared under subsection (a) of this section and any revisions of such plan made under such subsection.

(July 1, 1944, ch. 373, title IV, § 436, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 848; amended Pub. L. 100–607, title I, § 136, Nov. 4, 1988, 102 Stat. 3056; Pub. L. 103–43, title VII, § 701(b), June 10, 1993, 107 Stat. 162.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–43, § 701(b)(1), inserted after second sentence ''The plan shall place particular emphasis upon expanding research into better understanding the causes and the development of effective treatments for arthritis affecting children.''

Subsec. (b)(5). Pub. L. 103–43, § 701(b)(2), added par. (5).

1988—Pub. L. 100–607 inserted ''and skin'' after ''musculoskeletal'' in section catchline and wherever appearing in text.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285d–7 of this title.

§ 285d–2. Research and training

The Director of the Institute shall—

(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 288 of this title) in the diagnosis, prevention, and treatment of arthritis and musculoskeletal and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

(July 1, 1944, ch. 373, title IV, § 437, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 849.)

§ 285d–3. Data system and information clearinghouse

(a) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal and skin diseases, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis and musculoskeletal and skin diseases.

(b) The Director of the Institute shall establish the National Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of arthritis and musculoskeletal and skin diseases by health professionals, patients, and the public.

(July 1, 1944, ch. 373, title IV, § 438, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 849.)

§ 285d–4. Interagency coordinating committees

(a) Establishment and purpose

For the purpose of—

(1) better coordination of the research activities of all the national research institutes relating to arthritis, musculoskeletal diseases, and skin diseases, including sports-related disorders; and

(2) coordinating the aspects of all Federal health programs and activities relating to arthritis, musculoskeletal diseases, and skin diseases in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereafter in this section individually referred to as a ''Committee'').

(b) Membership; chairman; meetings

Each Committee shall be composed of the Directors of each of the national research institutes and divisions involved in research regarding the diseases with respect to which the Committee is established, the Under Secretary for Health of the Department of Veterans Affairs, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and representatives of all other Federal departments and agencies (as determined by the Secretary) whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases or skin diseases, as the case may be. Each Committee shall be chaired by the Director of NIH (or the designee of the Director). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

(July 1, 1944, ch. 373, title IV, § 439, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 849; amended Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 103–43, title XX, § 2008(b)(6), June 10, 1993, 107 Stat. 211; Pub. L. 105–362, title VI, § 601(a)(1)(D), Nov. 10, 1998, 112 Stat. 3285.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–362 struck out subsec. (c) which read as follows: ''Not later than 120 days after the end of each fiscal year, each Committee shall prepare and transmit to the Secretary, the Director of NIH, the Director of the Institute, and the advisory council for the Institute a report detailing the activities of the Committee in such fiscal year in carrying out paragraphs (1) and (2) of subsection (a) of this section.''

1993—Subsec. (b). Pub. L. 103–43 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1992—Subsec. (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285d–7 of this title.

§ 285d–5. Arthritis and musculoskeletal diseases demonstration projects

(a) Grants for establishment and support

The Director of the Institute may make grants to public and private nonprofit entities to establish and support projects for the development and demonstration of methods for screening, detection, and referral for treatment of arthritis and musculoskeletal diseases and for the dissemination of information on such methods to the health and allied health professions. Activities under such projects shall be coordinated with Federal, State, local, and regional health agencies, centers assisted under section 285d–6 of this title, and the data system established under subsection (c) of this section.

(b) Programs included

Projects supported under this section shall include—

(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the programs, methods, and means referred to in paragraphs (1), (2), and (3) of this subsection to health and allied health professionals;

(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

(A) on the importance of early detection of arthritis and musculoskeletal diseases, of

seeking prompt treatment, and of following an appropriate regimen; and

(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

(6) projects for investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis and musculoskeletal diseases.

(c) Standardization of patient data and recordkeeping

The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects assisted under this section, centers assisted under section 285d–6 of this title, and other persons engaged in arthritis and musculoskeletal disease programs.

(July 1, 1944, ch. 373, title IV, § 440, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 850.)

§ 285d–6. Multipurpose arthritis and musculoskeletal diseases centers

(a) Development, modernization, and operation

The Director of the Institute shall, after consultation with the advisory council for the Institute, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term ''modernization'' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

(b) Duties and functions

Each center assisted under this section shall—

(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

(2) conduct—

(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of and rehabilitation from arthritis and musculoskeletal diseases and complications resulting from arthritis and musculoskeletal diseases, including research into implantable biomaterials and biomechanical and other orthopedic procedures;

(B) training programs for physicians, scientists, and other health and allied health professionals;

(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

(D) programs for the dissemination to the general public of information—

(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) of this section to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

(c) Optional programs

Each center assisted under this section may conduct programs to—

(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping; and

(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

(d) Geographical distribution

The Director of the Institute shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis and musculoskeletal diseases.

(e) Period of support; additional periods

Support of a center under this section may be for a period of not to exceed five years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(f) Treatment and rehabilitation of children

Not later than October 1, 1993, the Director shall establish a multipurpose arthritis and musculoskeletal disease center for the purpose of expanding the level of research into the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.

(July 1, 1944, ch. 373, title IV, § 441, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 851; amended Pub. L. 100–607, title I, § 137, Nov. 4, 1988, 102 Stat. 3056; Pub. L. 103–43, title VII, § 701(c), June 10, 1993, 107 Stat. 162.)

AMENDMENTS

1993—Subsec. (f). Pub. L. 103–43 added subsec. (f).

1988—Subsec. (b)(2)(A). Pub. L. 100–607 inserted ''and rehabilitation from'' after ''and treatment of''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285d–5 of this title.

§ 285d–7. Advisory Board

(a) Establishment

The Secretary shall establish in the Institute the National Arthritis and Musculoskeletal and Skin Diseases Advisory Board (hereafter in this section referred to as the ''Advisory Board'').

(b) Membership; ex officio members

The Advisory Board shall be composed of twenty appointed members and nonvoting, ex officio members, as follows:

(1) The Secretary shall appoint—

(A) twelve members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to arthritis, musculoskeletal diseases, and skin diseases; and

(B) eight members from the general public who are knowledgeable with respect to such diseases, including one member who is a person who has such a disease, one person who is the parent of an adult with such a disease, and two members who are parents of children with arthritis.

Of the appointed members at least five shall by virtue of training or experience be knowledgeable in health education, nursing, data systems, public information, or community program development.

(2) The following shall be ex officio members of the Advisory Board:

(A) the Assistant Secretary for Health, the Director of NIH, the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the Director of the Centers for Disease Control and Prevention, the Under Secretary for Health of the Department of Veterans Affairs, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

(B) such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

(c) Compensation

Members of the Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Advisory Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Advisory Board.

(d) Term of office; vacancy

The term of office of an appointed member of the Advisory Board is four years. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days after the date the vacancy occurred.

(e) Chairman

The members of the Advisory Board shall select a chairman from among the appointed members.

(f) Executive director, professional and clerical staff; administrative support services and facilities

The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

(g) Meetings

The Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

(h) Duties and functions

The Advisory Board shall—

(1) review and evaluate the implementation of the plan prepared under section 285d–1(a) of this title and periodically update the plan to ensure its continuing relevance;

(2) for the purpose of assuring the most effective use and organization of resources respecting arthritis, musculoskeletal diseases and skin diseases, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the Director of the Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

(3) maintain liaison with other advisory bodies for Federal agencies involved in the implementation of such plan, the interagency coordinating committees for such diseases established under section 285d–4 of this title, and with key non-Federal entities involved in activities affecting the control of such diseases.

(i) Subcommittees; establishment and membership

In carrying out its functions, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

(j) Annual report

The Advisory Board shall prepare an annual report for the Secretary which—

(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

(2) describes and evaluates the progress made in such fiscal year in research, treatment, education, and training with respect to arthritis, musculoskeletal diseases, and skin diseases;

(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such diseases in such fiscal year for which the report is made;

(4) contains the Advisory Board's recommendations (if any) for changes in the plan prepared under section 285d–1 of this title; and

(5) contains recommendations for expanding the Institute's funding of research directly applicable to the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.

(k) Termination of predecessor board; time within which to appoint members

The National Arthritis Advisory Board in existence on November 20, 1985, shall terminate upon the appointment of a successor Board under subsection (a) of this section. The Secretary shall make appointments to the Advisory Board established under subsection (a) of this section before the expiration of 90 days after November 20, 1985. The member of the Board in existence on November 20, 1985, may be appointed, in accordance with subsections (b) and (d) of this section, to the Advisory Board established under subsection (a) of this section.

(July 1, 1944, ch. 373, title IV, § 442, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 852; amended Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 102–531, title III, § 312(d)(7), Oct. 27, 1992, 106 Stat. 3504; Pub. L. 103–43, title VII, § 701(d), title XX, § 2008(b)(7), June 10, 1993, 107 Stat. 162, 211.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–43, § 701(d)(1), inserted "and Musculoskeletal and Skin Diseases" after "Arthritis".

Subsec. (b). Pub. L. 103–43, §§ 701(d)(2), 2008(b)(7), substituted "twenty" for "eighteen" in introductory provisions, "eight" for "six" and "including one member who is a person who has such a disease, one person who is the parent of an adult with such a disease, and two members who are parents of children with arthritis" for "including at least one member who is a person who has such a disease and one member who is a parent of a person who has such a disease" in par. (1)(B), and "Department of Veterans Affairs" for "Veterans' Administration" in par. (2)(A).

Subsec. (j)(5). Pub. L. 103–43, § 701(d)(3), added par. (5).

1992—Subsec. (b)(2)(A). Pub. L. 102–531 substituted "Centers for Disease Control and Prevention" for "Centers for Disease Control".

Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SUBPART 5—NATIONAL INSTITUTE ON AGING

§ 285e. Purpose of Institute

The general purpose of the National Institute on Aging (hereafter in this subpart referred to as the "Institute") is the conduct and support of biomedical, social, and behavioral research, training, health information dissemination, and other programs with respect to the aging process and the diseases and other special problems and needs of the aged.

(July 1, 1944, ch. 373, title IV, § 443, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 854.)

STUDY OF MALNUTRITION IN ELDERLY

Pub. L. 103–43, title XIX, § 1902, June 10, 1993, 107 Stat. 201, directed Secretary of Health and Human Services, acting through National Institute on Aging, to conduct a 3-year study on health benefits and cost-effectiveness of nutrition screening and intervention activities of the elderly, and a 3-year study to determine extent of malnutrition in elderly individuals in hospitals and long-term care facilities and in elderly individuals who are living independently, provided for creation of advisory panel to oversee studies, provided for submission to Congress of reports containing findings of such studies, and provided for termination of advisory panel 3 years after June 10, 1993.

STUDY OF PERSONNEL FOR HEALTH NEEDS OF ELDERLY

Section 8 of Pub. L. 99–158 directed Secretary to conduct a study on the adequacy and availability of personnel to meet the current and projected health needs (including needs for home and community-based care) of elderly Americans through the year 2020, and report the results of the study, with recommendations, to Congress by Mar. 1, 1987.

§ 285e–1. Special functions

(a) Education and training of adequate numbers of personnel

In carrying out the training responsibilities under this chapter or any other Act for health and allied health professions personnel, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

(b) Scientific studies

The Director of the Institute shall conduct scientific studies to measure the impact on the biological, medical, social, and psychological aspects of aging of programs and activities as-

sisted or conducted by the Department of Health and Human Services.

(c) Public information and education programs

The Director of the Institute shall carry out public information and education programs designed to disseminate as widely as possible the findings of research sponsored by the Institute, other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

(d) Grants for research relating to Alzheimer's Disease

The Director of the Institute shall make grants to public and private nonprofit institutions to conduct research relating to Alzheimer's Disease.

(July 1, 1944, ch. 373, title IV, § 444, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285e–10 of this title.

§ 285e–2. Alzheimer's Disease centers

(a) Cooperative agreements and grants for establishing and supporting

(1) The Director of the Institute may enter into cooperative agreements with and make grants to public or private nonprofit entities (including university medical centers) to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support (including staffing) for centers for basic and clinical research (including multidisciplinary research) into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for Alzheimer's disease.

(2) A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH and after consultation with the Institute's advisory council.

(b) Use of Federal payments under cooperative agreement or grant

(1) Federal payments made under a cooperative agreement or grant under subsection (a) of this section may, with respect to Alzheimer's disease, be used for—

(A) diagnostic examinations, patient assessments, patient care costs, and other costs necessary for conducting research;

(B) training, including training for allied health professionals;

(C) diagnostic and treatment clinics designed to meet the special needs of minority and rural populations and other underserved populations;

(D) activities to educate the public; and

(E) the dissemination of information.

(2) For purposes of paragraph (1), the term ''training'' does not include research training for which National Research Service Awards may be provided under section 288 of this title.

(c) Support period; additional periods

Support of a center under subsection (a) of this section may be for a period of not to exceed five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(July 1, 1944, ch. 373, title IV, § 445, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 855; amended Pub. L. 101–557, title II, § 201, Nov. 15, 1990, 104 Stat. 2767.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–557, § 201(1), inserted ''(including university medical centers)'' after ''nonprofit entities'', ''(including staffing)'' after ''operating support'', and ''(including multidisciplinary research)'' after ''clinical research'' and substituted ''Alzheimer's disease'' for ''Alzheimer's Disease''.

Subsec. (b). Pub. L. 101–557, § 201(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Federal payments made under a cooperative agreement or grant under subsection (a) of this section may be used for—

''(1) construction (notwithstanding any limitation under section 289e of this title);

''(2) staffing and other basic operating costs, including such patient care costs as are required for research;

''(3) training, including training for allied health professionals; and

''(4) demonstration purposes.

As used in this subsection, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which National Research Service Awards may be provided under section 288 of this title.''

ALZHEIMER'S DISEASE RESEARCH

Pub. L. 100–175, title III, Nov. 29, 1987, 101 Stat. 972, provided that:

''SEC. 301. REQUIREMENT FOR CLINICAL TRIALS.

''(a) IN GENERAL.—The Director of the National Institute on Aging shall provide for the conduct of clinical trials on the efficacy of the use of such promising therapeutic agents as have been or may be discovered and recommended for further scientific analysis by the National Institute on Aging and the Food and Drug Administration to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease.

''(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect adversely any research being conducted as of the date of the enactment of this Act [Nov. 29, 1987].

''SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988.''

ALZHEIMER'S DISEASE REGISTRY

Section 12 of Pub. L. 99–158, which was formerly set out as a note under this section, was renumbered section 445G of the Public Health Service Act by Pub. L. 103–43, title VIII, § 801(a), 107 Stat. 163, and is classified to section 285e–9 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 285e–4, 285e–5, 11212, 11221, 11251, 11292, 11293 of this title.

§ 285e–3. Claude D. Pepper Older Americans Independence Centers

(a) Development and expansion of centers

The Director of the Institute shall enter into cooperative agreements with, and make grants to, public and private nonprofit entities for the development or expansion of not less than 10 centers of excellence in geriatric research and training of researchers. Each such center shall be known as a Claude D. Pepper Older Americans Independence Center.

(b) Functions of centers

Each center developed or expanded under this section shall—

(1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director; and

(2) conduct—

(A) research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging, including menopause, which research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals; and

(B) programs to develop individuals capable of conducting research described in subparagraph (A).

(c) Geographic distribution of centers

In making cooperative agreements and grants under this section for the development or expansion of centers, the Director of the Institute shall ensure that, to the extent practicable, any such centers are distributed equitably among the principal geographic regions of the United States.

(d) "Independence" defined

For purposes of this section, the term ''independence'', with respect to diseases, disorders, and complications of aging, means the functional ability of individuals to perform activities of daily living or instrumental activities of daily living without assistance or supervision.

(July 1, 1944, ch. 373, title IV, § 445A, as added Pub. L. 100–607, title I, § 141, Nov. 4, 1988, 102 Stat. 3056; amended Pub. L. 101–557, title II, § 202, Nov. 15, 1990, 104 Stat. 2767.)

AMENDMENTS

1990—Pub. L. 101–557, § 202(a)(1), substituted ''Claude D. Pepper Older Americans Independence Centers'' for ''Centers of geriatric research and training'' in section catchline.

Subsec. (a). Pub. L. 101–557, § 202(a)(2), (b)(1)(A), inserted ''not less than 10'' before ''centers of excellence'' and inserted provision designating centers as Claude D. Pepper Older Americans Independence Centers.

Subsec. (b)(2)(A). Pub. L. 101–557, § 202(b)(1)(B), inserted before semicolon at end '', including menopause, which research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals''.

Subsec. (b)(2)(B). Pub. L. 101–557, § 202(b)(2), substituted ''research described in subparagraph (A)'' for ''research concerning aging and concerning such diseases, disorders, and complications.''

Subsec. (d). Pub. L. 101–557, § 202(c), added subsec. (d).

§ 285e–4. Awards for leadership and excellence in Alzheimer's disease and related dementias

(a) Senior researchers in biomedical research

The Director of the Institute shall make awards to senior researchers who have made distinguished achievements in biomedical research in areas relating to Alzheimer's disease and related dementias. Awards under this section shall be used by the recipients to support research in areas relating to such disease and dementias, and may be used by the recipients to train junior researchers who demonstrate exceptional promise to conduct research in such areas.

(b) Eligible centers

The Director of the Institute may make awards under this section to researchers at centers supported under section 285e–2 of this title and to researchers at other public and nonprofit private entities.

(c) Required recommendation

The Director of the Institute shall make awards under this section only to researchers who have been recommended for such awards by the National Advisory Council on Aging.

(d) Selection procedures

The Director of the Institute shall establish procedures for the selection of the recipients of awards under this section.

(e) Term of award; renewal

Awards under this section shall be made for a one-year period, and may be renewed for not more than six additional consecutive one-year periods.

(July 1, 1944, ch. 373, title IV, § 445B, formerly Pub. L. 99–660, title IX, § 931, Nov. 14, 1986, 100 Stat. 3807; renumbered § 445B of act July 1, 1944; amended Pub. L. 100–607, title I, § 142(a), (d)(1), Nov. 4, 1988, 102 Stat. 3057.)

CODIFICATION

Section was formerly classified to section 11231 of this title prior to renumbering by Pub. L. 100–607.

AMENDMENTS

1988—Pub. L. 100–607, § 142(a), renumbered section 11231 of this title as this section.

Subsec. (a). Pub. L. 100–607, § 142(d)(1)(A), substituted ''the Institute'' for ''the National Institute on Aging''.

Subsec. (b). Pub. L. 100–607, § 142(d)(1)(B), substituted ''the Institute'' for ''the National Institute on Aging'' and made technical amendment to reference to section 285e–2 of this title to correct reference to corresponding provision of original act.

Subsecs. (c), (d). Pub. L. 100–607, § 142(d)(1)(C), substituted ''the Institute'' for ''the National Institute on Aging''.

AVAILABILITY OF APPROPRIATIONS

Section 142(b) of Pub. L. 100–607 provided that: ''With respect to amounts made available in appropriation Acts for the purpose of carrying out the programs

transferred by subsection (a) to the Public Health Service Act [sections 285e–4 to 285e–8 of this title], such subsection may not be construed to affect the availability of such funds for such purpose.''

§ 285e–5. Research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and their families

(a) Grants for research

The Director of the Institute shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and their families.

(b) Preparation of plan; contents; revision

(1) Within 6 months after November 14, 1986, the Director of the Institute shall prepare and transmit to the Chairman of the Council on Alzheimer's Disease (in this section referred to as the ''Council'') a plan for the research to be conducted under subsection (a) of this section. The plan shall—

(A) provide for research concerning—

(i) the epidemiology of, and the identification of risk factors for, Alzheimer's disease and related dementias; and

(ii) the development and evaluation of reliable and valid multidimensional diagnostic and assessment procedures and instruments; and

(B) ensure that research carried out under the plan is coordinated with, and uses, to the maximum extent feasible, resources of, other Federal programs relating to Alzheimer's disease and related dementias, including centers supported under section 285e–2 of this title, centers supported by the National Institute of Mental Health on the psychopathology of the elderly, relevant activities of the Administration on Aging, other programs and centers involved in research on Alzheimer's disease and related dementias supported by the Department, and other programs relating to Alzheimer's disease and related dementias which are planned or conducted by Federal agencies other than the Department, State or local agencies, community organizations, or private foundations.

(2) Within one year after transmitting the plan required under paragraph (1), and annually thereafter, the Director of the Institute shall prepare and transmit to the Chairman of the Council such revisions of such plan as the Director considers appropriate.

(c) Consultation for preparation and revision of plan

In preparing and revising the plan required by subsection (b) of this section, the Director of the Institute shall consult with the Chairman of the Council and the heads of agencies within the Department.

(d) Grants for promoting independence and preventing secondary disabilities

the[1] Director of the Institute may develop, or make grants to develop—

(1) model techniques to—

(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.

(e) "Council on Alzheimer's Disease" defined

For purposes of this section, the term ''Council on Alzheimer's Disease'' means the council established in section 11211(a)[2] of this title.

(July 1, 1944, ch. 373, title IV, § 445C, formerly Pub. L. 99–660, title IX, § 941, Nov. 14, 1986, 100 Stat. 3808; renumbered § 445C of act July 1, 1944; amended Pub. L. 100–607, title I, § 142(a), (d)(2), Nov. 4, 1988, 102 Stat. 3057, 3058; Pub. L. 102–507, § 9, Oct. 24, 1992, 106 Stat. 3287; Pub. L. 103–43, title VIII, § 804, June 10, 1993, 107 Stat. 164.)

REFERENCES IN TEXT

Section 11211 of this title, referred to in subsec. (e), was repealed by Pub. L. 105–362, title VI, § 601(a)(2)(E), Nov. 10, 1998, 112 Stat. 3286.

CODIFICATION

Section was formerly classified to section 11241 of this title prior to renumbering by Pub. L. 100–607.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–43, § 804(1), inserted ''on Alzheimer's Disease (in this section referred to as the 'Council')'' after ''Council''.

Subsec. (e). Pub. L. 103–43, § 804(2), added subsec. (e).

1992—Subsec. (d). Pub. L. 102–507 added subsec. (d).

1988—Pub. L. 100–607, § 142(a), renumbered section 11241 of this title as this section.

Subsec. (a). Pub. L. 100–607, § 142(d)(2)(A), substituted ''the Institute'' for ''the National Institute on Aging''.

Subsec. (b)(1). Pub. L. 100–607, § 142(d)(2)(B)(i)(I), in introductory provisions, substituted ''the date of enactment of the Alzheimer's Disease and Related Dementias Services Research Act of 1986'' for ''the date of enactment of this Act'', which for purposes of codification was translated as ''November 14, 1986'', thus requiring no change in text.

Pub. L. 100–607, § 142(d)(2)(B)(i)(II), in introductory provisions, substituted ''the Institute'' for ''the National Institute on Aging''.

Subsec. (b)(1)(B). Pub. L. 100–607, § 142(d)(2)(B)(ii), made technical amendment to reference to section 285e–2 of this title to correct reference to corresponding provision of original act.

Subsecs. (b)(2), (c). Pub. L. 100–607, § 142(d)(2)(B)(iii), (C), substituted ''the Institute'' for ''the National Institute on Aging''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285e–6 of this title.

§ 285e–6. Dissemination of research results

The Director of the Institute shall disseminate the results of research conducted under section

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

285e–5 of this title and this section to appropriate professional entities and to the public.

(July 1, 1944, ch. 373, title IV, § 445D, formerly Pub. L. 99–660, title IX, § 942, Nov. 14, 1986, 100 Stat. 3809; renumbered § 445D of act July 1, 1944; amended Pub. L. 100–607, title I, § 142(a), (d)(3), Nov. 4, 1988, 102 Stat. 3057, 3058.)

CODIFICATION

Section was formerly classified to section 11242 of this title prior to renumbering by Pub. L. 100–607.

AMENDMENTS

1988—Pub. L. 100–607, § 142(a), renumbered section 11242 of this title as this section.

Pub. L. 100–607, § 142(d)(3), substituted ''the Institute'' for ''the National Institute on Aging'' and ''section 285e–5 of this title and this section'' for ''this part''.

§ 285e–7. Clearinghouse on Alzheimer's Disease

(a) Establishment; purpose; duties; publication of summary

The Director of the Institute shall establish the Clearinghouse on Alzheimer's Disease (hereinafter referred to as the ''Clearinghouse''). The purpose of the Clearinghouse is the dissemination of information concerning services available for individuals with Alzheimer's disease and related dementias and their families. The Clearinghouse shall—

(1) compile, archive, and disseminate information concerning research, demonstration, evaluation, and training programs and projects concerning Alzheimer's disease and related dementias; and

(2) annually publish a summary of the information compiled under paragraph (1) during the preceding 12-month period, and make such information available upon request to appropriate individuals and entities, including educational institutions, research entities, and Federal and public agencies.

(b) Fee for information

The Clearinghouse may charge an appropriate fee for information provided through the toll-free telephone line established under subsection (a)(3).[1]

(c) Summaries of research findings from other agencies

The Director of the Institute, the Director of the National Institute of Mental Health, and the Director of the National Center for Health Services Research and Health Care Technology Assessment shall provide to the Clearinghouse summaries of the findings of research conducted under part D.

(July 1, 1944, ch. 373, title IV, § 445E, formerly Pub. L. 99–660, title IX, § 951, Nov. 14, 1986, 100 Stat. 3813; renumbered § 445E of act July 1, 1944, and amended Pub. L. 100–607, title I, § 142(a), (d)(4), Nov. 4, 1988, 102 Stat. 3057, 3058.)

REFERENCES IN TEXT

Part D, referred to in subsec. (c), probably means part D of title IX of Pub. L. 99–660, Nov. 14, 1986, 100 Stat. 3808, as amended, which is classified to subchapter IV (§ 11251 et seq.) of chapter 118 of this title. Prior to renumbering by Pub. L. 100–607, this section was part of title IX of Pub. L. 99–660.

CODIFICATION

Section was formerly classified to section 11281 of this title prior to renumbering by Pub. L. 100–607.

AMENDMENTS

1988—Pub. L. 100–607, § 142(a), renumbered section 11281 of this title as this section.

Subsec. (a). Pub. L. 100–607, § 142(d)(4)(A), substituted ''the Institute'' for ''the National Institute on Aging'' in introductory provisions.

Subsec. (c). Pub. L. 100–607, § 142(d)(4)(B), substituted ''the Institute'' for ''the National Institute on Aging'' and ''part D'' for ''part E''.

§ 285e–8. Dissemination project

(a) Grant or contract for establishment

The Director of the Institute shall make a grant to, or enter into a contract with, a national organization representing individuals with Alzheimer's disease and related dementias for the conduct of the activities described in subsection (b) of this section.

(b) Project activities

The organization receiving a grant or contract under this section shall—

(1) establish a central computerized information system to—

(A) compile and disseminate information concerning initiatives by State and local governments and private entities to provide programs and services for individuals with Alzheimer's disease and related dementias; and

(B) translate scientific and technical information concerning such initiatives into information readily understandable by the general public, and make such information available upon request; and

(2) establish a national toll-free telephone line to make available the information described in paragraph (1), and information concerning Federal programs, services, and benefits for individuals with Alzheimer's disease and related dementias and their families.

(c) Fees for information; exception

The organization receiving a grant or contract under this section may charge appropriate fees for information provided through the toll-free telephone line established under subsection (b)(2) of this section, and may make exceptions to such fees for individuals and organizations who are not financially able to pay such fees.

(d) Application for grant or contract; contents

In order to receive a grant or contract under this section, an organization shall submit an application to the Director of the Institute. Such application shall contain—

(1) information demonstrating that such organization has a network of contacts which will enable such organization to receive information necessary to the operation of the central computerized information system described in subsection (b)(1) of this section;

(2) information demonstrating that, by the end of fiscal year 1991, such organization will be financially able to, and will, carry out the

[1] So in original. No subsec. (a)(3) has been enacted.

activities described in subsection (b) of this section without a grant or contract from the Federal Government; and

(3) such other information as the Director may prescribe.

(July 1, 1944, ch. 373, title IV, § 445F, formerly Pub. L. 99–660, title IX, § 952, Nov. 14, 1986, 100 Stat. 3813; renumbered § 445F of act July 1, 1944, and amended Pub. L. 100–607, title I, § 142(a), (d)(5), Nov. 4, 1988, 102 Stat. 3057, 3058.)

CODIFICATION

Section was formerly classified to section 11282 of this title prior to renumbering by Pub. L. 100–607.

AMENDMENTS

1988—Pub. L. 100–607, § 142(a), renumbered section 11282 of this title as this section.

Subsecs. (a), (d). Pub. L. 100–607, § 142(d)(5), substituted ''the Institute'' for ''the National Institute on Aging''.

§ 285e–9. Alzheimer's disease registry

(a) In general

The Director of the Institute may make a grant to develop a registry for the collection of epidemiological data about Alzheimer's disease and its incidence in the United States, to train personnel in the collection of such data, and for other matters respecting such disease.

(b) Qualifications

To qualify for a grant under subsection (a) of this section an applicant shall—

(1) be an accredited school of medicine or public health which has expertise in the collection of epidemiological data about individuals with Alzheimer's disease and in the development of disease registries, and

(2) have access to a large patient population, including a patient population representative of diverse ethnic backgrounds.

(July 1, 1944, ch. 373, title IV, § 445G, formerly Pub. L. 99–158, § 12, Nov. 20, 1985, 99 Stat. 885, as renumbered § 445G and amended Pub. L. 103–43, title VIII, § 801, June 10, 1993, 107 Stat. 163.)

CODIFICATION

Section was formerly set out as a note under section 285e–2 of this title prior to renumbering by Pub. L. 103–43.

AMENDMENTS

1993—Pub. L. 103–43, § 801(b)(1), reenacted section catchline without change.

Subsec. (a). Pub. L. 103–43, § 801(b)(1), substituted in heading ''In general'' for ''Grant authority'' and in text substituted ''Director of the Institute'' for ''Director of the National Institute on Aging''.

Subsec. (c). Pub. L. 103–43, § 801(b)(2), struck out subsec. (c) which authorized appropriations of $2,500,000 for grants to remain available until expended or through fiscal year 1989, whichever occurred first.

§ 285e–10. Aging processes regarding women

(a) The Director of the Institute, in addition to other special functions specified in section 285e–1 of this title and in cooperation with the Directors of the other national research institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.

(b) 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 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.

(July 1, 1944, ch. 373, title IV, § 445H, as added Pub. L. 103–43, title VIII, § 802, June 10, 1993, 107 Stat. 163; amended Pub. L. 105–340, title I, § 105, Oct. 31, 1998, 112 Stat. 3193.)

AMENDMENTS

1998—Pub. L. 105–340 designated existing provisions as subsec. (a) and added subsec. (b).

§ 285e–11. Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(July 1, 1944, ch. 373, title IV, § 445I, as added Pub. L. 103–43, title VIII, § 803, June 10, 1993, 107 Stat. 163.)

SUBPART 6—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

§ 285f. Purpose of Institute

The general purpose of the National Institute of Allergy and Infectious Diseases is the conduct and support of research, training, health information dissemination, and other programs with respect to allergic and immunologic diseases and disorders and infectious diseases, including tropical diseases.

(July 1, 1944, ch. 373, title IV, § 446, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 855; amended Pub. L. 103–43, title IX, § 901, June 10, 1993, 107 Stat. 164.)

AMENDMENTS

1993—Pub. L. 103–43 inserted before period at end '', including tropical diseases''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285f–2 of this title.

§ 285f–1. Research centers regarding chronic fatigue syndrome

(a) The Director of the Institute, after consultation with the advisory council for the Institute, may make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct basic and clinical research on chronic fatigue syndrome.

(b) Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

(July 1, 1944, ch. 373, title IV, § 447, as added Pub. L. 103–43, title IX, § 902(a), June 10, 1993, 107 Stat. 164.)

EXTRAMURAL STUDY SECTION

Section 902(b) of Pub. L. 103–43 provided that: ''Not later than 6 months after the date of enactment of this Act [June 10, 1993], the Secretary of Health and Human Services shall establish an extramural study section for chronic fatigue syndrome research.''

RESEARCH ACTIVITIES ON CHRONIC FATIGUE SYNDROME

Section 1903 of Pub. L. 103–43 provided that: ''The Secretary of Health and Human Services shall, not later than October 1, 1993, and annually thereafter for the next 3 years, prepare and submit to the Committee on Energy and Commerce [now Committee on Commerce] of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that summarizes the research activities conducted or supported by the National Institutes of Health concerning chronic fatigue syndrome. Such report should include information concerning grants made, cooperative agreements or contracts entered into, intramural activities, research priorities and needs, and a plan to address such priorities and needs.''

CODIFICATION

Another section 447 of act July 1, 1944, was renumbered section 447A and is classified to section 285f–2 of this title.

§ 285f–2. Research and research training regarding tuberculosis

(a) In carrying out section 285f of this title, the Director of the Institute shall conduct or support research and research training regarding the cause, diagnosis, early detection, prevention and treatment of tuberculosis.

(b) For the purpose of carrying out subsection (a) of this section, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998. Such authorization is in addition to any other authorization of appropriations that is available for such purpose.

(July 1, 1944, ch. 373, title IV, § 447A, formerly § 447, as added Pub. L. 103–183, title III, § 302(a), Dec. 14, 1993, 107 Stat. 2235; renumbered § 447A, Pub. L. 105–392, title IV, § 401(b)(3), Nov. 13, 1998, 112 Stat. 3587.)

RESEARCH THROUGH FOOD AND DRUG ADMINISTRATION

Section 303 of Pub. L. 103–183 provided that: ''The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall implement a tuberculosis drug and device research program under which the Commissioner may—

''(1) provide assistance to other Federal agencies for the development of tuberculosis protocols;

''(2) review and evaluate medical devices designed for the diagnosis and control of airborne tuberculosis; and

''(3) conduct research concerning drugs or devices to be used in diagnosing, controlling and preventing tuberculosis.''

SUBPART 7—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

§ 285g. Purpose of Institute

The general purpose of the National Institute of Child Health and Human Development (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of research, training, health information dissemination, and other programs with respect to maternal health, child health, mental retardation, human growth and development, including prenatal development, population research, and special health problems and requirements of mothers and children.

(July 1, 1944, ch. 373, title IV, § 448, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 856.)

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY; COMPOSITION; VOLUNTARY SERVICES; DURATION

Pub. L. 100–436, title IV, Sept. 20, 1988, 102 Stat. 1709, provided that the National Commission to Prevent Infant Mortality was to be composed of sixteen members, including seven at large members, and that it had power to accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, and was to continue operating, notwithstanding sections 208 and 209 of Pub. L. 99–660 (formerly set out below).

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

Pub. L. 99–660, title II, Nov. 14, 1986, 100 Stat. 3752, known as the National Commission to Prevent Infant Mortality Act of 1986, established National Commission to Prevent Infant Mortality to examine and make recommendation on government and private resources, policies, and programs which impact on infant mortality, required Commission to submit recommendations to President and Congress no later than one year after Nov. 14, 1986, and terminated Commission 90 days after submission of recommendations.

§ 285g–1. Sudden infant death syndrome research

The Director of the Institute shall conduct and support research which specifically relates to sudden infant death syndrome.

(July 1, 1944, ch. 373, title IV, § 449, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 856.)

§ 285g–2. Mental retardation research

The Director of the Institute shall conduct and support research and related activities into the causes, prevention, and treatment of mental retardation.

(July 1, 1944, ch. 373, title IV, § 450, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 856.)

§ 285g–3. Associate Director for Prevention; appointment; function

There shall be in the Institute an Associate Director for Prevention to coordinate and promote the programs in the Institute concerning the prevention of health problems of mothers and children. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or experience are experts in public health or preventive medicine.

(July 1, 1944, ch. 373, title IV, § 451, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 856; amended Pub. L. 105–362, title VI, § 601(a)(1)(E), Nov. 10, 1998, 112 Stat. 3285.)

AMENDMENTS

1998—Pub. L. 105–362 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: ''The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section

284b of this title a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.''

§ 285g–4. National Center for Medical Rehabilitation Research

(a) Establishment of Center

There shall be in the Institute an agency to be known as the National Center for Medical Rehabilitation Research (hereafter in this section referred to as the ''Center''). The Director of the Institute shall appoint a qualified individual to serve as Director of the Center. The Director of the Center shall report directly to the Director of the Institute.

(b) Purpose

The general purpose of the Center is the conduct and support of research and research training (including research on the development of orthotic and prosthetic devices), the dissemination of health information, and other programs with respect to the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, pulmonary, or any other physiological system (hereafter in this section referred to as ''medical rehabilitation'').

(c) Authority of Director

(1) In carrying out the purpose described in subsection (b) of this section, the Director of the Center may—

(A) provide for clinical trials regarding medical rehabilitation;

(B) provide for research regarding model systems of medical rehabilitation;

(C) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities;

(D) support multidisciplinary medical rehabilitation research conducted or supported by more than one such agency;

(E) in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

(i) establish technical and scientific peer review groups in addition to those appointed under section 282(b)(6) of this title; and

(ii) appoint the members of peer review groups established under subparagraph (A); and

(F) support medical rehabilitation research and training centers.

The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under subparagraph (E).

(2) In carrying out this section, the Director of the Center may make grants and enter into cooperative agreements and contracts.

(d) Research Plan

(1) In consultation with the Director of the Center, the coordinating committee established under subsection (e) of this section, and the advisory board established under subsection (f) of this section, the Director of the Institute shall develop a comprehensive plan for the conduct and support of medical rehabilitation research (hereafter in this section referred to as the ''Research Plan'').

(2) The Research Plan shall—

(A) identify current medical rehabilitation research activities conducted or supported by the Federal Government, opportunities and needs for additional research, and priorities for such research; and

(B) make recommendations for the coordination of such research conducted or supported by the National Institutes of Health and other agencies of the Federal Government.

(3)(A) Not later than 18 months after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, the Director of the Institute shall transmit the Research Plan to the Director of NIH, who shall submit the Plan to the President and the Congress.

(B) Subparagraph (A) shall be carried out independently of the process of reporting that is required in sections 283 and 284b of this title.

(4) The Director of the Institute shall periodically revise and update the Research Plan as appropriate, after consultation with the Director of the Center, the coordinating committee established under subsection (e) of this section, and the advisory board established under subsection (f) of this section. A description of any revisions in the Research Plan shall be contained in each report prepared under section 284b of this title by the Director of the Institute.

(e) Medical Rehabilitation Coordinating Committee

(1) The Director of NIH shall establish a committee to be known as the Medical Rehabilitation Coordinating Committee (hereafter in this section referred to as the ''Coordinating Committee'').

(2) The Coordinating Committee shall make recommendations to the Director of the Institute and the Director of the Center with respect to the content of the Research Plan and with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health and with other agencies of the Federal Government.

(3) The Coordinating Committee shall be composed of the Director of the Center, the Director of the Institute, and the Directors of the National Institute on Aging, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Heart, Lung, and Blood Institute, the National Institute of Neurological Disorders and Stroke, and such other national research institutes and such representatives of other agencies of the Federal Government as the Director of NIH determines to be appropriate.

(4) The Coordinating Committee shall be chaired by the Director of the Center.

(f) National Advisory Board on Medical Rehabilitation Research

(1) Not later than 90 days after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, the Director of NIH shall establish a National Advisory Board on Medical Rehabilitation Research (hereafter in this section referred to as the ''Advisory Board'').

(2) The Advisory Board shall review and assess Federal research priorities, activities, and findings regarding medical rehabilitation research, and shall advise the Director of the Center and the Director of the Institute on the provisions of the Research Plan.

(3)(A) The Director of NIH shall appoint to the Advisory Board 18 qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, 12 shall be representatives of health and scientific disciplines with respect to medical rehabilitation and 6 shall be individuals representing the interests of individuals undergoing, or in need of, medical rehabilitation.

(B) The following officials shall serve as ex officio members of the Advisory Board:

(i) The Director of the Center.

(ii) The Director of the Institute.

(iii) The Director of the National Institute on Aging.

(iv) The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases.

(v) The Director of the National Institute on Deafness and Other Communication Disorders.

(vi) The Director of the National Heart, Lung, and Blood Institute.

(vii) The Director of the National Institute of Neurological Disorders and Stroke.

(viii) The Director of the National Institute on Disability and Rehabilitation Research.

(ix) The Commissioner for Rehabilitation Services Administration.

(x) The Assistant Secretary of Defense (Health Affairs).

(xi) The Under Secretary for Health of the Department of Veterans Affairs.

(4) The members of the Advisory Board shall, from among the members appointed under paragraph (3)(A), designate an individual to serve as the chair of the Advisory Board.

(July 1, 1944, ch. 373, title IV, § 452, as added Pub. L. 101–613, § 3(a), Nov. 16, 1990, 104 Stat. 3227; amended Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, referred to in subsecs. (d)(3)(A) and (f)(1), probably means the date of enactment of the National Institutes of Health Amendments of 1990, Pub. L. 101–613, which was approved Nov. 16, 1990.

AMENDMENTS

1992—Subsec. (f)(3)(B)(xi). Pub. L. 102–405 substituted ''Under Secretary for Health of the Department of Veterans Affairs'' for ''Chief Medical Director of the Department of Veterans Affairs''.

PREVENTING DUPLICATIVE PROGRAMS OF MEDICAL REHABILITATION RESEARCH

Section 3(b) of Pub. L. 101–613 provided that:

''(1) IN GENERAL.—The Secretary of Health and Human Services and the heads of other Federal agencies shall—

''(A) jointly review the programs being carried out (or proposed to be carried out) by each such official with respect to medical rehabilitation research; and

''(B) as appropriate, enter into agreements for preventing duplication among such programs.

''(2) TIME FOR COMPLETION.—The agreements required in paragraph (1)(B) shall be made not later than one year after the date of the enactment of this Act [Nov. 16, 1990].

''(3) DEFINITION OF MEDICAL REHABILITATION.—For purposes of this subsection, the term 'medical rehabilitation' means the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, pulmonary, or any other physiological system.''

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 285g–5. Research centers with respect to contraception and infertility

(a) Grants and contracts

The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of improving methods of diagnosis and treatment of infertility.

(b) Number of centers

In carrying out subsection (a) of this section, the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

(c) Duties

(1) Each center assisted under this section shall, in carrying out the purpose of the center involved—

(A) conduct clinical and other applied research, including—

(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and females (including barrier methods); and

(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in males and females;

(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

(C) conduct training programs for such individuals;

(D) develop model continuing education programs for such professionals; and

(E) disseminate information to such professionals and the public.

(2) A center may use funds provided under subsection (a) of this section to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

(d) Coordination of information

The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

(e) Facilities

Each center assisted under subsection (a) of this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

(f) Period of support

Support of a center under subsection (a) of this section may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(g) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(July 1, 1944, ch. 373, title IV, § 452A, as added Pub. L. 103–43, title X, § 1001, June 10, 1993, 107 Stat. 165.)

§ 285g–6. Program regarding obstetrics and gynecology

The Director of the Institute shall establish and maintain within the Institute an intramural laboratory and clinical research program in obstetrics and gynecology.

(July 1, 1944, ch. 373, title IV, § 452B, as added Pub. L. 103–43, title X, § 1011, June 10, 1993, 107 Stat. 166.)

§ 285g–7. Child health research centers

The Director of the Institute shall develop and support centers for conducting research with respect to child health. Such centers shall give priority to the expeditious transfer of advances from basic science to clinical applications and improving the care of infants and children.

(July 1, 1944, ch. 373, title IV, § 452C, as added Pub. L. 103–43, title X, § 1021, June 10, 1993, 107 Stat. 167.)

§ 285g–8. Prospective longitudinal study on adolescent health

(a) In general

Not later than October 1, 1993, the Director of the Institute shall commence a study for the purpose of providing information on the general health and well-being of adolescents in the United States, including, with respect to such adolescents, information on—

(1) the behaviors that promote health and the behaviors that are detrimental to health; and

(2) the influence on health of factors particular to the communities in which the adolescents reside.

(b) Design of study

(1) In general

The study required in subsection (a) of this section shall be a longitudinal study in which a substantial number of adolescents participate as subjects. With respect to the purpose described in such subsection, the study shall monitor the subjects throughout the period of the study to determine the health status of the subjects and any change in such status over time.

(2) Population-specific analyses

The study required in subsection (a) of this section shall be conducted with respect to the population of adolescents who are female, the population of adolescents who are male, various socioeconomic populations of adolescents, and various racial and ethnic populations of adolescents. The study shall be designed and conducted in a manner sufficient to provide for a valid analysis of whether there are significant differences among such populations in health status and whether and to what extent any such differences are due to factors particular to the populations involved.

(c) Coordination with Women's Health Initiative

With respect to the national study of women being conducted by the Secretary and known as the Women's Health Initiative, the Secretary shall ensure that such study is coordinated with the component of the study required in subsection (a) of this section that concerns adolescent females, including coordination in the design of the 2 studies.

(July 1, 1944, ch. 373, title IV, § 452D, as added Pub. L. 103–43, title X, § 1031, June 10, 1993, 107 Stat. 167.)

SUBPART 8—NATIONAL INSTITUTE OF DENTAL RESEARCH

§ 285h. Purpose of Institute

The general purpose of the National Institute of Dental Research is the conduct and support of research, training, health information dissemination, and other programs with respect to the cause, prevention, and methods of diagnosis and treatment of dental and oral diseases and conditions.

(July 1, 1944, ch. 373, title IV, § 453, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 856.)

SUBPART 9—NATIONAL EYE INSTITUTE

§ 285i. Purpose of Institute

The general purpose of the National Eye Institute (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of re-

search, training, health information dissemination, and other programs with respect to blinding eye diseases, visual disorders, mechanisms of visual function, preservation of sight, and the special health problems and requirements of the blind. Subject to section 285i–1 of this title, the Director of the Institute may carry out a program of grants for public and private nonprofit vision research facilities.

(July 1, 1944, ch. 373, title IV, § 455, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 856; amended Pub. L. 103–43, title XI, § 1101(b), June 10, 1993, 107 Stat. 169.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''Subject to section 285i–1 of this title, the Director'' for ''The Director'' in second sentence.

§ 285i–1. Clinical research on eye care and diabetes

(a) Program of grants

The Director of the Institute, in consultation with the advisory council for the Institute, may award research grants to one or more Diabetes Eye Research Institutions for the support of programs in clinical or health services aimed at—

(1) providing comprehensive eye care services for people with diabetes, including a full complement of preventive, diagnostic and treatment procedures;

(2) developing new and improved techniques of patient care through basic and clinical research;

(3) assisting in translation of the latest research advances into clinical practice; and

(4) expanding the knowledge of the eye and diabetes through further research.

(b) Use of funds

Amounts received under a grant awarded under this section shall be used for the following:

(1) Establishing the biochemical, cellular, and genetic mechanisms associated with diabetic eye disease and the earlier detection of pending eye abnormalities. The focus of work under this paragraph shall require that ophthalmologists have training in the most up-to-date molecular and cell biological methods.

(2) Establishing new frontiers in technology, such as video-based diagnostic and research resources, to—

(A) provide improved patient care;

(B) provide for the evaluation of retinal physiology and its affect on diabetes; and

(C) provide for the assessment of risks for the development and progression of diabetic eye disease and a more immediate evaluation of various therapies aimed at preventing diabetic eye disease.

Such technologies shall be designed to permit evaluations to be performed both in humans and in animal models.

(3) The translation of the results of vision research into the improved care of patients with diabetic eye disease. Such translation shall require the application of institutional resources that encompass patient care, clinical research and basic laboratory research.

(4) The conduct of research concerning the outcomes of eye care treatments and eye health education programs as they relate to patients with diabetic eye disease, including the evaluation of regional approaches to such research.

(c) Authorized expenditures

The purposes for which a grant under subsection (a) of this section may be expended include equipment for the research described in such subsection.

(July 1, 1944, ch. 373, title IV, § 456, as added Pub. L. 103–43, title XI, § 1101(a), June 10, 1993, 107 Stat. 168.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285i of this title.

SUBPART 10—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

AMENDMENTS

1988—Pub. L. 100–553, § 2(2), Oct. 28, 1988, 102 Stat. 2769, and Pub. L. 100–607, title I, § 101(2), Nov. 4, 1988, 102 Stat. 3049, made identical amendments to subpart heading, substituting ''Neurological Disorders'' for ''Neurological and Communicative Disorders''. Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238, amended subpart heading to read as if the amendment by Pub. L. 100–607 had not been enacted.

§ 285j. Purpose of Institute

The general purpose of the National Institute of Neurological Disorders and Stroke (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of research, training, health information dissemination, and other programs with respect to neurological disease and disorder and stroke.

(July 1, 1944, ch. 373, title IV, § 457, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 857; amended Pub. L. 100–553, § 2(3), Oct. 28, 1988, 102 Stat. 2769; Pub. L. 100–607, title I, § 101(3), Nov. 4, 1988, 102 Stat. 3049; Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238; Pub. L. 101–93, § 5(a), Aug. 16, 1989, 103 Stat. 611.)

AMENDMENTS

1989—Pub. L. 101–93 substituted ''disease and'' for ''disease and and''.

1988—Pub. L. 100–553 and Pub. L. 100–607 made identical amendments, substituting ''Neurological Disorders'' for ''Neurological and Communicative Disorders'' and ''and disorder and stroke'' for ''disorder, stroke, and disorders of human communication''. Pub. L. 100–690 amended this section to read as if the amendments by Pub. L. 100–607 had not been enacted.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

§ 285j–1. Spinal cord regeneration research

The Director of the Institute shall conduct and support research into spinal cord regeneration.

(July 1, 1944, ch. 373, title IV, § 458, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 857.)

INTERAGENCY COMMITTEE ON SPINAL CORD INJURY

Section 7 of Pub. L. 99–158 provided that:

''(a) ESTABLISHMENT.—Within 90 days after the date of enactment of this Act [Nov. 20, 1985], the Secretary of Health and Human Services shall establish in the National Institute of Neurological and Communicative Diseases and Stroke an Interagency Committee on Spinal Cord Injury (hereafter in this section referred to as the 'Interagency Committee'). The Interagency Committee shall plan, develop, coordinate, and implement comprehensive Federal initiatives in research on spinal cord injury and regeneration.

''(b) COMMITTEE COMPOSITION AND MEETINGS.—(1) The Interagency Committee shall consist of representatives from—

''(A) the National Institute on Neurological and Communicative Disorders and Stroke;

''(B) the Department of Defense;

''(C) the Department of Education;

''(D) the Veterans' Administration;

''(E) the Office of Science and Technology Policy; and

''(F) the National Science Foundation;

designated by the heads of such entities.

''(2) The Interagency Committee shall meet at least four times. The Secretary of Health and Human Services shall select the Chairman of the Interagency Committee from the members of the Interagency Committee.

''(c) REPORT.—Within the 18 months after the date of enactment of this Act [Nov. 20, 1985], the Interagency Committee shall prepare and transmit to the Congress a report concerning its activities under this section. The report shall include a description of research projects on spinal cord injury and regeneration conducted or supported by Federal agencies during such 18-month period, the nature and purpose of each such project, the amounts expended for each such project, and an identification of the entity which conducted the research under each such project.

''(d) TERMINATION.—The Interagency Committee shall terminate 90 days after the date on which the Interagency Committee transmits the report required by subsection (c) to the Congress.''

§ 285j–2. Bioengineering research

The Director of the Institute shall make grants or enter into contracts for research on the means to overcome paralysis of the extremities through electrical stimulation and the use of computers.

(July 1, 1944, ch. 373, title IV, § 459, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 857.)

§ 285j–3. Research on multiple sclerosis

The Director of the Institute shall conduct and support research on multiple sclerosis, especially research on effects of genetics and hormonal changes on the progress of the disease.

(July 1, 1944, ch. 373, title IV, § 460, as added Pub. L. 103–43, title XII, § 1201, June 10, 1993, 107 Stat. 169.)

SUBPART 11—NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

§ 285k. Purpose of Institute

The general purpose of the National Institute of General Medical Sciences is the conduct and support of research, training, and, as appropriate, health information dissemination, and other programs with respect to general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other national research institutes or are outside the general area of responsibility of any other national research institute.

(July 1, 1944, ch. 373, title IV, § 461, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 857.)

SUBPART 12—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

§ 285*l*. Purpose of Institute

The general purpose of the National Institute of Environmental Health Sciences (in this subpart referred to as the ''Institute'') is the conduct and support of research, training, health information dissemination, and other programs with respect to factors in the environment that affect human health, directly or indirectly.

(July 1, 1944, ch. 373, title IV, § 463, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 857; amended Pub. L. 103–43, title XIII, § 1301(b), June 10, 1993, 107 Stat. 170.)

AMENDMENTS

1993—Pub. L. 103–43 inserted ''(in this subpart referred to as the 'Institute')'' after ''Sciences''.

§ 285*l*–1. Applied Toxicological Research and Testing Program

(a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

(b) In carrying out the program established under subsection (a) of this section, the Director of the Institute shall, with respect to toxicology, carry out activities—

(1) to expand knowledge of the health effects of environmental agents;

(2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;

(3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;

(4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use;

(5) to communicate the results of research to government agencies, to medical, scientific, and regulatory communities, and to the public; and

(6) to integrate related activities of the Department of Health and Human Services.

(July 1, 1944, ch. 373, title IV, § 463A, as added Pub. L. 103–43, title XIII, § 1301(a), June 10, 1993, 107 Stat. 169.)

SUBPART 13—NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

§ 285m. Purpose of Institute

The general purpose of the National Institute on Deafness and Other Communication Disorders (hereafter referred to in this subpart as the ''Institute'') is the conduct and support of research and training, the dissemination of health information, and other programs with respect to disorders of hearing and other communication processes, including diseases affecting

hearing, balance, voice, speech, language, taste, and smell.

(July 1, 1944, ch. 373, title IV, § 464, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2769, and Pub. L. 100–607, title I, § 101(4), Nov. 4, 1988, 102 Stat. 3049; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238.)

CODIFICATION

Pub. L. 100–553 and Pub. L. 100–607 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–690 amended this section to read as if the amendments made by Pub. L. 100–607, which enacted this section, had not been enacted. See Codification note above.

SHORT TITLE OF 1988 AMENDMENT

For short title of Pub. L. 100–553 which enacted this subpart and amended sections 281 and 285j of this title as the ''National Deafness and Other Communication Disorders Act of 1988'', see section 1 of Pub. L. 100–553, set out as a note under section 301 of this title.

EFFECT OF ENACTMENT OF SIMILAR PROVISIONS

Section 2613(b) of Pub. L. 100–690 provided that:

''(1) Paragraphs (2) and (3) shall take effect immediately after the enactment of both the bill, S. 1727, of the One Hundredth Congress [Pub. L. 100–553, approved Oct. 28, 1988], and the Health Omnibus Programs Extension of 1988 [Pub. L. 100–607, approved Nov. 4, 1988].

''(2)(A) The provisions of the Public Health Service Act referred to in subparagraph (B), as similarly amended by the enactment of the bill, S. 1727, of the One Hundredth Congress, by subtitle A of title I of the Health Omnibus Programs Extension of 1988, and by subsection (a)(1) of this section, are amended to read as if the amendments made by such subtitle A and such subsection (a)(1) had not been enacted.

''(B) The provisions of the Public Health Service Act referred to in subparagraph (A) are—

''(A) sections 401(b)(1) and 457 [sections 281(b)(1) and 285j of this title];

''(B) part C of title IV [this part]; and

''(C) the heading for subpart 10 of such part C [42 U.S.C. prec. 285j].

''(3) Subsection (a)(2) of this section [set out below] is repealed.''

TRANSITIONAL AND SAVINGS PROVISIONS

Section 3 of Pub. L. 100–553 provided that:

''(a) TRANSFER OF PERSONNEL, ASSETS, AND LIABILITIES.—Personnel employed by the National Institutes of Health in connection with the functions vested under section 2 [enacting this subpart and amending sections 281 and 285j of this title] in the Director of the National Institute on Deafness and Other Communication Disorders, and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds of the National Institutes of Health, arising from or employed, held, used, available to, or to be made available, in connection with such functions shall be transferred to the Director for appropriate allocation. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

''(b) SAVINGS PROVISIONS.—With respect to functions vested under section 1 [probably means section 2, enacting this subpart and amending sections 281 and 285j of this title] in the Director of the National Institute on Deafness and Other Communication Disorders, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, that have been issued, made, granted, or allowed to become effective, and that are effective on the date of the enactment of this Act [Oct. 28, 1988], shall continue in effect according to their terms unless changed pursuant to law.''

Section 2612(a)(2) of Pub. L. 100–690, which enacted provisions that were substantially identical to the transitional and savings provisions above, was repealed by section 2613(b)(3) of Pub. L. 100–690.

§ 285m–1. National Deafness and Other Communication Disorders Program

(a) The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Deafness and Other Communication Disorders Program (hereafter in this section referred to as the ''Program''). The Director or[1] the Institute shall, with respect to the Program, prepare and transmit to the Director of NIH a plan to initiate, expand, intensify and coordinate activities of the Institute respecting disorders of hearing (including tinnitus) and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Director of NIH.

(b) Activities under the Program shall include—

(1) investigation into the etiology, pathology, detection, treatment, and prevention of all forms of disorders of hearing and other communication processes, primarily through the support of basic research in such areas as anatomy, audiology, biochemistry, bioengineering, epidemiology, genetics, immunology, microbiology, molecular biology, the neurosciences, otolaryngology, psychology, pharmacology, physiology, speech and language pathology, and any other scientific disciplines that can contribute important knowledge to the understanding and elimination of disorders of hearing and other communication processes;

(2) research into the evaluation of techniques (including surgical, medical, and behavioral approaches) and devices (including hearing aids, implanted auditory and nonauditory prosthetic devices and other communication aids) used in diagnosis, treatment, rehabilitation, and prevention of disorders of hearing and other communication processes;

(3) research into prevention, and early detection and diagnosis, of hearing loss and speech and language disturbances (including stuttering) and research into preventing the effects of such disorders on learning and learning disabilities with extension of programs for appropriate referral and rehabilitation;

(4) research into the detection, treatment, and prevention of disorders of hearing and other communication processes in the growing elderly population with extension of rehabilitative programs to ensure continued effective communication skills in such population;

(5) research to expand knowledge of the effects of environmental agents that influence

[1] So in original. Probably should be ''of''.

hearing or other communication processes; and

(6) developing and facilitating intramural programs on clinical and fundamental aspects of disorders of hearing and all other communication processes.

(July 1, 1944, ch. 373, title IV, § 464A, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2769, and Pub. L. 100–607, title I, § 101(4), Nov. 4, 1988, 102 Stat. 3049; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238.)

CODIFICATION

Pub. L. 100–553 and Pub. L. 100–607 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–690 amended this section to read as if the amendments made by Pub. L. 100–607, which enacted this section, had not been enacted. See Codification note above.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285m–4 of this title.

§ 285m–2. Data System and Information Clearinghouse

(a) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with disorders of hearing or other communication processes, including where possible, data involving general populations for the purpose of identifying individuals at risk of developing such disorders.

(b) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of disorders of hearing and other communication processes by health professionals, patients, industry, and the public.

(July 1, 1944, ch. 373, title IV, § 464B, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2770, and Pub. L. 100–607, title I, § 101(4), Nov. 4, 1988, 102 Stat. 3050; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238.)

CODIFICATION

Pub. L. 100–553 and Pub. L. 100–607 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–690 amended this section to read as if the amendments made by Pub. L. 100–607, which enacted this section, had not been enacted. See Codification note above.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

§ 285m–3. Multipurpose deafness and other communication disorders center

(a) Development, modernization and operation; "modernization" defined

The Director of the Institute shall, after consultation with the advisory council for the Institute, provide for the development, modernization, and operation (including care required for research) of new and existing centers for studies of disorders of hearing and other communication processes. For purposes of this section, the term ''modernization'' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

(b) Use of facilities; qualifications

Each center assisted under this section shall—

(1) use the facilities of a single institution or a consortium of cooperating institutions; and

(2) meet such qualifications as may be prescribed by the Secretary.

(c) Requisite programs

Each center assisted under this section shall, at least, conduct—

(1) basic and clinical research into the cause diagnosis, early detection, prevention, control and treatment of disorders of hearing and other communication processes and complications resulting from such disorders, including research into rehabilitative aids, implantable biomaterials, auditory speech processors, speech production devices, and other otolaryngologic procedures;

(2) training programs for physicians, scientists, and other health and allied health professionals;

(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and

(4) programs for the dissemination to the general public of information—

(A) on the importance of early detection of disorders of hearing and other communication processes, of seeking prompt treatment, rehabilitation, and of following an appropriate regimen; and

(B) on the importance of avoiding exposure to noise and other environmental toxic agents that may affect disorders of hearing or other communication processes.

(d) Stipends

A center may use funds provided under subsection (a) of this section to provide stipends for health professionals enrolled in training programs described in subsection (c)(2) of this section.

(e) Discretionary programs

Each center assisted under this section may conduct programs—

(1) to establish the effectiveness of new and improved methods of detection, referral, and

diagnosis of individuals at risk of developing disorders of hearing or other communication processes; and

(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

(f) Equitable geographical distribution; needs of elderly and children

The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of the elderly, and of children (particularly with respect to their education and training), affected by disorders of hearing or other communication processes.

(g) Period of support; recommended extensions of peer review group

Support of a center under this section may be for a period not to exceed seven years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director, with the advice of the Institute's advisory council, if such group has recommended to the Director that such period should be extended.

(July 1, 1944, ch. 373, title IV, § 464C, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2771, and Pub. L. 100–607, title I, § 101(4), Nov. 4, 1988, 102 Stat. 3050; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238.)

CODIFICATION

Pub. L. 100–553 and Pub. L. 100–607 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–690 amended this section to read as if the amendments made by Pub. L. 100–607, which enacted this section, had not been enacted. See Codification note above.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

§ 285m–4. National Institute on Deafness and Other Communication Disorders Advisory Board

(a) Establishment

The Secretary shall establish in the Institute the National Deafness and Other Communication Disorders Advisory Board (hereafter in this section referred to as the ''Advisory Board'').

(b) Composition; qualifications; appointed and ex officio members

The Advisory Board shall be composed of eighteen appointed members and nonvoting ex officio members as follows:

(1) The Secretary shall appoint—

(A) twelve members from individuals who are scientists, physicians, and other health and rehabilitation professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to deafness and other communication disorders, including not less than two persons with a communication disorder; and

(B) six members from the general public who are knowledgeable with respect to such disorders, including not less than one person with a communication disorder and not less than one person who is a parent of an individual with such a disorder.

Of the appointed members, not less than five shall by virtue of training or experience be knowledgeable in diagnoses and rehabilitation of communication disorders, education of the hearing, speech, or language impaired, public health, public information, community program development, occupational hazards to communications senses, or the aging process.

(2) The following shall be ex officio members of each Advisory Board:

(A) The Assistant Secretary for Health, the Director of NIH, the Director of the National Institute on Deafness and Other Communication Disorders, the Director of the Centers for Disease Control and Prevention, the Under Secretary for Health of the Department of Veterans Affairs, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers).

(B) Such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

(c) Compensation

Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

(d) Term of office; vacancies

The term of office of an appointed member of the Advisory Board is four years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days from the date the vacancy occurred.

(e) Chairman

The members of the Advisory Board shall select a chairman from among the appointed members.

(f) Personnel; executive director; professional and clerical staff members; consultants; information and administrative support services and facilities

The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, such services of consultants, such information, and (through contracts or other arrangements) such administrative support services and facilities, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

(g) Meetings

The Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

(h) Functions

The Advisory Board shall—

(1) review and evaluate the implementation of the plan prepared under section 285m–1(a) of this title and periodically update the plan to ensure its continuing relevance;

(2) for the purpose of assuring the most effective use and organization of resources respecting deafness and other communication disorders, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the Director of the Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan and with key non-Federal entities involved in activities affecting the control of such disorders.

(i) Subcommittee activities; workshops and conferences; collection of data

In carrying out its functions, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

(j) Annual report

The Advisory Board shall prepare an annual report for the Secretary which—

(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

(2) describes and evaluates the progress made in such fiscal year in research, treatment, education, and training with respect to the deafness and other communication disorders;

(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such disorders in such fiscal year; and

(4) contains the Advisory Board's recommendations (if any) for changes in the plan prepared under section 285m–1(a) of this title.

(k) Commencement of existence

The National Deafness and Other Communication Disorders Advisory Board shall be established not later than April 1, 1989.

(July 1, 1944, ch. 373, title IV, § 464D, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2772, and Pub. L. 100–690, title II, § 2613(a)(1), Nov. 18, 1988, 102 Stat. 4235; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238; Pub. L. 101–93, § 5(b), Aug. 16, 1989, 103 Stat. 611; Pub. L. 102–405, title III, § 302(e)(1), Oct. 9 1992, 106 Stat. 1985; Pub. L. 102–531, title III, § 312(d)(8), Oct. 27, 1992, 106 Stat. 3504; Pub. L. 103–43, title XX, § 2008(b)(8), June 10, 1993, 107 Stat. 211.)

CODIFICATION

Pub. L. 100–553 and section 2613(a)(1) of Pub. L. 100–690 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1993—Subsec. (b)(2)(A). Pub. L. 103–43 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1992—Subsec. (b)(2)(A). Pub. L. 102–531 substituted "Centers for Disease Control and Prevention" for "Centers for Disease Control".

Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

1989—Subsec. (k). Pub. L. 101–93 substituted "April 1, 1989" for "90 days after the date of the enactment of the National Institute on Deafness and Other Communication Disorders Act".

1988—Pub. L. 100–690, § 2613(b)(2), amended this section to read as if the amendments made by Pub. L. 100–690, § 2613(a)(1), which enacted this section, had not been enacted. See Codification note above.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by section 2613(b)(2) of Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 285m–5. Interagency Coordinating Committee

(a) Establishment

The Secretary may establish a committee to be known as the Deafness and Other Communication Disorders Interagency Coordinating Committee (hereafter in this section referred to as the ''Coordinating Committee'').

(b) Functions

The Coordinating Committee shall, with respect to deafness and other communication disorders—

(1) provide for the coordination of the activities of the national research institutes; and

(2) coordinate the aspects of all Federal health programs and activities relating to deafness and other communication disorders in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

(c) Composition

The Coordinating Committee shall be composed of the directors of each of the national research institutes and divisions involved in research with respect to deafness and other communication disorders and representatives of all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to deafness and other communication disorders.

(d) Chairman; meetings

The Coordinating Committee shall be chaired by the Director of NIH (or the designee of the Director). The Committee shall meet at the call of the chair, but not less often than four times a year.

(e) Annual report; recipients of report

Not later than 120 days after the end of each fiscal year, the Coordinating Committee shall prepare and transmit to the Secretary, the Director of NIH, the Director of the Institute, and the advisory council for the Institute a report detailing the activities of the Committee in such fiscal year in carrying out subsection (b) of this section.

(July 1, 1944, ch. 373, title IV, § 464E, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2774, and Pub. L. 100–690, title II, § 2613(a)(1), Nov. 18, 1988, 102 Stat. 4237; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238; Pub. L. 103–43, title XX, § 2008(b)(9), June 10, 1993, 107 Stat. 211.)

CODIFICATION

Pub. L. 100–553 and section 2613(a)(1) of Pub. L. 100–690 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1993—Subsecs. (d), (e). Pub. L. 103–43 inserted ''Coordinating'' before ''Committee'' in first sentence of subsec. (d) and before first reference to ''Committee'' in subsec. (e).

1988—Pub. L. 100–690, § 2613(b)(2), amended this section to read as if the amendments made by Pub. L. 100–690, § 2613(a)(1), which enacted this section, had not been enacted. See Codification note above.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by section 2613(b)(2) of Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

§ 285m–6. Limitation on administrative expenses

With respect to amounts appropriated for a fiscal year for the National Institutes of Health, the limitation established in section 284c(a)(1) of this title on the expenditure of such amounts for administrative expenses shall apply to administrative expenses of the National Institute on Deafness and Other Communication Disorders.

(July 1, 1944, ch. 373, title IV, § 464F, as added Pub. L. 100–553, § 2(4), Oct. 28, 1988, 102 Stat. 2774, and Pub. L. 100–690, title II, § 2613(a)(1), Nov. 18, 1988, 102 Stat. 4238; amended Pub. L. 100–690, title II, § 2613(b)(2), Nov. 18, 1988, 102 Stat. 4238; Pub. L. 103–43, title IV, § 403(b)(2), June 10, 1993, 107 Stat. 158.)

CODIFICATION

Pub. L. 100–553 and section 2613(a)(1) of Pub. L. 100–690 contained identical provisions enacting this section. See 1988 Amendment note below.

AMENDMENTS

1993—Pub. L. 103–43 substituted ''section 284c(a)(1)'' for ''section 284c(b)(1)''.

1988—Pub. L. 100–690, § 2613(b)(2), amended this section to read as if the amendments made by Pub. L. 100–690, § 2613(a)(1), which enacted this section, had not been enacted. See Codification note above.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date of amendment by section 2613(b)(2) of Pub. L. 100–690, see section 2613(b)(1) of Pub. L. 100–690, set out as an Effect of Enactment of Similar Provisions note under section 285m of this title.

SUBPART 14—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 289c–1 of this title.

§ 285n. Purpose of Institute

(a) In general

The general purpose of the National Institute on Alcohol Abuse and Alcoholism (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the prevention of alcohol abuse and the treatment of alcoholism.

(b) Research program

The research program established under this subpart shall encompass the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of alcohol abuse and alcoholism. In carrying out the program, the Director of the Institute is authorized to—

(1) collect and disseminate through publications and other appropriate means (including the development of curriculum materials), information as to, and the practical application of, the research and other activities under the program;

(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(3) make grants to universities, hospitals, laboratories, and other public or nonprofit institutions, and to individuals for such research projects as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism, giving special consideration to projects relating to—

(A) the relationship between alcohol abuse and domestic violence,

(B) the effects of alcohol use during pregnancy,

(C) the impact of alcoholism and alcohol abuse on the family, the workplace, and systems for the delivery of health services,

(D) the relationship between the abuse of alcohol and other drugs,

(E) the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages,

(F) the interrelationship between alcohol use and other health problems,

(G) the comparison of the cost and effectiveness of various treatment methods for alcoholism and alcohol abuse and the effectiveness of prevention and intervention programs for alcoholism and alcohol abuse,

(H) alcoholism and alcohol abuse among women;

(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) promote the coordination of research programs conducted by the Institute, and similar programs conducted by the National Institute of Drug Abuse and by other departments, agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from alcoholism or alcohol abuse or those of their families or the impact of alcohol abuse on other health problems;

(6) conduct an intramural program of biomedical, behavioral, epidemiological, and social research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

(A) located in an institution capable of providing all necessary medical care for such human subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from alcoholism and alcohol abuse; and

(B) associated with an accredited medical or research training institution;

(7) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

(8) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical and other scientific research methods to experiments, studies, and surveys in health and medical fields;

(9) enter into contracts under this subchapter without regard to section 3324(a) and (b) of title 31 and section 5 of title 41; and

(10) adopt, upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

(c) Collaboration

The Director of the Institute shall collaborate with the Administrator of the Substance Abuse and Mental Health Services Administration in focusing the services research activities of the Institute and in disseminating the results of such research to health professionals and the general public.

(d) Funding

(1) Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $300,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Allocation for health services research

Of the amounts appropriated under paragraph (1) for a fiscal year, the Director shall obligate not less than 15 percent to carry out health services research relating to alcohol abuse and alcoholism.

(July 1, 1944, ch. 373, title IV, § 464H, as added and amended Pub. L. 102–321, title I, § 122(a), (b), July 10, 1992, 106 Stat. 358, 359; Pub. L. 102–352, § 2(a)(1), Aug. 26, 1992, 106 Stat. 938.)

CODIFICATION

Section 290bb(b) of this title, which was transferred to subsec. (b) of this section and amended by Pub. L. 102–321, was based on act July 1, 1944, ch. 373, title V, § 510, formerly Pub. L. 91–616, title V, § 501(b), as added Pub. L. 94–371, § 7, July 26, 1976, 90 Stat. 1038; amended Pub. L. 95–622, title II, § 268(d), Nov. 9, 1978, 92 Stat. 3437; Pub. L. 96–180, § 14(b), Jan. 2, 1980, 93 Stat. 1305; renumbered § 510(b) of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(9), 97 Stat. 179; Oct. 19, 1984, Pub. L. 98–509, title II, § 205(a)(1), 98 Stat. 2361.

In subsec. (b)(9), ''section 3324(a) and (b) of title 31'' substituted for reference to section 3648 of the Revised Statutes (31 U.S.C. 529) on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–352 substituted ''Institute on Alcohol'' for ''Institute of Alcohol''.

Subsec. (b). Pub. L. 102–321, § 122(b)(1), (2)(A), transferred subsec. (b) of section 290bb of this title to subsec. (b) of this section, substituted ''(b) RESEARCH PROGRAM.—The research program established under this subpart shall encompass the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of alcohol abuse and alcoholism. In carrying out the program, the Director of the Institute is authorized'' for ''(b) In

carrying out the program described in subsection (a) of this section, the Secretary, acting through the Institute, is authorized'' in introductory provisions, and substituted a semicolon for period at end of par. (3)(H).

Subsecs. (c), (d). Pub. L. 102–321, § 122(b)(2)(B), added subsecs. (c) and (d).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 3 of Pub. L. 102–352 provided that: ''The amendments made by—

''(1) subsection (a) of section 2 [amending this section and sections 285n–2, 285*o*, 285*o*–2, 285p, 290aa–1, 290aa–3, 300x–7, 300x–27, 300x–33, 300x–53, and 300y of this title], shall take effect immediately upon the effectuation of the amendments made by titles I and II of the ADAMHA Reorganization Act [Pub. L. 102–321, see Effective Date of 1992 Amendment note set out under section 236 of this title]; and

''(2) subsections (b) and (c) of section 2 [amending sections 290cc–21, 290cc–28, and 290cc–30 of this title and provisions set out as notes under sections 290aa and 300x of this title], shall take effect on the date of enactment of this Act [Aug. 26, 1992].''

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

REQUIRED ALLOCATIONS FOR HEALTH SERVICES RESEARCH

Pub. L. 103–43, title XX, § 2016(b), June 10, 1993, 107 Stat. 218, provided that:

''(1) IN GENERAL.—With respect to the allocation for health services research required in each of the provisions of law specified in paragraph (2), the term '15 percent' appearing in each of such provisions is, in the case of allocations for fiscal year 1993, deemed to be 12 percent.

''(2) RELEVANT PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are—

''(A) section 464H(d)(2) of the Public Health Service Act, as added by section 122 of Public Law 102–321 (106 Stat. 358) [subsec. (d)(2) of this section];

''(B) section 464L(d)(2) of the Public Health Service Act, as added by section 123 of Public Law 102–321 (106 Stat. 360) [section 285*o*(d)(2) of this title]; and

''(C) section 464R(f)(2) of the Public Health Service Act, as added by section 124 of Public Law 102–321 (106 Stat. 364) [section 285p(f)(2) of this title].''

STUDY ON FETAL ALCOHOL EFFECT AND FETAL ALCOHOL SYNDROME

Section 705 of Pub. L. 102–321 directed Secretary of Health and Human Services to enter into a contract with a public or nonprofit private entity to conduct a study on the prevalence of fetal alcohol effect and fetal alcohol syndrome in the general population of the United States and on the adequacy of Federal efforts to reduce the incidence of such conditions (including efforts regarding appropriate training for health care providers in identifying such effect or syndrome), and to ensure that a report outlining this study be submitted to Congress not later than 18 months after July 10, 1992.

ALCOHOLISM AND ALCOHOL ABUSE TREATMENT STUDY

Pub. L. 99–570, title IV, § 4022, Oct. 27, 1986, 100 Stat. 3207–124, directed Secretary of Health and Human Services, acting through Director of National Institute on Alcohol Abuse and Alcoholism, to conduct a study of alternative approaches for alcoholism and alcohol abuse treatment and rehabilitation and of financing alternatives including policies and experiences of third party insurers and State and municipal governments; to recommend policies and programs for research, planning, administration, and reimbursement for treatment and rehabilitation; to request National Academy of Sciences to conduct such study in consultation with Director of National Institute on Alcohol Abuse and Alcoholism under an arrangement entered into with consent of Academy that actual expenses of Academy will be paid by Secretary and that Academy would submit a final report to Secretary no later than 24 months after the arrangement was entered into; and to transmit a final report to Congress no later than 30 days after receiving Academy's report.

§ 285n–1. Associate Director for Prevention

(a) In general

There shall be in the Institute an Associate Director for Prevention who shall be responsible for the full-time coordination and promotion of the programs in the Institute concerning the prevention of alcohol abuse and alcoholism. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or expertise are experts in alcohol abuse and alcoholism or the prevention of such.

(b) Biennial report

The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 284b of this title a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

(July 1, 1944, ch. 373, title IV, § 464I, as added Pub. L. 102–321, title I, § 122(c), July 10, 1992, 106 Stat. 359.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 285n–2. National Alcohol Research Centers; mandatory grant for research of effects of alcohol on elderly

(a) Designation; procedures applicable for approval of applications

The Secretary acting through the Institute may designate National Alcohol Research Centers for the purpose of interdisciplinary research relating to alcoholism and other biomedical, behavioral, and social issues related to alcoholism and alcohol abuse. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

(1) the application contains or is supported by reasonable assurances that—

(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to provide coordination of such research among such disciplines;

(B) the applicant has available to it sufficient facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application;

(C) the applicant has facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems;

(E) the applicant has the capacity to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students, and for medical and osteopathic, nursing, social work, and other specialized graduate students; and

(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.[1]

(2) the application contains a detailed five-year plan for research relating to alcoholism and other alcohol problems.

(b) Annual grants; amount; limitation on uses

The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No funds provided under a grant under this subsection may be used for the purchase of any land or the purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term ''construction'' has the meaning given that term by section 292a(1)[2] of this title. The Secretary shall include in the grants made under this section for fiscal years beginning after September 30, 1981, a grant to a designated Center for research on the effects of alcohol on the elderly.

(July 1, 1944, ch. 373, title IV, § 464J, formerly title V, § 511, formerly Pub. L. 91–616, title V, § 503, formerly § 504, as added Pub. L. 94–371, § 7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 95–622, title I, § 110(d), Nov. 9, 1978, 92 Stat. 3420; Pub. L. 96–180, § 16, Jan. 2, 1980, 93 Stat. 1305; renumbered § 503 of Pub. L. 91–616 and amended Pub. L. 97–35, title IX, § 965(b), (c), Aug. 13, 1981, 95 Stat. 594; renumbered § 511 of act July 1, 1944, and amended Pub. L. 98–24, § 2(b)(9), Apr. 26, 1983, 97 Stat. 179; Pub. L. 99–570, title IV, § 4008, Oct. 27, 1986, 100 Stat. 3207–115; renumbered title IV, § 464J and amended Pub. L. 102–321, title I, § 122(d), July 10, 1992, 106 Stat. 360; Pub. L. 102–352, § 2(a)(2), Aug. 26, 1992, 106 Stat. 938.)

REFERENCES IN TEXT

Section 292a of this title, referred to in subsec. (b), was in the original a reference to section 701 of act July 1, 1944. Section 701 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 701 of act July 1, 1944, relating to statement of purpose, and a new section 702, relating to scope and duration of loan insurance program, which are classified to sections 292 and 292a, respectively, of this title. For provisions relating to definitions, see sections 292*o* and 295p of this title.

CODIFICATION

Section was formerly classified to section 290bb–1 of this title prior to renumbering by Pub. L. 102–321.

Section was formerly classified to section 4587 of this title prior to renumbering by Pub. L. 98–24.

Section was formerly classified to section 4588 of this title prior to renumbering by Pub. L. 97–35.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–352 substituted ''292a(1)'' for ''292a(2)''.

Pub. L. 102–321, § 122(d)(2), struck ''or rental'' before ''of any land''.

1986—Subsec. (b). Pub. L. 99–570, § 4008(1), which directed that subsec. (b) be amended by striking out ''or rental'' before ''any land'', could not be executed because ''or rental'' appeared before ''of any land''.

Pub. L. 99–570, § 4008(2), struck out ''rental,'' before ''purchase''.

1983—Subsec. (a). Pub. L. 98–24, § 2(b)(9)(B)(i), struck out direction that, insofar as practicable, the Secretary approve applications under this subsection in a manner resulting in an equitable geographic distribution of Centers.

Subsec. (b). Pub. L. 98–24, § 2(b)(9)(B)(ii), (iii), struck out provision that no annual grant to any Center might exceed $1,500,000, and made a technical amendment to reference to section 292a of this title to reflect the transfer of this section to the Public Health Service Act.

Subsec. (c). Pub. L. 98–24, § 2(b)(9)(B)(iv), struck out subsec. (c) which authorized $6,000,000 for each of fiscal years ending Sept. 30, 1977, 1978, and 1979, $8,000,000 for fiscal year ending Sept. 30, 1980, and $9,000,000 for fiscal year ending Sept. 30, 1981.

1981—Subsec. (b). Pub. L. 97–35, § 965(b), inserted provisions relating to grants made for fiscal years beginning after Sept. 30, 1981.

1980—Subsec. (a). Pub. L. 96–180, § 16(a), substituted: in first sentence ''biomedical, behavioral, and social issues related to alcoholism and alcohol abuse'' for ''alcohol problems''; in par. (1)(B) ''facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application'' for ''laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature)''; and in par. (1)(E) ''medical and osteopathic, nursing, social work, and other specialized graduate students; and'' for ''medical and osteopathic students and physicians;'', and added par. (1)(F).

Subsec. (b). Pub. L. 96–180, § 16(b), increased annual grant limitation to $1,500,000 from $1,000,000.

Subsec. (c). Pub. L. 96–180, § 16(c), authorized appropriation of $8,000,000 and $9,000,000 for fiscal years ending Sept. 30, 1980, and 1981.

1978—Subsec. (a). Pub. L. 95–622 inserted provision following par. (2) relating to approval of applications under this subsection by the Secretary in a manner which results in equitable geographic distribution of Centers.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SUBPART 15—NATIONAL INSTITUTE ON DRUG ABUSE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 289c–1 of this title.

§ 285*o*. Purpose of Institute

(a) In general

The general purpose of the National Institute on Drug Abuse (hereafter in this subpart re-

[1] So in original. The period probably should be ''; and''.

[2] See References in Text note below.

ferred to as the ''Institute'') is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the prevention of drug abuse and the treatment of drug abusers.

(b) Research program

The research program established under this subpart shall encompass the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse. In carrying out the program, the Director of the Institute shall give special consideration to projects relating to drug abuse among women (particularly with respect to pregnant women).

(c) Collaboration

The Director of the Institute shall collaborate with the Substance Abuse and Mental Health Services Administration in focusing the services research activities of the Institute and in disseminating the results of such research to health professionals and the general public.

(d) Funding

(1) Authorization of appropriations

For the purpose of carrying out this subpart, other than section 285*o*–4 of this title, there are authorized to be appropriated $440,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Allocation for health services research

Of the amounts appropriated under paragraph (1) for a fiscal year, the Director shall obligate not less than 15 percent to carry out health services research relating to drug abuse.

(July 1, 1944, ch. 373, title IV, § 464L, as added Pub. L. 102–321, title I, § 123(a), July 10, 1992, 106 Stat. 360; amended Pub. L. 102–352, § 2(a)(3), Aug. 26, 1992, 106 Stat. 938.)

AMENDMENTS

1992—Subsec. (d)(1). Pub. L. 102–352 inserted ''other than section 285*o*–4 of this title,'' after ''this subpart,''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

REQUIRED ALLOCATIONS FOR HEALTH SERVICES RESEARCH

With respect to fiscal year 1993 allocations for health services research required in subsec. (d)(2) of this section, the term ''15 percent'' deemed to be 12 percent, see section 2016(b) of Pub. L. 103–43, set out as a note under section 285n of this title.

§ 285*o*–1. Associate Director for Prevention

(a) In general

There shall be in the Institute an Associate Director for Prevention who shall be responsible for the full-time coordination and promotion of the programs in the Institute concerning the prevention of drug abuse. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or expertise are experts in drug abuse and the prevention of such abuse.

(b) Report

The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 284b of this title a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

(July 1, 1944, ch. 373, title IV, § 464M, as added Pub. L. 102–321, title I, § 123(b), July 10, 1992, 106 Stat. 361.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 285*o*–2. Drug Abuse Research Centers

(a) Authority

The Director of the Institute may designate National Drug Abuse Research Centers for the purpose of interdisciplinary research relating to drug abuse and other biomedical, behavioral, and social issues related to drug abuse. No entity may be designated as a Center unless an application therefore has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

(1) the application contains or is supported by reasonable assurances that—

(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on drug abuse and to provide coordination of such research among such disciplines;

(B) the applicant has available to it sufficient facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application;

(C) the applicant has facilities and personnel to provide training in the prevention and treatment of drug abuse;

(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on drug abuse;

(E) the applicant has the capacity to conduct courses on drug abuse problems and research on drug abuse for undergraduate and graduate students, and medical and osteopathic, nursing, social work, and other specialized graduate students; and

(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.[1]

(2) the application contains a detailed five-year plan for research relating to drug abuse.

[1] So in original. The period probably should be ''; and''.

(b) Grants

The Director of the Institute shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No funds provided under a grant under this subsection may be used for the purchase of any land or the purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term ''construction'' has the meaning given that term by section 292a(1)[2] of this title.

(July 1, 1944, ch. 373, title IV, § 464N, as added Pub. L. 102–321, title I, § 123(b), July 10, 1992, 106 Stat. 361; amended Pub. L. 102–352, § 2(a)(4), Aug. 26, 1992, 106 Stat. 938.)

REFERENCES IN TEXT

Section 292a of this title, referred to in subsec. (b), was in the original a reference to section 701 of act July 1, 1944. Section 701 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 701 of act July 1, 1944, relating to statement of purpose, and a new section 702, relating to scope and duration of loan insurance program, which are classified to sections 292 and 292a, respectively, of this title. For provisions relating to definitions, see sections 292*o* and 295p of this title.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–352 substituted ''292a(1)'' for ''292a(2)''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 285*o*–3. Office on AIDS

The Director of the Institute shall establish within the Institute an Office on AIDS. The Office shall be responsible for the coordination of research and determining the direction of the Institute with respect to AIDS research related to—

(1) primary prevention of the spread of HIV, including transmission via drug abuse;

(2) drug abuse services research; and

(3) other matters determined appropriate by the Director.

(July 1, 1944, ch. 373, title IV, § 464O, as added Pub. L. 102–321, title I, § 123(b), July 10, 1992, 106 Stat. 362.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

STUDY BY NATIONAL ACADEMY OF SCIENCES

Section 706 of Pub. L. 102–321 directed Secretary of Health and Human Services to contract for a study or studies relating to programs that provide both sterile hypodermic needles and bleach to individuals in order to reduce the risk of contracting acquired immune deficiency syndrome or related conditions, in order to determine extent to which such programs promote the abuse of drugs or otherwise altered any behaviors constituting a substantial risk of contracting AIDS or hepatitus, or of transmitting such conditions, and further directed Secretary to ensure that a report is submitted to Congress on the results of this study not later than 18 months after July 10, 1992.

§ 285*o*–4. Medication Development Program

(a) Establishment

There is established in the Institute a Medication Development Program through which the Director of such Institute shall—

(1) conduct periodic meetings with the Commissioner of Food and Drugs to discuss measures that may facilitate the approval process of drug abuse treatments;

(2) encourage and promote (through grants, contracts, international collaboration, or otherwise) expanded research programs, investigations, experiments, community trials, and studies, into the development and use of medications to treat drug addiction;

(3) establish or provide for the establishment of research facilities;

(4) report on the activities of other relevant agencies relating to the development and use of pharmacotherapeutic treatments for drug addiction;

(5) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and collect, catalog, analyze, and disseminate through international channels, the results of such research;

(6) directly or through grants, contracts, or cooperative agreements, support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug abuse, including the use of training stipends, fellowships, and awards where appropriate; and

(7) coordinate the activities conducted under this section with related activities conducted within the National Institute on Alcohol Abuse and Alcoholism, the National Institute of Mental Health, and other appropriate institutes and shall consult with the Directors of such Institutes.

(b) Duties

In carrying out the activities described in subsection (a) of this section, the Director of the Institute—

(1) shall collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

(2) shall make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the program;

(3) may, in accordance with section 289e of this title, and in consultation with the National Advisory Council on Drug Abuse, acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic research centers, laboratories, and other necessary facili-

[2] See References in Text note below.

ties and equipment, and such other real or personal property as the Director determines necessary, and may, in consultation with such Advisory Council, make grants for the construction or renovation of facilities to carry out the purposes of this section;

(4) may accept voluntary and uncompensated services;

(5) may accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

(6) shall take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

(c) Report

(1) In general

Not later than December 31, 1992, and each December 31 thereafter, the Director of the Institute shall submit to the Office of National Drug Control Policy established under section 1501[1] of title 21 a report, in accordance with paragraph (3), that describes the objectives and activities of the program assisted under this section.

(2) National Drug Control Strategy

The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1504[1] of title 21.

(d) "Pharmacotherapeutics" defined

For purposes of this section, the term ''pharmacotherapeutics'' means medications used to treat the symptoms and disease of drug abuse, including medications to—

(1) block the effects of abused drugs;

(2) reduce the craving for abused drugs;

(3) moderate or eliminate withdrawal symptoms;

(4) block or reverse the toxic effect of abused drugs; or

(5) prevent relapse in persons who have been detoxified from drugs of abuse.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $85,000,000 for fiscal year 1993, and $95,000,000 for fiscal year 1994.

(July 1, 1944, ch. 373, title IV, § 464P, as added Pub. L. 102–321, title I, § 123(b), July 10, 1992, 106 Stat. 362; amended Pub. L. 103–43, title XX, § 2008(b)(10), June 10, 1993, 107 Stat. 211.)

REFERENCES IN TEXT

Sections 1501 and 1504 of title 21, referred to in subsec. (c), were repealed by Pub. L. 100–690, title I, § 1009, Nov. 18, 1988, 102 Stat. 4188, as amended.

AMENDMENTS

1993—Subsec. (b)(6). Pub. L. 103–43 substituted ''Institute'' for ''Administration''.

[1] See References in Text note below.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

REPORT BY INSTITUTE ON MEDICINE

Section 701 of Pub. L. 102–321 directed Secretary of Health and Human Services to enter into a contract with a public or nonprofit private entity to conduct a study concerning (1) role of the private sector in development of anti-addiction medications, including legislative proposals designed to encourage private sector development of such medications, (2) process by which anti-addiction medications receive marketing approval from Food and Drug Administration, including an assessment of feasibility of expediting marketing approval process in a manner consistent with maintaining safety and effectiveness of such medications, (3) with respect to pharmacotherapeutic treatments for drug addiction (A) recommendations with respect to a national strategy for developing such treatments and improvements in such strategy, (B) state of the scientific knowledge concerning such treatments, and (C) assessment of progress toward development of safe, effective pharmacological treatments for drug addiction, and (4) other related information determined appropriate by the authors of the study, and to submit to Congress a report of the results of such study not later than 18 months after July 10, 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285*o* of this title.

SUBPART 16—NATIONAL INSTITUTE OF MENTAL HEALTH

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 289c–1 of this title.

§ 285p. Purpose of Institute

(a) In general

The general purpose of the National Institute of Mental Health (hereafter in this subpart referred to as the ''Institute'') is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the cause, diagnosis, treatment, control and prevention of mental illness.

(b) Research program

The research program established under this subpart shall include support for biomedical and behavioral neuroscience and shall be designed to further the treatment and prevention of mental illness, the promotion of mental health, and the study of the psychological, social and legal factors that influence behavior.

(c) Collaboration

The Director of the Institute shall collaborate with the Administrator of the Substance Abuse and Mental Health Services Administration in focusing the services research activities of the Institute and in disseminating the results of such research to health professionals and the general public.

(d) Information with respect to suicide

(1) In general

The Director of the Institute shall—

(A) develop and publish information with respect to the causes of suicide and the means of preventing suicide; and

(B) make such information generally available to the public and to health professionals.

(2) Youth suicide

Information described in paragraph (1) shall especially relate to suicide among individuals under 24 years of age.

(e) Associate Director for Special Populations

(1) In general

The Director of the Institute shall designate an Associate Director for Special Populations.

(2) Duties

The Associate Director for Special Populations shall—

(A) develop and coordinate research policies and programs to assure increased emphasis on the mental health needs of women and minority populations;

(B) support programs of basic and applied social and behavioral research on the mental health problems of women and minority populations;

(C) study the effects of discrimination on institutions and individuals, including majority institutions and individuals;

(D) support and develop research designed to eliminate institutional discrimination; and

(E) provide increased emphasis on the concerns of women and minority populations in training programs, service delivery programs, and research endeavors of the Institute.

(f) Funding

(1) Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $675,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Allocation for health services research

Of the amounts appropriated under paragraph (1) for a fiscal year, the Director shall obligate not less than 15 percent to carry out health services research relating to mental health.

(July 1, 1944, ch. 373, title IV, § 464R, as added Pub. L. 102–321, title I, § 124(a), July 10, 1992, 106 Stat. 364; amended Pub. L. 102–352, § 2(a)(5), Aug. 26, 1992, 106 Stat. 938.)

AMENDMENTS

1992—Subsec. (f)(1). Pub. L. 102–352 struck out ''other than section 285*o*–4 of this title'' after ''this subpart''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

REQUIRED ALLOCATIONS FOR HEALTH SERVICES RESEARCH

With respect to fiscal year 1993 allocations for health services research required in subsec. (f)(2) of this section, the term ''15 percent'' deemed to be 12 percent, see section 2016(b) of Pub. L. 103–43, set out as a note under section 285n of this title.

STUDY OF BARRIERS TO INSURANCE COVERAGE OF TREATMENT FOR MENTAL ILLNESS AND SUBSTANCE ABUSE

Section 704 of Pub. L. 102–321 directed Secretary of Health and Human Services, acting through Director of the National Institute of Mental Health and in consultation with Administrator of Health Care Financing Administration, to conduct a study of the barriers to insurance coverage for the treatment of mental illness and substance abuse and to submit a report to Congress on the results of such study not later than Oct. 1, 1993.

§ 285p–1. Associate Director for Prevention

(a) In general

There shall be in the Institute an Associate Director for Prevention who shall be responsible for the full-time coordination and promotion of the programs in the Institute concerning the prevention of mental disorder. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or expertise are experts in mental disorder and the prevention of such.

(b) Report

The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 284b of this title a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

(July 1, 1944, ch. 373, title IV, § 464S, as added Pub. L. 102–321, title I, § 124(b), July 10, 1992, 106 Stat. 365.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 285p–2. Office of Rural Mental Health Research

(a) In general

There is established within the Institute an office to be known as the Office of Rural Mental Health Research (hereafter in this section referred to as the ''Office''). The Office shall be headed by a director, who shall be appointed by the Director of such Institute from among individuals experienced or knowledgeable in the provision of mental health services in rural areas. The Secretary shall carry out the authorities established in this section acting through the Director of the Office.

(b) Coordination of activities

The Director of the Office, in consultation with the Director of the Institute and with the Director of the Office of Rural Health Policy, shall—

(1) coordinate the research activities of the Department of Health and Human Services as such activities relate to the mental health of residents of rural areas; and

(2) coordinate the activities of the Office with similar activities of public and nonprofit private entities.

(c) Research, demonstrations, evaluations, and dissemination

The Director of the Office may, with respect to the mental health of adults and children residing in rural areas—

(1) conduct research on conditions that are unique to the residents of rural areas, or more serious or prevalent in such residents;

(2) conduct research on improving the delivery of services in such areas; and

(3) disseminate information to appropriate public and nonprofit private entities.

(d) Authority regarding grants and contracts

The Director of the Office may carry out the authorities established in subsection (c) of this section directly and through grants, cooperative agreements, or contracts with public or nonprofit private entities.

(e) Report to Congress

Not later than February 1, 1993, and each fiscal year thereafter, the Director shall submit to the Subcommittee on Health and the Environment of the Committee on Energy and Commerce (of the House of Representatives), and to the Committee on Labor and Human Resources (of the Senate), a report describing the activities of the Office during the preceding fiscal year, including a summary of the activities of demonstration projects and a summary of evaluations of the projects.

(July 1, 1944, ch. 373, title IV, § 464T, as added Pub. L. 102–321, title I, § 124(b), July 10, 1992, 106 Stat. 365.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 285p–3. Office on AIDS

The Director of the Institute shall establish within the Institute an Office on AIDS. The Office shall be responsible for the coordination of research and determining the direction of the Institute with respect to AIDS research related to—

(1) primary prevention of the spread of HIV, including transmission via sexual behavior;

(2) mental health services research; and

(3) other matters determined appropriate by the Director.

(July 1, 1944, ch. 373, title IV, § 464U, as added Pub. L. 102–321, title I, § 124(b), July 10, 1992, 106 Stat. 366.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SUBPART 17—NATIONAL INSTITUTE OF NURSING RESEARCH

§ 285q. Purpose of Institute

The general purpose of the National Institute of Nursing Research (in this subpart referred to as the ''Institute'') is the conduct and support of, and dissemination of information respecting, basic and clinical nursing research, training, and other programs in patient care research.

(July 1, 1944, ch. 373, title IV, § 464V, formerly § 483, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 867; renumbered § 464V and amended Pub. L. 103–43, title XV, § 1511(a)(1), (b)(2), June 10, 1993, 107 Stat. 178, 179.)

CODIFICATION

Section was formerly classified to section 287c of this title prior to renumbering by Pub. L. 103–43.

AMENDMENTS

1993—Pub. L. 103–43, § 1511(a)(1) substituted ''Institute'' for ''Center'' in section catchline and ''National Institute of Nursing Research (in this subpart referred to as the 'Institute')'' for ''National Center for Nursing Research (hereafter in this subpart referred to as the 'Center')'' in text.

STUDY ON ADEQUACY OF NUMBER OF NURSES

Section 1512 of Pub. L. 103–43 directed Secretary of Health and Human Services, acting through Director of National Institute of Nursing Research, to enter into a contract with a public or nonprofit private entity to conduct a study for purpose of determining whether and to what extent there is a need for an increase in the number of nurses in hospitals and nursing homes in order to promote the quality of patient care and reduce the incidence among nurses of work-related injuries and stress and to complete such study and submit a report to Congress not later than 18 months after June 10, 1993.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285q–1 of this title.

§ 285q–1. Specific authorities

To carry out section 285q of this title, the Director of the Institute may provide research training and instruction and establish, in the Institute and other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, and the nursing care of individuals with and the families of individuals with acute and chronic illnesses. The Director of the Institute may provide individuals receiving such training and instruction or such traineeships or fellowships with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary. The Director may make grants to nonprofit institutions to provide such training and instruction and traineeships and fellowships.

(July 1, 1944, ch. 373, title IV, § 464W, formerly § 484, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 867; renumbered § 464W and amended Pub. L. 103–43, title XV, § 1511(a)(2), (b)(2), (4)(A), June 10, 1993, 107 Stat. 178, 179.)

CODIFICATION

Section was formerly classified to section 287c–1 of this title prior to renumbering by Pub. L. 103–43.

AMENDMENTS

1993—Pub. L. 103–43, § 1511(a)(2), (b)(4)(A), substituted ''section 285q'' for ''section 287c'' and ''Institute'' for ''Center'' wherever appearing.

§ 285q–2. Advisory council

(a) Appointment; functions and duties; acceptance of conditional gifts; subcommittees

(1) The Secretary shall appoint an advisory council for the Institute which shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Institute on matters related to the activities carried out by and through the Institute and the policies respecting such activities.

(2) The advisory council for the Institute may recommend to the Secretary acceptance, in accordance with section 238 of this title, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipping, or maintenance of facilities for the Institute.

(3) The advisory council for the Institute—

(A)(i) may make recommendations to the Director of the Institute respecting research conducted at the Institute,

(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge, and

(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Institute;

(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the Institute is concerned and with the approval of the Director of the Institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

(C) may appoint subcommittees and convene workshops and conferences.

(b) Membership; ex officio members; compensation

(1) The advisory council shall consist of ex officio members and not more than eighteen members appointed by the Secretary.

(2) The ex officio members of the advisory council shall consist of—

(A) the Secretary, the Director of NIH, the Director of the Institute, the chief nursing officer of the Department of Veterans Affairs, the Assistant Secretary of Defense for Health Affairs, the Director of the Division of Nursing of the Health Resources and Services Administration (or the designees of such officers), and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of the advisory council who are not ex officio members shall be appointed as follows:

(A) Two-thirds of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Institute. Of the members appointed pursuant to this subparagraph, at least seven shall be professional nurses who are recognized experts in the area of clinical practice, education, or research.

(B) One-third of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

(4) Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of the advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule.

(c) Term of office; vacancy; reappointment

The term of office of an appointed member of the advisory council is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to an advisory council before two years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

(d) Chairman; selection; term of office

The chairman of the advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Institute to be the chairman of the advisory council. The term of office of the chairman shall be two years.

(e) Meetings

The advisory council shall meet at the call of the chairman or upon the request of the Director of the Institute, but at least three times each fiscal year. The location of the meetings of the advisory council is subject to the approval of the Director of the Institute.

(f) Executive secretary; staff; orientation and training for new members

The Director of the Institute shall designate a member of the staff of the Institute to serve as the executive secretary of the advisory council. The Director of the Institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Institute shall provide orientation and training

for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

(g) Material for inclusion in biennial report; additional reports

The advisory council may prepare, for inclusion in the biennial report made under section 285q–3 of this title, (1) comments respecting the activities of the advisory council in the fiscal years respecting which the report is prepared, (2) comments on the progress of the Institute in meeting its objectives, and (3) recommendations respecting the future directions and program and policy emphasis of the Institute. The advisory council may prepare such additional reports as it may determine appropriate.

(July 1, 1944, ch. 373, title IV, § 464X, formerly § 485, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 867; amended Pub. L. 101–381, title I, § 102(4), Aug. 18, 1990, 104 Stat. 586; Pub. L. 102–54, § 13(q)(1)(E), June 13, 1991, 105 Stat. 279; renumbered § 464X and amended Pub. L. 103–43, title XV, § 1511(a)(3), (b)(2), (4)(B), title XX, §§ 2008(b)(13), 2010(b)(5), June 10, 1993, 107 Stat. 178, 179, 211, 214.)

CODIFICATION

Section was formerly classified to section 285c–2 of this title prior to renumbering by Pub. L. 103–43.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–43, § 1511(a)(3)(A), substituted ''Institute'' for ''Center'' wherever appearing.

Subsec. (a)(2). Pub. L. 103–43, § 2010(b)(5), which directed the substitution of ''section 238'' for ''section 300aaa'' in section 287c–2(a)(2) of this title, was executed to subsec. (a)(2) of this section to reflect the probable intent of Congress and the renumbering of this section. See Codification note above.

Subsec. (b)(2)(A). Pub. L. 103–43, § 2008(b)(13), which directed the substitution of ''Department of Veterans Affairs'' for ''Veterans' Administration'' in section 287c–2(b)(2)(A) of this title could not be executed because the words ''Veterans' Administration'' do not appear in subsec. (b)(2)(A) of this section subsequent to amendment by Pub. L. 102–54 and because of the renumbering of this section. See Codification note above and 1991 Amendment note below.

Pub. L. 103–43, §§ 1511(a)(3)(B)(i), substituted ''Institute'' for ''Center''.

Subsec. (b)(3)(A). Pub. L. 103–43, § 1511(a)(3)(B)(ii), substituted ''Institute'' for ''Center''.

Subsecs. (d) to (f). Pub. L. 103–43, § 1511(a)(3)(C), substituted ''Institute'' for ''Center'' wherever appearing.

Subsec. (g). Pub. L. 103–43, § 1511(a)(3)(C), (b)(4)(B), substituted ''section 285q–3'' for ''section 287c–3'' and ''Institute'' for ''Center'' in two places.

1991—Subsec. (b)(2)(A). Pub. L. 102–54 substituted ''chief nursing officer of the Department of Veterans Affairs'' for ''Chief Nursing Officer of the Veterans' Administration''.

1990—Subsec. (a)(2). Pub. L. 101–381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285q–3 of this title.

§ 285q–3. Biennial report

The Director of the Institute after consultation with the advisory council for the Institute, shall prepare for inclusion in the biennial report made under section 283 of this title a biennial report which shall consist of a description of the activities of the Institute and program policies of the Director of the Institute in the fiscal years respecting which the report is prepared. The Director of the Institute may prepare such additional reports as the Director determines appropriate. The Director of the Institute shall provide the advisory council of the Institute an opportunity for the submission of the written comments referred to in section 285q–2(g) of this title.

(July 1, 1944, ch. 373, title IV, § 464Y, formerly § 486, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 869; renumbered § 485A, renumbered § 464Y, and amended Pub. L. 103–43, title I, § 141(a)(1), title XV, § 1511(a)(4), (b)(2), (4)(C), June 10, 1993, 107 Stat. 136, 179.)

CODIFICATION

Section was formerly classified to section 287c–3 of this title prior to renumbering by Pub. L. 103–43.

AMENDMENTS

1993—Pub. L. 103–43, § 1511(a)(4), (b)(4)(C), substituted ''Institute'' for ''Center'' wherever appearing and ''section 285q–2(g)'' for ''section 287c–2(g)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 285q–2 of this title.

PART D—NATIONAL LIBRARY OF MEDICINE

SUBPART 1—GENERAL PROVISIONS

§ 286. National Library of Medicine

(a) Purpose and establishment

In order to assist the advancement of medical and related sciences and to aid the dissemination and exchange of scientific and other information important to the progress of medicine and to the public health, there is established the

National Library of Medicine (hereafter in this part referred to as the ''Library'').

(b) Functions

The Secretary, through the Library and subject to subsection (d) of this section, shall—

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials pertinent to medicine;

(2) organize the materials specified in paragraph (1) by appropriate cataloging, indexing, and bibliographical listings;

(3) publish and disseminate the catalogs, indexes, and bibliographies referred to in paragraph (2);

(4) make available, through loans, photographic or other copying procedures, or otherwise, such materials in the Library as the Secretary determines appropriate;

(5) provide reference and research assistance;

(6) publicize the availability from the Library of the products and services described in any of paragraphs (1) through (5);

(7) promote the use of computers and telecommunications by health professionals (including health professionals in rural areas) for the purpose of improving access to biomedical information for health care delivery and medical research; and

(8) engage in such other activities as the Secretary determines appropriate and as the Library's resources permit.

(c) Exchange, destruction, or disposal of materials not needed

The Secretary may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(d) Availability of publications, materials, facilities, or services; prescription of rules

(1) The Secretary may, after obtaining the advice and recommendations of the Board of Regents, prescribe rules under which the Library will—

(A) provide copies of its publications or materials,

(B) will make available its facilities for research, or

(C) will make available its bibliographic, reference, or other services,

to public and private entities and individuals.

(2) Rules prescribed under paragraph (1) may provide for making available such publications, materials, facilities, or services—

(A) without charge as a public service,

(B) upon a loan, exchange, or charge basis, or

(C) in appropriate circumstances, under contract arrangements made with a public or other nonprofit entity.

(e) Regional medical libraries; establishment

Whenever the Secretary, with the advice of the Board of Regents, determines that—

(1) in any geographic area of the United States there is no regional medical library adequate to serve such area;

(2) under criteria prescribed for the administration of section 286b–6 of this title, there is a need for a regional medical library to serve such area; and

(3) because there is no medical library located in such area which, with financial assistance under section 286b–6 of this title, can feasibly be developed into a regional medical library adequate to serve such area,

the Secretary may establish, as a branch of the Library, a regional medical library to serve the needs of such area.

(f) Acceptance and administration of gifts; memorials

Section 238 of this title shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of its functions, and the Board of Regents shall make recommendations to the Secretary relating to establishment within the Library of suitable memorials to the donors.

(g) "Medicine" and "medical" defined

For purposes of this part, the terms ''medicine'' and ''medical'', except when used in section 286a of this title, include preventive and therapeutic medicine, dentistry, pharmacy, hospitalization, nursing, public health, and the fundamental sciences related thereto, and other related fields of study, research, or activity.

(July 1, 1944, ch. 373, title IV, § 465, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 857; amended Pub. L. 99–660, title III, § 311(b)(1), Nov. 14, 1986, 100 Stat. 3779; Pub. L. 100–202, § 101(h) [title II, § 215], Dec. 22, 1987, 101 Stat. 1329–256, 1329–275; Pub. L. 100–607, title II, § 204(2), Nov. 4, 1988, 102 Stat. 3079; Pub. L. 100–690, title II, § 2620(b)(1), Nov. 18, 1988, 102 Stat. 4244; Pub. L. 101–381, title I, § 102(2), Aug. 18, 1990, 104 Stat. 585; Pub. L. 103–43, title XIV, § 1401(a), (c)(1), title XX, § 2010(b)(3), June 10, 1993, 107 Stat. 170, 214.)

AMENDMENTS

1993—Pub. L. 103–43, § 1401(c)(1), repealed amendment by Pub. L. 100–202. See 1987 Amendment note below.

Subsec. (b)(6) to (8). Pub. L. 103–43, § 1401(a), added pars. (6) and (7) and redesignated former par. (6) as (8).

Subsec. (f). Pub. L. 103–43, § 2010(b)(3), substituted ''Section 238'' for ''Section 300aaa''.

1990—Subsec. (f). Pub. L. 101–381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (f). Pub. L. 100–690 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

Pub. L. 100–607 substituted ''300aaa'' for ''300cc''.

1987—Pub. L. 100–202, which directed the amendment of ''Section 465(B) of 42 U.S.C. 286'' by inserting ''between (5) and (6) an additional charge to the Secretary to 'publicize the availability of the above products and services of the National Library of Medicine' '', was repealed by Pub. L. 103–43, § 1401(c)(1).

1986—Subsec. (f). Pub. L. 99–660 substituted ''section 300cc of this title'' for ''section 300aa of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Dec. 22, 1987, see section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

APPLICABILITY OF CERTAIN NEW AUTHORITY

Section 1401(c)(2) of Pub. L. 103–43 provided that: ''With respect to the authority established for the National Library of Medicine in section 465(b)(6) of the Public Health Service Act, as added by subsection (a) of this section [subsec. (b)(6) of this section], such authority shall be effective as if the authority had been established on December 22, 1987.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 286c of this title.

§ 286a. Board of Regents

(a) Membership; ex officio members

(1)(A) The Board of Regents of the National Library of Medicine consists of ex officio members and ten members appointed by the Secretary.

(B) The ex officio members are the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Under Secretary for Health of the Department of Veterans Affairs, the Dean of the Uniformed Services University of the Health Sciences, the Assistant Director for Biological, Behavioral, and Social Sciences of the National Science Foundation, the Director of the National Agricultural Library, and the Librarian of Congress (or their designees).

(C) The appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public health, hospital administration, pharmacology, health communications technology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of medical, dental, or public health research or education.

(2) The Board shall annually elect one of the appointed members to serve as chairman until the next election. The Secretary shall designate a member of the Library staff to act as executive secretary of the Board.

(b) Recommendations on matters of policy; recommendations included in annual report; use of services of members by Secretary

The Board shall advise, consult with, and make recommendations to the Secretary on matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content, and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users. The Secretary shall include in the annual report of the Secretary to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The Secretary may use the services of any member of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as the Secretary may determine.

(c) Term of office; vacancy; reappointment

Each appointed member of the Board shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. None of the appointed members shall be eligible for reappointment within one year after the end of the preceding term of such member.

(July 1, 1944, ch. 373, title IV, § 466, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 859; amended Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 103–43, title XX, § 2008(b)(11), June 10, 1993, 107 Stat. 211.)

AMENDMENTS

1993—Subsec. (a)(1)(B). Pub. L. 103–43 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1992—Subsec. (a)(1)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 286 of this title.

§ 286a–1. Library facilities

There are authorized to be appropriated amounts sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library. The Administrator of General Services may acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the Secretary in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The amounts authorized to be appropriated by this section include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.

(July 1, 1944, ch. 373, title IV, § 467, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 859.)

§ 286a–2. Authorization of appropriations

(a) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(b) Amounts appropriated under subsection (a) of this section and made available for grants or contracts under any of sections 286b–3 through 286b–7 of this title shall remain available until the end of the fiscal year following the fiscal year for which the amounts were appropriated.

(July 1, 1944, ch. 373, title IV, § 468, as added Pub. L. 103–43, title XIV, § 1402(a), June 10, 1993, 107 Stat. 170.)

SUBPART 2—FINANCIAL ASSISTANCE

§ 286b. Repealed. Pub. L. 103–43, title XIV, § 1402(b), June 10, 1993, 107 Stat. 171

Section, act July 1, 1944, ch. 373, title IV, § 469, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 860; amended Nov. 4, 1988, Pub. L. 100–607, title I, § 146(a), 102 Stat. 3058, authorized appropriations for grants and contracts under sections 286b–3 through 286b–7 of this title.

§ 286b–1. Definitions

As used in this subpart—

(1) the term ''medical library'' means a library related to the sciences related to health; and

(2) the term ''sciences related to health'' includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto.

(July 1, 1944, ch. 373, title IV, § 470, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 860.)

§ 286b–2. National Medical Libraries Assistance Advisory Board

(a) Board of Regents of National Library of Medicine to serve as

The Board of Regents of the National Library of Medicine shall also serve as the National Medical Libraries Assistance Advisory Board (hereafter in this subpart referred to as the ''Board'').

(b) Functions

The Board shall advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this subpart.

(c) Use of services of members by Secretary

The Secretary may use the services of any member of the Board, in connection with matters related to the administration of this part for such periods, in addition to conference periods, as the Secretary may determine.

(d) Compensation

Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Secretary in connection with the administration of this subpart, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 210(c) of this title when attending conferences, traveling, or serving at the request of the Secretary in connection with the Board's function under this section.

(July 1, 1944, ch. 373, title IV, § 471, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 860.)

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 286b–3. Grants for training in medical library sciences

The Secretary shall make grants—

(1) to individuals to enable them to accept traineeships and fellowships leading to post-baccalaureate academic degrees in the field of medical library science, in related fields pertaining to sciences related to health, or in the field of the communication of information;

(2) to individuals who are librarians or specialists in information on sciences relating to health, to enable them to undergo intensive training or retraining so as to attain greater competence in their occupations (including competence in the fields of automatic data processing and retrieval);

(3) to assist appropriate public and private nonprofit institutions in developing, expanding, and improving training programs in library science and the field of communications of information pertaining to sciences relating to health; and

(4) to assist in the establishment of internship programs in established medical libraries meeting standards which the Secretary shall prescribe.

(July 1, 1944, ch. 373, title IV, § 472, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 860.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286a–2, 286b–8 of this title.

§ 286b–4. Assistance for projects in sciences related to health, for research and development in medical library science, and for development of education technologies

(a) Compilation of existing and original writings on health

The Secretary shall make grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists for the compilation of existing, or the writing of original, contributions relating to scientific, social, or cultural advancements in sciences related to health. In making such grants, the Secretary shall make appropriate arrangements under which the facilities of the Library and the facilities of libraries of public and private nonprofit institutions of higher learning may be made available in connection with the projects for which such grants are made.

(b) Medical library science and related activities

The Secretary shall make grants to appropriate public or private nonprofit institutions and enter into contracts with appropriate persons, for purposes of carrying out projects of research, investigations, and demonstrations in the field of medical library science and related activities and for the development of new techniques, systems, and equipment, for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

(c) Development of education technologies

(1) The Secretary shall make grants to public or nonprofit private institutions for the purpose of carrying out projects of research on, and development and demonstration of, new education technologies.

(2) The purposes for which a grant under paragraph (1) may be made include projects concerning—

(A) computer-assisted teaching and testing of clinical competence at health professions and research institutions;

(B) the effective transfer of new information from research laboratories to appropriate clinical applications;

(C) the expansion of the laboratory and clinical uses of computer-stored research databases; and

(D) the testing of new technologies for training health care professionals.

(3) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to make the projects available with respect to—

(A) assisting in the training of health professions students; and

(B) enhancing and improving the capabilities of health professionals regarding research and teaching.

(July 1, 1944, ch. 373, title IV, § 473, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 861; amended Pub. L. 103–43, title XIV, § 1411, June 10, 1993, 107 Stat. 171.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–43 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286a–2, 286b–8 of this title.

§ 286b–5. Grants for establishing, expanding, and improving basic resources of medical libraries and related instrumentalities

(a) The Secretary shall make grants of money, materials, or both, to public or private nonprofit medical libraries and related scientific communication instrumentalities for the purpose of establishing, expanding, and improving their basic medical library or related resources. A grant under this subsection may be used for—

(1) the acquisition of books, journals, photographs, motion picture and other films, and other similar materials;

(2) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality;

(3) the acquisition of duplication devices, facsimile equipment, film projectors, recording equipment, and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it; and

(4) the introduction of new technologies in medical librarianship.

(b)(1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Secretary on the basis of the scope of library or related services provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Secretary shall take into account—

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentality is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability within such area of medical library or related services provided by other libraries or related instrumentalities.

(2) Grants to such medical libraries or related instrumentalities under this section shall be in such amounts as the Secretary may by regulation prescribe with a view to assuring adequate continuing financial support for such libraries or instrumentalities from other sources during and after the period for which grants are provided, except that in no case shall any grant under this section to a medical library or related instrumentality for any fiscal year exceed $1,000,000.

(July 1, 1944, ch. 373, title IV, § 474, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 861; amended Pub. L. 100–607, title I, § 146(b), Nov. 4, 1988, 102 Stat. 3058; Pub. L. 103–43, title XIV, § 1401(b), June 10, 1993, 107 Stat. 170.)

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103–43 substituted ''$1,000,000'' for ''$750,000''.

1988—Subsec. (b)(2). Pub. L. 100–607 substituted ''$750,000'' for ''$500,000''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286a–2, 286b–8 of this title.

§ 286b–6. Grants and contracts for establishment of regional medical libraries

(a) Existing public or private nonprofit medical libraries

The Secretary, with the advice of the Board, shall make grants to and enter into contracts with existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

(b) Uses for grants and contracts

The uses for which grants and contracts under this section may be employed include the—

(1) acquisition of books, journals, and other similar materials;

(2) cataloging, binding, and other procedures for processing library resource materials for use by those who are served by the library;

(3) acquisition of duplicating devices and other equipment to facilitate the use of the resources of the library by those who are served by it;

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of materials from the regional library to local

libraries in the geographic area served by the regional library; and

(5) planning for services and activities under this section.

(c) Conditions

(1) Grants and contracts under this section shall only be made to or entered into with medical libraries which agree—

(A) to modify and increase their library resources, and to supplement the resources of cooperating libraries in the region, so as to be able to provide adequate supportive services to all libraries in the region as well as to individual users of library services; and

(B) to provide free loan services to qualified users and make available photoduplicated or facsimile copies of biomedical materials which qualified requesters may retain.

(2) The Secretary, in awarding grants and contracts under this section, shall give priority to medical libraries having the greatest potential of fulfilling the needs for regional medical libraries. In determining the priority to be assigned to any medical library, the Secretary shall consider—

(A) the adequacy of the library (in terms of collections, personnel, equipment, and other facilities) as a basis for a regional medical library; and

(B) the size and nature of the population to be served in the region in which the library is located.

(d) Basic resources materials; limitation on grant or contract

Grants and contracts under this section for basic resource materials to a library may not exceed—

(1) 50 percent of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or

(2) in case of the first year in which the library receives a grant under this section for basic resource materials, 50 percent of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Secretary in accordance with regulations).

(July 1, 1944, ch. 373, title IV, § 475, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 862.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286, 286a–2, 286b–8 of this title.

§ 286b–7. Financial support of biomedical scientific publications

(a) The Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a nonprofit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

(b) Grants under subsection (a) of this section in support of any single periodical publication may not be made for more than three years, except in those cases in which the Secretary determines that further support is necessary to carry out the purposes of subsection (a) of this section.

(July 1, 1944, ch. 373, title IV, § 476, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 863.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 286a–2, 286b–8 of this title.

§ 286b–8. Grant payments, records, and audit

(a) Payments under grants made under sections 286b–3, 286b–4, 286b–5, 286b–6, and 286b–7 of this title may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulation after consultation with the Board.

(b)(1) Each recipient of a grant under this subpart shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to any grant received under this subpart.

(July 1, 1944, ch. 373, title IV, § 477, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 863.)

SUBPART 3—NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION

§ 286c. Purpose, establishment, functions, and funding of National Center for Biotechnology Information

(a) Establishment

In order to focus and expand the collection, storage, retrieval, and dissemination of the results of biotechnology research by information systems, and to support and enhance the development of new information technologies to aid in the understanding of the molecular processes that control health and disease, there is established the National Center for Biotechnology Information (hereinafter in this section referred to as the ''Center'') in the National Library of Medicine.

(b) Functions

The Secretary, through the Center and subject to section 286(d) of this title, shall—

(1) design, develop, implement, and manage automated systems for the collection, storage, retrieval, analysis, and dissemination of knowledge concerning human molecular biology, biochemistry, and genetics;

(2) perform research into advanced methods of computer-based information processing ca-

pable of representing and analyzing the vast number of biologically important molecules and compounds;

(3) enable persons engaged in biotechnology research and medical care to use systems developed under paragraph (1) and methods described in paragraph (2); and

(4) coordinate, as much as is practicable, efforts to gather biotechnology information on an international basis.

(July 1, 1944, ch. 373, title IV, § 478, as added Pub. L. 100–607, title I, § 105, Nov. 4, 1988, 102 Stat. 3052; amended Pub. L. 103–43, title XIV, § 1402(b), June 10, 1993, 107 Stat. 171.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–43 struck out subsec. (c) which read as follows: ''For the purpose of performing the duties specified in subsection (b) of this section, there are authorized to be appropriated $8,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990. Funds appropriated under this subsection shall remain available until expended.''

SUBPART 4—NATIONAL INFORMATION CENTER ON HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY

§ 286d. National Information Center

(a) Establishment

There is established within the Library an entity to be known as the National Information Center on Health Services Research and Health Care Technology (in this section referred to as the ''Center'').

(b) Purpose

The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research, clinical practice guidelines, and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

(c) Electronic, convenient format; criteria for inclusion

The Director of the Center shall ensure that information under subsection (b) of this section concerning clinical practice guidelines is collected and maintained electronically and in a convenient format. Such Director shall develop and publish criteria for the inclusion of practice guidelines and technology assessments in the information center database.

(d) Coordination with Administrator for Health Care Policy and Research

The Secretary, acting through the Center, shall coordinate the activities carried out under this section through the Center with related activities of the Administrator for Health Care Policy and Research.

(July 1, 1944, ch. 373, title IV, § 478A, as added Pub. L. 103–43, title XIV, § 1421, June 10, 1993, 107 Stat. 171.)

CONSTRUCTION

Section 1422(b) of Pub. L. 103–43 provided that: ''The amendments made by section 3 of Public Law 102–410 (106 Stat. 2094) [amending section 299a–1 of this title], by section 1421 of this Act [enacting this section], and by subsection (a) of this section [amending section 299a–1 of this title] may not be construed as terminating the information center on health care technologies and health care technology assessment established under section 904 of the Public Health Service Act [section 299a–2 of this title], as in effect on the day before the date of the enactment of Public Law 102–410 [Oct. 13, 1992]. Such center shall be considered to be the center established in section 478A of the Public Health Service Act, as added by section 1421 of this Act [this section], and shall be subject to the provisions of such section 478A.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299a–1 of this title.

PART E—OTHER AGENCIES OF NIH

SUBPART 1—NATIONAL CENTER FOR RESEARCH RESOURCES

§ 287. General purpose

The general purpose of the National Center for Research Resources (in this subpart referred to as the ''Center'') is to strengthen and enhance the research environments of entities engaged in health-related research by developing and supporting essential research resources.

(July 1, 1944, ch. 373, title IV, § 479, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 864; amended Pub. L. 103–43, title XV, § 1501(2)(B), June 10, 1993, 107 Stat. 172.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''the National Center for Research Resources (in this subpart referred to as the 'Center')'' for ''the Division of Research Resources''.

§ 287a. Advisory council

(a) Appointment; functions and duties; acceptance of conditional gifts; subcommittees

(1) The Secretary shall appoint an advisory council for the Center which shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies respecting such activities.

(2) The advisory council for the Center may recommend to the Secretary acceptance, in accordance with section 238 of this title, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipping, or maintenance of facilities for the Center.

(3) The advisory council for the Center—

(A)(i) may make recommendations to the Director of the Center respecting research conducted at the Center,

(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge, and

(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the Center is concerned and with the approval of the Director of the Center make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

(C) may appoint subcommittees and convene workshops and conferences.

(b) Membership; ex officio members; compensation

(1) The advisory council shall consist of ex officio members and not more than eighteen members appointed by the Secretary.

(2) The ex officio members of the advisory council shall consist of—

(A) the Secretary, the Director of NIH, the Director of the Center, the Under Secretary for Health of the Department of Veterans Affairs, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) The members of the advisory council who are not ex officio members shall be appointed as follows:

(A) Two-thirds of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center.

(B) One-third of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

(4) Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of the advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule.

(c) Term of office; vacancy; reappointment

The term of office of an appointed member of the advisory council is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to an advisory council before two years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

(d) Chairman; selection; term of office

The chairman of the advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the Center to be the chairman of the advisory council. The term of office of the chairman shall be two years.

(e) Meetings

The advisory council shall meet at the call of the chairman or upon the request of the Director of the Center, but at least three times each fiscal year. The location of the meetings of the advisory council is subject to the approval of the Director of the Center.

(f) Executive secretary; staff; orientation and training for new members

The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

(g) Material for inclusion in biennial report; additional reports

The advisory council may prepare, for inclusion in the biennial report made under section 287a–1 of this title, (1) comments respecting the activities of the advisory council in the fiscal years respecting which the report is prepared, (2) comments on the progress of the Center in meeting its objectives, and (3) recommendations respecting the future directions and program and policy emphasis of the Center. The advisory council may prepare such additional reports as it may determine appropriate.

(h) Advisory council in existence on November 20, 1985

This section does not terminate the membership of the advisory council for the Center which was in existence on November 20, 1985. After November 20, 1985—

(1) the Secretary shall make appointments to such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by this section;

(2) the advisory council shall organize itself in accordance with this section and exercise the functions prescribed by this section; and

(3) the Director of the Center shall perform for such advisory council the functions prescribed by this section.

(July 1, 1944, ch. 373, title IV, § 480, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 864; amended Pub. L. 101–381, title I, § 102(3), Aug. 18, 1990, 104

Stat. 586; Pub. L. 102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 103–43, title XV, § 1501(2)(C), (D), title XX, §§ 2008(b)(12), 2010(b)(4), June 10, 1993, 107 Stat. 172, 173, 211, 214.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–43, § 1501(2)(C), (D), substituted ''the Center'' for ''the Division of Research Resources'' after ''advisory council for'' and substituted ''the Center'' for ''the Division'' in two places.

Subsec. (a)(2). Pub. L. 103–43, §§ 1501(2)(C), (D), 2010(b)(4), substituted ''the Center'' for ''the Division of Research Resources'' after ''advisory council for'', ''section 238'' for ''section 300aaa'', and ''the Center'' for ''the Division''.

Subsec. (a)(3). Pub. L. 103–43, § 1501(2)(D), substituted ''the Center'' for ''the Division'' wherever appearing.

Subsec. (b). Pub. L. 103–43, §§ 1501(2)(C), (D), 2008(b)(12), in par. (2)(A) substituted ''the Center'' for ''the Division of Research Resources'' and ''Department of Veterans Affairs'' for ''Veterans' Administration'' and in par. (3)(A) substituted ''the Center'' for ''the Division''.

Subsec. (d). Pub. L. 103–43, § 1501(2)(C), substituted ''the Center'' for ''the Division of Research Resources''.

Subsec. (e). Pub. L. 103–43, § 1501(2)(C), (D), substituted ''the Center'' for ''the Division of Research Resources'' and ''the Center'' for ''the Division''.

Subsec. (f). Pub. L. 103–43, § 1501(2)(C), (D), substituted ''the Center'' for ''the Division of Research Resources'' and ''the Center'' for ''the Division'' in three places.

Subsec. (g). Pub. L. 103–43, § 1501(2)(C), (D), substituted ''the Center'' for ''the Division of Research Resources'' and ''the Center'' for ''the Division''.

Subsec. (h). Pub. L. 103–43, § 1501(2)(C), substituted ''the Center'' for ''the Division of Research Resources'' in introductory provisions and in par. (3).

1992—Subsec. (b)(2)(A). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1990—Subsec. (a)(2). Pub. L. 101–381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287a–1, 287a–2 of this title.

§ 287a–1. Biennial report

The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report made under section 283 of this title a biennial report which shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years respecting which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments referred to in section 287a(g) of this title.

(July 1, 1944, ch. 373, title IV, § 481, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 866; amended Pub. L. 103–43, title XV, § 1501(2)(C), (D), June 10, 1993, 107 Stat. 172, 173.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''the Center'' for ''the Division of Research Resources'' and ''the Center'' for ''the Division'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287a of this title.

§ 287a–2. Biomedical and behavioral research facilities

(a) Modernization and construction of facilities

(1) In general

The Director of NIH, acting through the Director of the Center, may make grants to public and nonprofit private entities to expand, remodel, renovate, or alter existing research facilities or construct new research facilities, subject to the provisions of this section.

(2) Construction and cost of construction

For purposes of this section, the terms ''construction'' and ''cost of construction'' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but do not include the cost of acquisition of land or off-site improvements.

(b) Scientific and technical review boards for merit-based review of proposals

(1) In general; approval as precondition to grants

(A) There is established within the Center a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities (referred to in this section as the ''Board'').

(B) The Director of the Center may approve an application for a grant under subsection (a) of this section only if the Board has under paragraph (2) recommended the application for approval.

(2) Duties

(A) The Board shall provide advice to the Director of the Center and the advisory council established under section 287a of this title (in this section referred to as the ''Advisory Council'') on carrying out this section.

(B) In carrying out subparagraph (A), the Board shall make a determination of the merit

of each application submitted for a grant under subsection (a) of this section, after consideration of the requirements established in subsection (c) of this section, and shall report the results of the determination to the Director of the Center and the Advisory Council. Such determinations shall be conducted in a manner consistent with procedures established under section 289a of this title.

(C) In carrying out subparagraph (A), the Board shall, in the case of applications recommended for approval, make recommendations to the Director and the Advisory Council on the amount that should be provided in the grant.

(D) In carrying out subparagraph (A), the Board shall prepare an annual report for the Director of the Center and the Advisory Council describing the activities of the Board in the fiscal year for which the report is made. Each such report shall be available to the public, and shall—

(i) summarize and analyze expenditures made under this section;

(ii) provide a summary of the types, numbers, and amounts of applications that were recommended for grants under subsection (a) of this section but that were not approved by the Director of the Center; and

(iii) contain the recommendations of the Board for any changes in the administration of this section.

(3) Membership

(A) Subject to subparagraph (B), the Board shall be composed of 9 appointed members, and such ex officio members as the Director of the Center determines to be appropriate.

(B) Not more than 3 individuals who are officers or employees of the Federal Government may serve as members of the Board.

(4) Certain requirements regarding membership

In selecting individuals for membership on the Board, the Director of the Center shall ensure that the members are individuals who, by virtue of their training or experience, are eminently qualified to perform peer review functions. In selecting such individuals for such membership, the Director of the Center shall ensure that the members of the Board collectively—

(A) are experienced in the planning, construction, financing, and administration of entities that conduct biomedical or behavioral research sciences;

(B) are knowledgeable in making determinations of the need of entities for biomedical or behavioral research facilities, including such facilities for the dentistry, nursing, pharmacy, and allied health professions;

(C) are knowledgeable in evaluating the relative priorities for applications for grants under subsection (a) of this section in view of the overall research needs of the United States; and

(D) are experienced with emerging centers of excellence, as described in subsection (c)(3) of this section.

(5) Certain authorities

(A) In carrying out paragraph (2), the Board may convene workshops and conferences, and collect data as the Board considers appropriate.

(B) In carrying out paragraph (2), the Board may establish subcommittees within the Board. Such subcommittees may hold meetings as determined necessary to enable the subcommittee to carry out its duties.

(6) Terms

(A) Except as provided in subparagraph (B), each appointed member of the Board shall hold office for a term of 4 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of the term of the predecessor.

(B) Of the initial members appointed to the Board (as specified by the Director of the Center when making the appointments)—

(i) 3 shall hold office for a term of 3 years;

(ii) 3 shall hold office for a term of 2 years; and

(iii) 3 shall hold office for a term of 1 year.

(C) No member is eligible for reappointment to the Board until 1 year has elapsed after the end of the most recent term of the member.

(7) Compensation

Members of the Board who are not officers or employees of the United States shall receive for each day the members are engaged in the performance of the functions of the Board compensation at the same rate received by members of other national advisory councils established under this subchapter.

(c) Requirements for grants

(1) In general

The Director of the Center may make a grant under subsection (a) of this section only if the applicant for the grant meets the following conditions:

(A) The applicant is determined by such Director to be competent to engage in the type of research for which the proposed facility is to be constructed.

(B) The applicant provides assurances satisfactory to the Director that—

(i) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

(ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility;

(iii) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

(iv) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

(C) The applicant meets reasonable qualifications established by the Director with respect to—

(i) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

(ii) the quality of the research or training, or both, to be carried out in the facilities involved;

(iii) the need of the applicant for such facilities in order to maintain or expand the applicant's research and training mission;

(iv) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

(v) the age and condition of existing research facilities and equipment.

(D) The applicant has demonstrated a commitment to enhancing and expanding the research productivity of the applicant.

(2) Consideration of certain factors

In making grants under subsection (a) of this section, the Director of the Center may, in addition to the requirements established in paragraph (1), consider the following factors:

(A) To what extent the applicant has the capacity to broaden the scope of research and research training programs of the applicant by promoting—

(i) interdisciplinary research;

(ii) research on emerging technologies, including those involving novel analytical techniques or computational methods; or

(iii) other novel research mechanisms or programs.

(B) To what extent the applicant has broadened the scope of research and research training programs of qualified institutions by promoting genomic research with an emphasis on interdisciplinary research, including research related to pediatric investigations.

(3) Institutions of emerging excellence

Of the amounts appropriated under subsection (h) of this section for a fiscal year, the Director of the Center shall make available 25 percent for grants under subsection (a) of this section to applicants that, in addition to meeting the requirements established in paragraph (1), have demonstrated emerging excellence in biomedical or behavioral research, as follows:

(A) The applicant has a plan for research or training advancement and possesses the ability to carry out the plan.

(B) The applicant carries out research and research training programs that have a special relevance to a problem, concern, or unmet health need of the United States.

(C) The applicant has been productive in research or research development and training.

(D) The applicant—

(i) has been designated as a center of excellence under part B of subchapter V of this chapter;

(ii) is located in a geographic area whose population includes a significant number of individuals with a health-status deficit, and the applicant provides health services to such individuals; or

(iii) is located in a geographic area in which a deficit in health care technology, services, or research resources may adversely affect health status of the population of the area in the future, and the applicant is carrying out activities with respect to protecting the health status of such population.

(d) Requirement of application

The Director of the Center may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

(e) Amount of grant; payments

(1) Amount

The amount of any grant awarded under subsection (a) of this section shall be determined by the Director of the Center, except that such amount shall not exceed—

(A) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

(B) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

(2) Reservation of amounts

On approval of any application for a grant under subsection (a) of this section, the Director of the Center shall reserve, from any appropriation available therefore, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this paragraph may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

(3) Exclusion of certain costs

In determining the amount of any grant under this subsection (a) of this section, there shall be excluded from the cost of construction an amount equal to the sum of—

(A) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this section; and

(B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(4) Waiver of limitations

The limitations imposed by paragraph (1) may be waived at the discretion of the Director for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c) of this section.

(f) Recapture of payments

If, not later than 20 years after the completion of construction for which a grant has been awarded under subsection (a) of this section—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private entity; or

(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

(g) Guidelines

Not later than 6 months after June 10, 1993, the Director of the Center, after consultation with the Advisory Council, shall issue guidelines with respect to grants under subsection (a) of this section.

(h) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(July 1, 1944, ch. 373, title IV, § 481A, as added Pub. L. 103–43, title XV, § 1502, June 10, 1993, 107 Stat. 173; amended Pub. L. 105–392, title I, § 101(c), Nov. 13, 1998, 112 Stat. 3537.)

AMENDMENTS

1998—Subsec. (c)(3)(D)(i). Pub. L. 105–392 substituted ''part B of subchapter V of this chapter'' for ''section 293c of this title''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287a–3 of this title.

§ 287a–3. Construction of regional centers for research on primates

(a) With respect to activities carried out by the National Center for Research Resources to support regional centers for research on primates, the Director of NIH may, for each of the fiscal years 1994 through 1996, reserve from the amounts appropriated under section 287a–2(h) of this title up to $2,500,000 for the purpose of making awards of grants and contracts to public or nonprofit private entities to construct, renovate, or otherwise improve such regional centers. The reservation of such amounts for any fiscal year is subject to the availability of qualified applicants for such awards.

(b) The Director of NIH may not make a grant or enter into a contract under subsection (a) of this section unless the applicant for such assistance agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such assistance.

(July 1, 1944, ch. 373, title IV, § 481B, as added Pub. L. 103–43, title XV, § 1503, June 10, 1993, 107 Stat. 178; amended Pub. L. 105–392, title IV, § 411, Nov. 13, 1998, 112 Stat. 3590.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, in first sentence, substituted ''may'' for ''shall'' and ''up to $2,500,000'' for ''$5,000,000''.

SUBPART 2—JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN HEALTH SCIENCES

§ 287b. General purpose

The general purpose of the John E. Fogarty International Center for Advanced Study in the Health Sciences is to—

(1) facilitate the assembly of scientists and others in the biomedical, behavioral, and related fields for discussion, study, and research relating to the development of health science internationally;

(2) provide research programs, conferences, and seminars to further international cooperation and collaboration in the life sciences;

(3) provide postdoctorate fellowships for research training in the United States and abroad and promote exchanges of senior scientists between the United States and other countries;

(4) coordinate the activities of the National Institutes of Health concerned with the health sciences internationally; and

(5) receive foreign visitors to the National Institutes of Health.

(July 1, 1944, ch. 373, title IV, § 482, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 866.)

SUBPART 3—NATIONAL CENTER FOR HUMAN GENOME RESEARCH

§ 287c. Purpose of Center

(a) General purpose

The general purpose of the National Center for Human Genome Research (in this subpart referred to as the ''Center'') is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

(1) planning and coordinating the research goal of the genome project;

(2) reviewing and funding research proposals;

(3) developing training programs;

(4) coordinating international genome research;

(5) communicating advances in genome science to the public; and

(6) reviewing and funding proposals to address the ethical and legal issues associated with the genome project (including legal issues regarding patents).

(b) Research training

The Director of the Center may conduct and support research training—

(1) for which fellowship support is not provided under section 288 of this title; and

(2) that is not residency training of physicians or other health professionals.

(c) Amount available for ethical and legal issues

(1) Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) of this section for a fiscal year, the Director of the Center shall make available not less than 5 percent for carrying out paragraph (6) of such subsection.

(2) With respect to providing funds under subsection (a)(6) of this section for proposals to address the ethical issues associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Center certifies to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 289 and 289a of this title.

(July 1, 1944, ch. 373, title IV, § 485B, as added Pub. L. 103–43, title XV, § 1521(2), June 10, 1993, 107 Stat. 180.)

PRIOR PROVISIONS

A prior section 287c, act July 1, 1944, ch. 373, title IV, § 483, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 867, and amended, which related to purpose of National Center for Nursing Research, was renumbered section 464V of act July 1, 1944, by Pub. L. 103–43, title XV, § 1511(b)(2), June 10, 1993, 107 Stat. 179, and transferred to section 285q of this title.

A prior section 287c–1, act July 1, 1944, ch. 373, title IV, § 484, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 867, and amended, which related to specific authorities of the Director of the Center, was renumbered section 464W of act July 1, 1944, by Pub. L. 103–43, title XV, § 1511(b)(2), June 10, 1993, 107 Stat. 179, and transferred to section 285q–1 of this title.

A prior section 287c–2, act July 1, 1944, ch. 373, title IV, § 485, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 867, and amended, which related to the advisory council for the Center, was renumbered section 464X of act July 1, 1944, by Pub. L. 103–43, title XV, § 1511(b)(2), June 10, 1993, 107 Stat. 179, and transferred to section 285q–2 of this title.

A prior section 287c–3, act July 1, 1944, ch. 373, title IV, § 486, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 869, and amended, which related to biennial report of activities of the Center, was renumbered section 464Y of act July 1, 1944, by Pub. L. 103–43, title XV, § 1511(b)(2), June 10, 1993, 107 Stat. 179, and transferred to section 285q–3 of this title.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SUBPART 4—OFFICE OF DIETARY SUPPLEMENTS

§ 287c–11. Dietary supplements

(a) Establishment

The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

(b) Purpose

The purposes of the Office are—

(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

(c) Duties

The Director of the Office of Dietary Supplements shall—

(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medicine;

(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health and provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs on issues relating to dietary supplements including—

(A) dietary intake regulations;

(B) the safety of dietary supplements;

(C) claims characterizing the relationship between—

(i) dietary supplements; and

(ii)(I) prevention of disease or other health-related conditions; and

(II) maintenance of health; and

(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

(4) compile a database of scientific research on dietary supplements and individual nutrients; and

(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

(d) "Dietary supplement" defined

As used in this section, the term ''dietary supplement'' has the meaning given the term in section 321(ff) of title 21.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.

(July 1, 1944, ch. 373, title IV, § 485C, as added Pub. L. 103–417, § 13(a), Oct. 25, 1994, 108 Stat. 4334.)

SUBPART 5—NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

§ 287c–21. Purpose of Center

(a) In general

The general purposes of the National Center for Complementary and Alternative Medicine

(in this subpart referred to as the ''Center'') are the conduct and support of basic and applied research (including both intramural and extramural research), research training, the dissemination of health information, and other programs with respect to identifying, investigating, and validating complementary and alternative treatment, diagnostic and prevention modalities, disciplines and systems. The Center shall be headed by a director, who shall be appointed by the Secretary. The Director of the Center shall report directly to the Director of NIH.

(b) Advisory council

The Secretary shall establish an advisory council for the Center in accordance with section 284a of this title, except that at least half of the members of the advisory council who are not ex officio members shall include practitioners licensed in one or more of the major systems with which the Center is concerned, and at least 3 individuals representing the interests of individual consumers of complementary and alternative medicine.

(c) Complement to conventional medicine

In carrying out subsection (a) of this section, the Director of the Center shall, as appropriate, study the integration of alternative treatment, diagnostic and prevention systems, modalities, and disciplines with the practice of conventional medicine as a complement to such medicine and into health care delivery systems in the United States.

(d) Appropriate scientific expertise and coordination with institutes and Federal agencies

The Director of the Center, after consultation with the advisory council for the Center and the division of research grants, shall ensure that scientists with appropriate expertise in research on complementary and alternative medicine are incorporated into the review, oversight, and management processes of all research projects and other activities funded by the Center. In carrying out this subsection, the Director of the Center, as necessary, may establish review groups with appropriate scientific expertise. The Director of the Center shall coordinate efforts with other Institutes and Federal agencies to ensure appropriate scientific input and management.

(e) Evaluation of various disciplines and systems

In carrying out subsection (a) of this section, the Director of the Center shall identify and evaluate alternative and complementary medical treatment, diagnostic and prevention modalities in each of the disciplines and systems with which the Center is concerned, including each discipline and system in which accreditation, national certification, or a State license is available.

(f) Ensuring high quality, rigorous scientific review

In order to ensure high quality, rigorous scientific review of complementary and alternative, diagnostic and prevention modalities, disciplines and systems, the Director of the Center shall conduct or support the following activities:

(1) Outcomes research and investigations.
(2) Epidemiological studies.
(3) Health services research.
(4) Basic science research.
(5) Clinical trials.
(6) Other appropriate research and investigational activities.

The Director of NIH, in coordination with the Director of the Center, shall designate specific personnel in each Institute to serve as full-time liaisons with the Center in facilitating appropriate coordination and scientific input.

(g) Data system; information clearinghouse

(1) Data system

The Director of the Center shall establish a bibliographic system for the collection, storage, and retrieval of worldwide research relating to complementary and alternative treatment, diagnostic and prevention modalities, disciplines and systems. Such a system shall be regularly updated and publicly accessible.

(2) Clearinghouse

The Director of the Center shall establish an information clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of alternative medical treatment, diagnostic and prevention practices by health professionals, patients, industry, and the public.

(h) Research centers

The Director of the Center, after consultation with the advisory council for the Center, shall provide support for the development and operation of multipurpose centers to conduct research and other activities described in subsection (a) of this section with respect to complementary and alternative treatment, diagnostic and prevention modalities, disciplines and systems. The provision of support for the development and operation of such centers shall include accredited complementary and alternative medicine research and education facilities.

(i) Availability of resources

After consultation with the Director of the Center, the Director of NIH shall ensure that resources of the National Institutes of Health, including laboratory and clinical facilities, fellowships (including research training fellowship and junior and senior clinical fellowships), and other resources are sufficiently available to enable the Center to appropriately and effectively carry out its duties as described in subsection (a) of this section. The Director of NIH, in coordination with the Director of the Center, shall designate specific personnel in each Institute to serve as full-time liaisons with the Center in facilitating appropriate coordination and scientific input.

(j) Availability of appropriations

Amounts appropriated to carry out this section for fiscal year 1999 are available for obligation through September 30, 2001. Amounts appropriated to carry out this section for fiscal year 2000 are available for obligation through September 30, 2001.

(July 1, 1944, ch. 373, title IV, § 485D, as added Pub. L. 105–277, div. A, § 101(f) [title VI, § 601(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–387.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

PART F—RESEARCH ON WOMEN'S HEALTH

§ 287d. Office of Research on Women's Health

(a) Establishment

There is established within the Office of the Director of NIH an office to be known as the Office of Research on Women's Health (in this part referred to as the ''Office''). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

(b) Purpose

The Director of the Office shall—

(1) identify projects of research on women's health that should be conducted or supported by the national research institutes;

(2) identify multidisciplinary research relating to research on women's health that should be so conducted or supported;

(3) carry out paragraphs (1) and (2) with respect to the aging process in women, with priority given to menopause;

(4) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) through (3);

(5) encourage the conduct of such research by entities receiving funds from the national research institutes;

(6) recommend an agenda for conducting and supporting such research;

(7) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research;

(8) assist in the administration of section 289a–2 of this title with respect to the inclusion of women as subjects in clinical research; and

(9) prepare the report required in section 287d–2 of this title.

(c) Coordinating Committee

(1) In carrying out subsection (b) of this section, the Director of the Office shall establish a committee to be known as the Coordinating Committee on Research on Women's Health (in this subsection referred to as the ''Coordinating Committee'').

(2) The Coordinating Committee shall be composed of the Directors of the national research institutes (or the designees of the Directors).

(3) The Director of the Office shall serve as the chair of the Coordinating Committee.

(4) With respect to research on women's health, the Coordinating Committee shall assist the Director of the Office in—

(A) identifying the need for such research, and making an estimate each fiscal year of the funds needed to adequately support the research;

(B) identifying needs regarding the coordination of research activities, including intramural and extramural multidisciplinary activities;

(C) supporting the development of methodologies to determine the circumstances in which obtaining data specific to women (including data relating to the age of women and the membership of women in ethnic or racial groups) is an appropriate function of clinical trials of treatments and therapies;

(D) supporting the development and expansion of clinical trials of treatments and therapies for which obtaining such data has been determined to be an appropriate function; and

(E) encouraging the national research institutes to conduct and support such research, including such clinical trials.

(d) Advisory Committee

(1) In carrying out subsection (b) of this section, the Director of the Office shall establish an advisory committee to be known as the Advisory Committee on Research on Women's Health (in this subsection referred to as the ''Advisory Committee'').

(2) The Advisory Committee shall be composed of no fewer than 12, and not more than 18 individuals, who are not officers or employees of the Federal Government. The Director of NIH shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals, whose clinical practice, research specialization, or professional expertise includes a significant focus on research on women's health. A majority of the members of the Advisory Committee shall be women.

(3) The Director of the Office shall serve as the chair of the Advisory Committee.

(4) The Advisory Committee shall—

(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

(i) research on women's health;

(ii) research on gender differences in clinical drug trials, including responses to pharmacological drugs;

(iii) research on gender differences in disease etiology, course, and treatment;

(iv) research on obstetrical and gynecological health conditions, diseases, and treatments; and

(v) research on women's health conditions which require a multidisciplinary approach;

(B) report to the Director of the Office on such research;

(C) provide recommendations to such Director regarding activities of the Office (including recommendations on the development of the methodologies described in subsection (c)(4)(C) of this section and recommendations on priorities in carrying out research described in subparagraph (A)); and

(D) assist in monitoring compliance with section 289a–2 of this title regarding the inclusion of women in clinical research.

(5)(A) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

(i) compliance with section 289a–2 of this title;

(ii) the extent of expenditures made for research on women's health by the agencies of the National Institutes of Health; and

(iii) the level of funding needed for such research.

(B) The report required in subparagraph (A) shall be submitted to the Director of NIH for inclusion in the report required in section 283 of this title.

(e) Representation of women among researchers

The Secretary, acting through the Assistant Secretary for Personnel and in collaboration with the Director of the Office, shall determine the extent to which women are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

(f) Definitions

For purposes of this part:

(1) The term ''women's health conditions'', with respect to women of all age, ethnic, and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

(A) unique to, more serious, or more prevalent in women;

(B) for which the factors of medical risk or types of medical intervention are different for women, or for which it is unknown whether such factors or types are different for women; or

(C) with respect to which there has been insufficient clinical research involving women as subjects or insufficient clinical data on women.

(2) The term ''research on women's health'' means research on women's health conditions, including research on preventing such conditions.

(July 1, 1944, ch. 373, title IV, § 486, as added Pub. L. 103–43, title I, § 141(a)(3), June 10, 1993, 107 Stat. 136; amended Pub. L. 105–340, title I, § 106, Oct. 31, 1998, 112 Stat. 3193.)

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105–340 substituted ''NIH'' for ''the Office''.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 287d–1. National data system and clearinghouse on research on women's health

(a) Data system

(1) The Director of NIH, in consultation with the Director of the Office and the Director of the National Library of Medicine, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding research on women's health that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

(2) The data system established under paragraph (1) shall include a registry of clinical trials of experimental treatments that have been developed for research on women's health. Such registry shall include information on subject eligibility criteria, sex, age, ethnicity or race, and the location of the trial site or sites. Principal investigators of such clinical trials shall provide this information to the registry within 30 days after it is available. Once a trial has been completed, the principal investigator shall provide the registry with information pertaining to the results, including potential toxicities or adverse effects associated with the experimental treatment or treatments evaluated.

(b) Clearinghouse

The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide information on research and prevention activities of the national research institutes that relate to research on women's health.

(July 1, 1944, ch. 373, title IV, § 486A, as added Pub. L. 103–43, title I, § 141(a)(3), June 10, 1993, 107 Stat. 138.)

§ 287d–2. Biennial report

(a) In general

With respect to research on women's health, the Director of the Office shall, not later than February 1, 1994, and biennially thereafter, prepare a report—

(1) describing and evaluating the progress made during the preceding 2 fiscal years in research and treatment conducted or supported by the National Institutes of Health;

(2) describing and analyzing the professional status of women physicians and scientists of such Institutes, including the identification of problems and barriers regarding advancements;

(3) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding 2 fiscal years; and

(4) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

(b) Inclusion in biennial report of Director of NIH

The Director of the Office shall submit each report prepared under subsection (a) of this section to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 283 of this title.

(July 1, 1944, ch. 373, title IV, § 486B, as added Pub. L. 103–43, title I, § 141(a)(3), June 10, 1993, 107 Stat. 139.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287d of this title.

PART G—AWARDS AND TRAINING

AMENDMENTS

1993—Pub. L. 103–43, title I, § 141(a)(2), June 10, 1993, 107 Stat. 136, redesignated part F ''Awards and Training'' as G. Former part G ''General Provisions'' redesignated H.

§ 288. National Research Service Awards

(a) Biomedical and behavioral research and research training; programs and institutions included; restriction; special consideration

(1) The Secretary shall—

(A) provide National Research Service Awards for—

(i) biomedical and behavioral research at the National Institutes of Health in matters relating to the cause, diagnosis, prevention, and treatment of the diseases or other health problems to which the activities of the National Institutes of Health and Administration[1] are directed;

(ii) training at the National Institutes of Health and at the Administration[1] of individuals to undertake such research;

(iii) biomedical and behavioral research and health services research (including research in primary medical care) at public and nonprofit private entities; and

(iv) pre-doctoral and post-doctoral training at public and private institutions of individuals to undertake biomedical and behavioral research;

(B) make grants to public and nonprofit private institutions to enable such institutions to make National Research Service Awards for research (and training to undertake biomedical and behavioral research) in the matters described in subparagraph (A)(i) to individuals selected by such institutions; and

(C) provide contracts for scholarships and loan repayments in accordance with sections 288–4 and 288–5 of this title, subject to providing not more than an aggregate 50 such contracts during the fiscal years 1994 through 1996.

A reference in this subsection to the National Institutes of Health shall be considered to include the institutes, agencies, divisions, and bureaus included in the National Institutes of Health or under the Administration,[1] as the case may be.

(2) National Research Service Awards may not be used to support residency training of physicians and other health professionals.

(3) In awarding National Research Service Awards under this section, the Secretary shall take account of the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years of biomedical research.

(4) The Secretary shall carry out paragraph (1) in a manner that will result in the recruitment of women, and individuals from disadvantaged backgrounds (including racial and ethnic minorities), into fields of biomedical or behavioral research and in the provision of research training to women and such individuals.

(b) Prerequisites for Award; review and approval by appropriate advisory councils; Award period; uses for Award; payments to non-Federal public or nonprofit private institutions

(1) No National Research Service Award may be made by the Secretary to any individual unless—

(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

(B) the individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the service requirement of subsection (c) of this section; and

(C) in the case of a National Research Service Award for a purpose described in subsection (a)(1)(A)(iii) of this section, the individual has been sponsored (in such manner as the Secretary may by regulation require) by the institution at which the research or training under the award will be conducted.

An application for an award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

(2) The making of grants under subsection (a)(1)(B) of this section for National Research Service Awards shall be subject to review and approval by the appropriate advisory councils within the Department of Health and Human Services (A) whose activities relate to the research or training under the awards, or (B) for the entity at which such research or training will be conducted.

(3) No grant may be made under subsection (a)(1)(B) of this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe. Subject to the provisions of this section (other than paragraph (1)), National Research Service Awards made under a grant under subsection (a)(1)(B) of this section shall be made in accordance with such regulations as the Secretary shall prescribe.

[1] So in original. Reference to Administration probably should not appear.

(4) The period of any National Research Service Award made to any individual under subsection (a) of this section may not exceed—

(A) five years in the aggregate for pre-doctoral training; and

(B) three years in the aggregate for post-doctoral training;

unless the Secretary for good cause shown waives the application of such limit to such individual.

(5) National Research Service Awards shall provide for such stipends, tuition, fees, and allowances (including travel and subsistence expenses and dependency allowances), adjusted periodically to reflect increases in the cost of living, for the recipients of the awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or nonprofit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

(c) Health research or teaching; service period; recovery upon noncompliance with service requirement, formula; cancellation or waiver of obligation

(1) Each individual who is awarded a National Research Service Award for postdoctoral research training shall, in accordance with paragraph (3), engage in research training, research, or teaching that is health-related (or any combination thereof) for the period specified in paragraph (2). Such period shall be served in accordance with the usual patterns of scientific employment.

(2)(A) The period referred to in paragraph (1) is 12 months, or one month for each month for which the individual involved receives a National Research Service Award for postdoctoral research training, whichever is less.

(B) With respect to postdoctoral research training, in any case in which an individual receives a National Research Service Award for more than 12 months, the 13th month and each subsequent month of performing activities under the Award shall be considered to be activities engaged in toward satisfaction of the requirement established in paragraph (1) regarding a period of service.

(3) The requirement of paragraph (1) shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's award, as the Secretary shall by regulation prescribe. The Secretary shall by regulation prescribe the type of research and teaching in which an individual may engage to comply with such requirement and such other requirements respecting research and teaching as the Secretary considers appropriate.

(4)(A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (3), to comply with such requirements, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$A=\phi \left(\frac{t-s}{t}\right)$$

in which ''A'' is the amount the United States is entitled to recover; ''ϕ'' is the sum of the total amount paid under one or more National Research Service Awards to such individual; ''t'' is the total number of months in such individual's service obligation; and ''s'' is the number of months of such obligation served by such individual in accordance with paragraphs (1) and (2) of this subsection.

(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount.

(5)(A) Any obligation of an individual under paragraph (1) shall be canceled upon the death of such individual.

(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve substantial hardship to such individual or would be against equity and good conscience.

(d) Authorization of appropriations; apportionment

For the purpose of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Of the amounts appropriated under this subsection—

(1) not less than 15 percent shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a)(1)(A) of this section;

(2) not less than 50 percent shall be made available for grants under subsection (a)(1)(B) of this section for National Research Service Awards;

(3) 1 percent shall be made available to the Secretary, acting through the Administrator of the Health Resources and Services Administration, for payments under National Research Service Awards which (A) are made to individuals affiliated with entities which have received grants or contracts under section 293k, 293*l*,[2] or 293m[2] of this title, and (B) are for research in primary medical care; and 1 percent

[2] See References in Text note below.

shall be made available for payments under National Research Service Awards made for health services research by the Agency for Health Care Policy and Research under section 242b(a) of this title; and

(4) not more than 4 percent may be obligated for National Research Service Awards for periods of three months or less.

(July 1, 1944, ch. 373, title IV, § 487, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 869; amended Pub. L. 100–607, title I, § 151, title VI, § 635, Nov. 4, 1988, 102 Stat. 3058, 3148; Pub. L. 101–93, § 5(d), Aug. 16, 1989, 103 Stat. 612; Pub. L. 101–239, title VI, § 6103(e)(7), Dec. 19, 1989, 103 Stat. 2208; Pub. L. 102–321, title I, § 163(b)(4), July 10, 1992, 106 Stat. 376; Pub. L. 103–43, title XVI, §§ 1601, 1602, 1632, 1641, title XX, § 2008(b)(14), June 10, 1993, 107 Stat. 181, 186, 211.)

REFERENCES IN TEXT

Sections 293*l* and 293m of this title, referred to in subsec. (d)(3), were repealed, and a new section 293*l*, relating to different subject matter, was added by Pub. L. 105–392, title I, § 102(4), Nov. 13, 1998, 112 Stat. 3539.

AMENDMENTS

1993—Subsec. (a)(1)(C). Pub. L. 103–43, § 1632, added subpar. (C).

Subsec. (a)(4). Pub. L. 103–43, § 1601, added par. (4).

Subsec. (c)(1), (2). Pub. L. 103–43, § 1602, added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) Each individual who is awarded a National Research Service Award (other than an individual who is a pre-baccalaureate student who is awarded a National Research Service Award for research training) shall, in accordance with paragraph (3), engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, for a period computed in accordance with paragraph (2).

''(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of twelve months, such individual shall engage in one month of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment.''

Subsec. (d). Pub. L. 103–43, § 1641(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''For the purpose of making payments under National Research Service Awards and under grants for such Awards, there are authorized to be appropriated $300,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.''

Subsec. (d)(3). Pub. L. 103–43, §§ 1641(2), 2008(b)(14), substituted ''1 percent'' for ''one-half of one percent'' in two places, ''293k, 293*l*, or 293m'' for ''295g, 295g–4, or 295g–6'', and ''242b(a)'' for ''242b(a)(3)''.

1992—Subsec. (a)(1). Pub. L. 102–321 struck out ''and the Alcohol, Drug Abuse, and Mental Health Administration'' before ''in matters relating to'' in subpar. (A)(i) and struck out ''or the Alcohol, Drug Abuse, and Mental Health Administration'' before ''shall be considered'' in last sentence.

1989—Subsec. (d)(3). Pub. L. 101–93 directed that par. (3), as similarly amended by sections 151(2) and 635 of Pub. L. 100–607, be amended to read as if the amendment made by such section 635 had not been enacted. See 1988 Amendment note below.

Subsec. (d)(3)(B). Pub. L. 101–239 substituted ''Agency for Health Care Policy and Research'' for ''National Center for Health Services Research and Health Care Technology Assessment''.

1988—Subsec. (d). Pub. L. 100–607, § 151(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $244,000,000 for fiscal year 1986, $260,000,000 for fiscal year 1987, and $275,000,000 for fiscal year 1988.''

Subsec. (d)(3). Pub. L. 100–607, §§ 151(2), 635, made identical amendments, inserting ''to the Secretary, acting through the Administrator of the Health Resources and Services Administration,'' after first reference to ''available''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 254m, 282, 284, 285a–3, 285b–4, 285c–2, 285d–2, 285e–2, 287c, 288–4, 288–5, 300cc–16 of this title.

§ 288–1. Loan repayment program for research with respect to acquired immune deficiency syndrome

(a) In general

The Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of such health professionals.

(b) Applicability of certain provisions

With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of subchapter II of this chapter, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) of this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

(c) 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 1994 through 2001.

(July 1, 1944, ch. 373, title IV, § 487A, as added Pub. L. 100–607, title VI, § 634(a), Nov. 4, 1988, 102 Stat. 3148; amended Pub. L. 103–43, title XVI, § 1611(a), June 10, 1993, 107 Stat. 181; Pub. L. 105–392, title IV, § 410(a), Nov. 13, 1998, 112 Stat. 3589.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 410(a)(1), substituted ''$35,000'' for ''$20,000''.

Subsec. (c). Pub. L. 105–392, § 410(a)(2), substituted ''2001'' for ''1996''.

1993—Pub. L. 103–43 amended section generally, in subsec. (a) redesignating former par. (1) as entire subsec., striking out provisions setting a deadline for implementation of the program and former par. (2) containing a limitation that the health professional have a substantial amount of educational loans relative to income and not have been employed at the National In-

stitutes of Health during the 1-year period preceding Nov. 4, 1988, reenacting subsec. (b) without change, and in subsec. (c) redesignating former par. (1) as entire subsec., substituting authorization of appropriations for fiscal years 1994 through 1996 for authorization of appropriations for fiscal years 1989 through 1991, and striking out former par. (2) relating to continued availability of appropriated amounts.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1611(b) of Pub. L. 103–43 provided that: ''The amendment made by subsection (a) [amending this section] does not apply to any agreement entered into under section 487A of the Public Health Service Act [this section] before the date of the enactment of this Act [June 10, 1993]. Each such agreement continues to be subject to the terms of the agreement in effect on the day before such date.''

§ 288–2. Loan repayment program for research with respect to contraception and infertility

(a) Establishment

The Secretary, in consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program of entering into contracts with qualified health professionals (including graduate students) under which such health professionals agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of such health professionals.

(b) Contracts, obligated service, breach of contract

The provisions of sections 254*l*–1, 254m, and 254*o* of this title shall, except as inconsistent with subsection (a) of this section, apply to the program established in subsection (a) of this section to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of subchapter II of this chapter.

(c) Availability of funds

Amounts available for carrying out this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were made available.

(July 1, 1944, ch. 373, title IV, § 487B, as added Pub. L. 103–43, title X, § 1002, June 10, 1993, 107 Stat. 166; amended Pub. L. 105–392, title IV, § 410(b), Nov. 13, 1998, 112 Stat. 3589.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392 substituted ''$35,000'' for ''$20,000''.

§ 288–3. Loan repayment program for research generally

(a) In general

(1) Authority for program

Subject to paragraph (2), the Secretary shall carry out a program of entering into contracts with appropriately qualified health professionals under which such health professionals agree to conduct research, as employees of the National Institutes of Health, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of such health professionals.

(2) Limitation

The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

(A) has a substantial amount of educational loans relative to income; and

(B) agrees to serve as an employee of the National Institutes of Health for purposes of paragraph (1) for a period of not less than 3 years.

(b) Applicability of certain provisions

With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of subchapter II of this chapter, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) of this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

(July 1, 1944, ch. 373, title IV, § 487C, as added Pub. L. 103–43, title XVI, § 1621, June 10, 1993, 107 Stat. 182; amended Pub. L. 105–392, title IV, § 410(c), Nov. 13, 1998, 112 Stat. 3589.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–392 substituted ''$35,000'' for ''$20,000''.

§ 288–4. Undergraduate scholarship program regarding professions needed by National Research Institutes

(a) Establishment of program

(1) In general

Subject to section 288(a)(1)(C) of this title, the Secretary, acting through the Director of NIH, may carry out a program of entering into contracts with individuals described in paragraph (2) under which—

(A) the Director of NIH agrees to provide to the individuals scholarships for pursuing, as undergraduates at accredited institutions of higher education, academic programs appropriate for careers in professions needed by the National Institutes of Health; and

(B) the individuals agree to serve as employees of the National Institutes of Health, for the period described in subsection (c) of this section, in positions that are needed by the National Institutes of Health and for which the individuals are qualified.

(2) Individuals from disadvantaged backgrounds

The individuals referred to in paragraph (1) are individuals who—

(A) are enrolled or accepted for enrollment as full-time undergraduates at accredited institutions of higher education; and

(B) are from disadvantaged backgrounds.

(b) Facilitation of interest of students in careers at National Institutes of Health

In providing employment to individuals pursuant to contracts under subsection (a)(1) of this

section, the Director of NIH shall carry out activities to facilitate the interest of the individuals in pursuing careers as employees of the National Institutes of Health.

(c) Period of obligated service

(1) Duration of service

For purposes of subparagraph (B) of subsection (a)(1) of this section, the period of service for which an individual is obligated to serve as an employee of the National Institutes of Health is, subject to paragraph (2)(A), 12 months for each academic year for which the scholarship under such subsection is provided.

(2) Schedule for service

(A) Subject to subparagraph (B), the Director of NIH may not provide a scholarship under subsection (a) of this section unless the individual applying for the scholarship agrees that—

(i) the individual will serve as an employee of the National Institutes of Health full-time for not less than 10 consecutive weeks of each year during which the individual is attending the educational institution involved and receiving such a scholarship;

(ii) the period of service as such an employee that the individual is obligated to provide under clause (i) is in addition to the period of service as such an employee that the individual is obligated to provide under subsection (a)(1)(B) of this section; and

(iii) not later than 60 days after obtaining the educational degree involved, the individual will begin serving full-time as such an employee in satisfaction of the period of service that the individual is obligated to provide under subsection (a)(1)(B) of this section.

(B) The Director of NIH may defer the obligation of an individual to provide a period of service under subsection (a)(1)(B) of this section, if the Director determines that such a deferral is appropriate.

(3) Applicability of certain provisions relating to appointment and compensation

For any period in which an individual provides service as an employee of the National Institutes of Health in satisfaction of the obligation of the individual under subsection (a)(1)(B) of this section or paragraph (2)(A)(i), the individual may be appointed as such an employee without regard to the provisions of title 5 relating to appointment and compensation.

(d) Provisions regarding scholarship

(1) Approval of academic program

The Director of NIH may not provide a scholarship under subsection (a) of this section for an academic year unless—

(A) the individual applying for the scholarship has submitted to the Director a proposed academic program for the year and the Director has approved the program; and

(B) the individual agrees that the program will not be altered without the approval of the Director.

(2) Academic standing

The Director of NIH may not provide a scholarship under subsection (a) of this section for an academic year unless the individual applying for the scholarship agrees to maintain an acceptable level of academic standing, as determined by the educational institution involved in accordance with regulations issued by the Secretary.

(3) Limitation on amount

The Director of NIH may not provide a scholarship under subsection (a) of this section for an academic year in an amount exceeding $20,000.

(4) Authorized uses

A scholarship provided under subsection (a) of this section may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attending the school involved.

(5) Contract regarding direct payments to institution

In the case of an institution of higher education with respect to which a scholarship under subsection (a) of this section is provided, the Director of NIH may enter into a contract with the institution under which the amounts provided in the scholarship for tuition and other educational expenses are paid directly to the institution.

(e) Penalties for breach of scholarship contract

The provisions of section 254*o* of this title shall apply to the program established in subsection (a) of this section to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 254*l*–1 of this title.

(f) Requirement of application

The Director of NIH may not provide a scholarship under subsection (a) of this section unless an application for the scholarship is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

(g) Availability of authorization of appropriations

Amounts appropriated for a fiscal year for scholarships under this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

(July 1, 1944, ch. 373, title IV, § 487D, as added Pub. L. 103–43, title XVI, § 1631, June 10, 1993, 107 Stat. 183.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointment and compensation, referred to in subsec. (c)(3), are classified generally to section 3301 et seq. and section 5301 et seq., respectively, of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288 of this title.

§ 288–5. Loan repayment program regarding clinical researchers from disadvantaged backgrounds

(a) Implementation of program

(1) In general

Subject to section 288(a)(1)(C) of this title, the Secretary, acting through the Director of NIH may, subject to paragraph (2), carry out a program of entering into contracts with appropriately qualified health professionals who are from disadvantaged backgrounds under which such health professionals agree to conduct clinical research as employees of the National Institutes of Health in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $35,000 of the principal and interest of the educational loans of the health professionals.

(2) Limitation

The Director of NIH may not enter into a contract with a health professional pursuant to paragraph (1) unless such professional has a substantial amount of education loans relative to income.

(3) Applicability of certain provisions regarding obligated service

Except to the extent inconsistent with this section, the provisions of sections 254*l*–1, 254m and 254*o* of this title shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 254*l*–1 of this title.

(b) Availability of authorization of appropriations

Amounts appropriated for a fiscal year for contracts under subsection (a) of this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

(July 1, 1944, ch. 373, title IV, § 487E, as added Pub. L. 103–43, title XVI, § 1631, June 10, 1993, 107 Stat. 185; amended Pub. L. 105–392, title IV, § 410(d), Nov. 13, 1998, 112 Stat. 3589.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–392, § 410(d)(1), substituted ''$35,000'' for ''$20,000''.

Subsec. (a)(3). Pub. L. 105–392, § 410(d)(2), substituted ''254*l*–1, 254m'' for ''254m''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288 of this title.

§ 288a. Visiting Scientist Awards

(a) The Secretary may make awards (hereafter in this section referred to as ''Visiting Scientist Awards'') to outstanding scientists who agree to serve as visiting scientists at institutions of postsecondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.

(July 1, 1944, ch. 373, title IV, § 488, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 872.)

§ 288b. Studies respecting biomedical and behavioral research personnel

(a) Scope of undertaking

The Secretary shall, in accordance with subsection (b) of this section, arrange for the conduct of a continuing study to—

(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

(2) assess (A) current training programs available for the training of biomedical and behavioral research personnel which are conducted under this chapter, at or through national research institutes under the National Institutes of Health, and (B) other current training programs available for the training of such personnel;

(3) identify the kinds of research positions available to and held by individuals completing such programs;

(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

(b) Arrangement with National Academy of Sciences or other nonprofit private groups or associations

(1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) of this section under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under

which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c) of this section.

(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) of this section shall conduct such study in consultation with the Director of NIH.

(c) Report to Congressional committees

A report on the results of the study required under subsection (a) of this section shall be submitted by the Secretary to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate at least once every four years.

(July 1, 1944, ch. 373, title IV, § 489, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 872; amended Pub. L. 102–321, title I, § 163(b)(5), July 10, 1992, 106 Stat. 376.)

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–321 struck out ''and institutes under the Alcohol, Drug Abuse, and Mental Health Administration'' after ''National Institutes of Health''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

PART H—GENERAL PROVISIONS

AMENDMENTS

1993—Pub. L. 103–43, title I, § 141(a)(2), June 10, 1993, 107 Stat. 136, redesignated part G ''General Provisions'' as H. Former part H ''National Foundation for Biomedical Research'' redesignated I.

§ 289. Institutional review boards; ethics guidance program

(a) The Secretary shall by regulation require that each entity which applies for a grant, contract, or cooperative agreement under this chapter for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an ''Institutional Review Board'') to review biomedical and behavioral research involving human subjects conducted at or supported by such entity in order to protect the rights of the human subjects of such research.

(b)(1) The Secretary shall establish a program within the Department of Health and Human Services under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately.

(2) The Secretary shall establish a process for the prompt and appropriate response to information provided to the Director of NIH respecting incidences of violations of the rights of human subjects of research for which funds have been made available under this chapter. The process shall include procedures for the receiving of reports of such information from recipients of funds under this chapter and taking appropriate action with respect to such violations.

(July 1, 1944, ch. 373, title IV, § 491, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 873.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280e, 283f, 287c, 289a–1 of this title.

§ 289a. Peer review requirements

(a) Applications for biomedical and behavioral research grants, cooperative agreements, and contracts; regulations

(1) The Secretary, acting through the Director of NIH, shall by regulation require appropriate technical and scientific peer review of—

(A) applications made for grants and cooperative agreements under this chapter for biomedical and behavioral research; and

(B) applications made for biomedical and behavioral research and development contracts to be administered through the National Institutes of Health.

(2) Regulations promulgated under paragraph (1) shall require that the review of applications made for grants, contracts, and cooperative agreements required by the regulations be conducted—

(A) to the extent practical, in a manner consistent with the system for technical and scientific peer review applicable on November 20, 1985, to grants under this chapter for biomedical and behavioral research, and

(B) to the extent practical, by technical and scientific peer review groups performing such review on or before November 20, 1985,

and shall authorize such review to be conducted by groups appointed under sections 282(b)(6) and 284(c)(3) of this title.

(b) Periodic review of research at National Institutes of Health

The Director of NIH shall establish procedures for periodic technical and scientific peer review of research at the National Institutes of Health. Such procedures shall require that—

(1) the reviewing entity be provided a written description of the research to be reviewed, and

(2) the reviewing entity provide the advisory council of the national research institute involved with such description and the results of the review by the entity,

and shall authorize such review to be conducted by groups appointed under sections 282(b)(6) and 284(c)(3) of this title.

(c) Compliance with requirements for inclusion of women and minorities in clinical research

(1) In technical and scientific peer review under this section of proposals for clinical re-

search, the consideration of any such proposal (including the initial consideration) shall, except as provided in paragraph (2), include an evaluation of the technical and scientific merit of the proposal regarding compliance with section 289a–2 of this title.

(2) Paragraph (1) shall not apply to any proposal for clinical research that, pursuant to subsection (b) of section 289a–2 of this title, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.

(July 1, 1944, ch. 373, title IV, § 492, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 874; amended Pub. L. 103–43, title I, § 132, June 10, 1993, 107 Stat. 135.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–43 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280e, 282, 283f, 284, 284a, 287a–2, 287c, 289a–1, 289c of this title.

§ 289a–1. Certain provisions regarding review and approval of proposals for research

(a) Review as precondition to research

(1) Protection of human research subjects

(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 289(a) of this title by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting such review.

(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

(2) Peer review

In the case of any proposal for the National Institutes of Health to conduct or support research, the Secretary may not approve or fund any proposal that is subject to technical and scientific peer review under section 289a of this title unless the proposal has undergone such review in accordance with such section and has been recommended for approval by a majority of the members of the entity conducting such review.

(b) Ethical review of research

(1) Procedures regarding withholding of funds

If research has been recommended for approval for purposes of subsection (a) of this section, the Secretary may not withhold funds for the research because of ethical considerations unless—

(A) the Secretary convenes an advisory board in accordance with paragraph (5) to study such considerations; and

(B)(i) the majority of the advisory board recommends that, because of such considerations, the Secretary withhold funds for the research; or

(ii) the majority of such board recommends that the Secretary not withhold funds for the research because of such considerations, but the Secretary finds, on the basis of the report submitted under paragraph (5)(B)(ii), that the recommendation is arbitrary and capricious.

(2) Rules of construction

Paragraph (1) may not be construed as prohibiting the Secretary from withholding funds for research on the basis of—

(A) the inadequacy of the qualifications of the entities that would be involved with the conduct of the research (including the entity that would directly receive the funds from the Secretary), subject to the condition that, with respect to the process of review through which the research was recommended for approval for purposes of subsection (a) of this section, all findings regarding such qualifications made in such process are conclusive; or

(B) the priorities established by the Secretary for the allocation of funds among projects of research that have been so recommended.

(3) Applicability

The limitation established in paragraph (1) regarding the authority to withhold funds because of ethical considerations shall apply without regard to whether the withholding of funds on such basis is characterized as a disapproval, a moratorium, a prohibition, or other characterization.

(4) Preliminary matters regarding use of procedures

(A) If the Secretary makes a determination that an advisory board should be convened for purposes of paragraph (1), the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to convene such a board.

(B) A statement issued under subparagraph (A) shall include a request that interested individuals submit to the Secretary recommendations specifying the particular individuals who should be appointed to the advisory board involved. The Secretary shall consider such recommendations in making appointments to the board.

(C) The Secretary may not make appointments to an advisory board under paragraph (1) until the expiration of the 30-day period beginning on the date on which the statement required in subparagraph (A) is made with respect to the board.

(5) Ethics advisory boards

(A) Any advisory board convened for purposes of paragraph (1) shall be known as an ethics advisory board (in this paragraph referred to as an ''ethics board'').

(B)(i) An ethics board shall advise, consult with, and make recommendations to the Secretary regarding the ethics of the project of

biomedical or behavioral research with respect to which the board has been convened.

(ii) Not later than 180 days after the date on which the statement required in paragraph (4)(A) is made with respect to an ethics board, the board shall submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings of the board regarding the project of research involved and making a recommendation under clause (i) of whether the Secretary should or should not withhold funds for the project. The report shall include the information considered in making the findings.

(C) An ethics board shall be composed of no fewer than 14, and no more than 20, individuals who are not officers or employees of the United States. The Secretary shall make appointments to the board from among individuals with special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the board—

(i) no fewer than 1 shall be an attorney;

(ii) no fewer than 1 shall be an ethicist;

(iii) no fewer than 1 shall be a practicing physician;

(iv) no fewer than 1 shall be a theologian; and

(v) no fewer than one-third, and no more than one-half, shall be scientists with substantial accomplishments in biomedical or behavioral research.

(D) The term of service as a member of an ethics board shall be for the life of the board. If such a member does not serve the full term of such service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(E) A member of an ethics board shall be subject to removal from the board by the Secretary for neglect of duty or malfeasance or for other good cause shown.

(F) The Secretary shall designate an individual from among the members of an ethics board to serve as the chair of the board.

(G) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall conduct inquiries and hold public hearings.

(H) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall have access to all relevant information possessed by the Department of Health and Human Services, or available to the Secretary from other agencies.

(I) Members of an ethics board shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

(J) The Secretary, acting through the Director of the National Institutes of Health, shall provide to each ethics board reasonable staff and assistance to carry out the duties of the board.

(K) An ethics board shall terminate 30 days after the date on which the report required in subparagraph (B)(ii) is submitted to the Secretary and the congressional committees specified in such subparagraph.

(6) "Ethical considerations" defined

For purposes of this subsection, the term ''ethical considerations'' means considerations as to whether the nature of the research involved is such that it is unethical to conduct or support the research.

(July 1, 1944, ch. 373, title IV, § 492A, as added Pub. L. 103–43, title I, § 101, June 10, 1993, 107 Stat. 126.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 283f of this title.

§ 289a–2. Inclusion of women and minorities in clinical research

(a) Requirement of inclusion

(1) In general

In conducting or supporting clinical research for purposes of this subchapter, the Director of NIH shall, subject to subsection (b) of this section, ensure that—

(A) women are included as subjects in each project of such research; and

(B) members of minority groups are included as subjects in such research.

(2) Outreach regarding participation as subjects

The Director of NIH, in consultation with the Director of the Office of Research on Women's Health and the Director of the Office of Research on Minority Health, shall conduct or support outreach programs for the recruitment of women and members of minority groups as subjects in projects of clinical research.

(b) Inapplicability of requirement

The requirement established in subsection (a) of this section regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

(1) is inappropriate with respect to the health of the subjects;

(2) is inappropriate with respect to the purpose of the research; or

(3) is inappropriate under such other circumstances as the Director of NIH may designate.

(c) Design of clinical trials

In the case of any clinical trial in which women or members of minority groups will under subsection (a) of this section be included as subjects, the Director of NIH shall ensure that the trial is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being studied in the trial affect women or members of minority groups, as the case may be, differently than other subjects in the trial.

(d) Guidelines

(1) In general

Subject to paragraph (2), the Director of NIH, in consultation with the Director of the Office of Research on Women's Health and the Director of the Office of Research on Minority Health, shall establish guidelines regarding the requirements of this section. The guidelines shall include guidelines regarding—

(A) the circumstances under which the inclusion of women and minorities as subjects in projects of clinical research is inappropriate for purposes of subsection (b) of this section;

(B) the manner in which clinical trials are required to be designed and carried out for purposes of subsection (c) of this section; and

(C) the operation of outreach programs under subsection (a) of this section.

(2) Certain provisions

With respect to the circumstances under which the inclusion of women or members of minority groups (as the case may be) as subjects in a project of clinical research is inappropriate for purposes of subsection (b) of this section, the following applies to guidelines under paragraph (1):

(A)(i) In the case of a clinical trial, the guidelines shall provide that the costs of such inclusion in the trial is not a permissible consideration in determining whether such inclusion is inappropriate.

(ii) In the case of other projects of clinical research, the guidelines shall provide that the costs of such inclusion in the project is not a permissible consideration in determining whether such inclusion is inappropriate unless the data regarding women or members of minority groups, respectively, that would be obtained in such project (in the event that such inclusion were required) have been or are being obtained through other means that provide data of comparable quality.

(B) In the case of a clinical trial, the guidelines may provide that such inclusion in the trial is not required if there is substantial scientific data demonstrating that there is no significant difference between—

(i) the effects that the variables to be studied in the trial have on women or members of minority groups, respectively; and

(ii) the effects that the variables have on the individuals who would serve as subjects in the trial in the event that such inclusion were not required.

(e) Date certain for guidelines; applicability

(1) Date certain

The guidelines required in subsection (d) of this section shall be established and published in the Federal Register not later than 180 days after June 10, 1993.

(2) Applicability

For fiscal year 1995 and subsequent fiscal years, the Director of NIH may not approve any proposal of clinical research to be conducted or supported by any agency of the National Institutes of Health unless the proposal specifies the manner in which the research will comply with this section.

(f) Reports by advisory councils

The advisory council of each national research institute shall prepare biennial reports describing the manner in which the institute has complied with this section. Each such report shall be submitted to the Director of the institute involved for inclusion in the biennial report under section 283 of this title.

(g) Definitions

For purposes of this section:

(1) The term ''project of clinical research'' includes a clinical trial.

(2) The term ''minority group'' includes subpopulations of minority groups. The Director of NIH shall, through the guidelines established under subsection (d) of this section, define the terms ''minority group'' and ''subpopulation'' for purposes of the preceding sentence.

(July 1, 1944, ch. 373, title IV, § 492B, as added Pub. L. 103–43, title I, § 131, June 10, 1993, 107 Stat. 133.)

INAPPLICABILITY TO CURRENT PROJECTS

Section 133 of Pub. L. 103–43 provided that: ''Section 492B of the Public Health Service Act, as added by section 131 of this Act [this section], shall not apply with respect to projects of clinical research for which initial funding was provided prior to the date of the enactment of this Act [June 10, 1993]. With respect to the inclusion of women and minorities as subjects in clinical research conducted or supported by the National Institutes of Health, any policies of the Secretary of Health and Human Services regarding such inclusion that are in effect on the day before the date of the enactment of this Act shall continue to apply to the projects referred to in the preceding sentence.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 283b, 287d, 289a of this title; title 38 sections 317, 318.

§ 289b. Office of Research Integrity

(a) In general

(1) Establishment of Office

Not later than 90 days after June 10, 1993, the Secretary shall establish an office to be known as the Office of Research Integrity (referred to in this section as the ''Office''), which shall be established as an independent entity in the Department of Health and Human Services.

(2) Appointment of Director

The Office shall be headed by a Director, who shall be appointed by the Secretary, be

experienced and specially trained in the conduct of research, and have experience in the conduct of investigations of research misconduct. The Secretary shall carry out this section acting through the Director of the Office. The Director shall report to the Secretary.

(3) Definitions

(A) The Secretary shall by regulation establish a definition for the term ''research misconduct'' for purposes of this section.

(B) For purposes of this section, the term ''financial assistance'' means a grant, contract, or cooperative agreement.

(b) Existence of administrative processes as condition of funding for research

The Secretary shall by regulation require that each entity that applies for financial assistance under this chapter for any project or program that involves the conduct of biomedical or behavioral research submit in or with its application for such assistance—

(1) assurances satisfactory to the Secretary that such entity has established and has in effect (in accordance with regulations which the Secretary shall prescribe) an administrative process to review reports of research misconduct in connection with biomedical and behavioral research conducted at or sponsored by such entity;

(2) an agreement that the entity will report to the Director any investigation of alleged research misconduct in connection with projects for which funds have been made available under this chapter that appears substantial; and

(3) an agreement that the entity will comply with regulations issued under this section.

(c) Process for response of Director

The Secretary shall by regulation establish a process to be followed by the Director for the prompt and appropriate—

(1) response to information provided to the Director respecting research misconduct in connection with projects for which funds have been made available under this chapter;

(2) receipt of reports by the Director of such information from recipients of funds under this chapter;

(3) conduct of investigations, when appropriate; and

(4) taking of other actions, including appropriate remedies, with respect to such misconduct.

(d) Monitoring by Director

The Secretary shall by regulation establish procedures for the Director to monitor administrative processes and investigations that have been established or carried out under this section.

(e) Protection of whistleblowers

(1) In general

In the case of any entity required to establish administrative processes under subsection (b) of this section, the Secretary shall by regulation establish standards for preventing, and for responding to the occurrence of retaliation by such entity, its officials or agents, against an employee in the terms and conditions of employment in response to the employee having in good faith—

(A) made an allegation that the entity, its officials or agents, has engaged in or failed to adequately respond to an allegation of research misconduct; or

(B) cooperated with an investigation of such an allegation.

(2) Monitoring by Secretary

The Secretary shall by regulation establish procedures for the Director to monitor the implementation of the standards established by an entity under paragraph (1) for the purpose of determining whether the procedures have been established, and are being utilized, in accordance with the standards established under such paragraph.

(3) Noncompliance

The Secretary shall by regulation establish remedies for noncompliance by an entity, its officials or agents, which has engaged in retaliation in violation of the standards established under paragraph (1). Such remedies may include termination of funding provided by the Secretary for such project or recovery of funding being provided by the Secretary for such project, or other actions as appropriate.

(July 1, 1944, ch. 373, title IV, § 493, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 874; amended Pub. L. 103–43, title I, §§ 161, 163, June 10, 1993, 107 Stat. 140, 142.)

CODIFICATION

June 10, 1993, referred to in subsec. (a)(1), was in the original ''the date of enactment of this section'' which was translated as meaning the date of enactment of Pub. L. 103–43, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1993—Pub. L. 103–43, § 161, amended section generally. Prior to amendment, section read as follows:

''(a) The Secretary shall by regulation require that each entity which applies for a grant, contract, or cooperative agreement under this chapter for any project or program which involves the conduct of biomedical or behavioral research submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that such entity—

''(1) has established (in accordance with regulations which the Secretary shall prescribe) an administrative process to review reports of scientific fraud in connection with biomedical and behavioral research conducted at or sponsored by such entity; and

''(2) will report to the Secretary any investigation of alleged scientific fraud which appears substantial.

''(b) The Director of NIH shall establish a process for the prompt and appropriate response to information provided the Director of NIH respecting scientific fraud in connection with projects for which funds have been made available under this chapter. The process shall include procedures for the receiving of reports of such information from recipients of funds under this chapter and taking appropriate action with respect to such fraud.''

Subsec. (e). Pub. L. 103–43, § 163, added subsec. (e).

REGULATIONS

Section 165 of Pub. L. 103–43 provided that:

''(a) ISSUANCE OF FINAL RULES.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [June 10, 1993], the Secretary shall, subject to paragraph (2), issue the final rule for each regulation required in section 493 or 493A of the Public Health Service Act [this section and section 289b–1 of this title].

''(2) DEFINITION OF RESEARCH MISCONDUCT.—Not later than 90 days after the date on which the report required in section 162(e) [107 Stat. 142] is submitted to the Secretary, the Secretary shall issue the final rule for the regulations required in section 493 of the Public Health Service Act with respect to the definition of the term 'research misconduct'.

''(b) APPLICABILITY TO ONGOING INVESTIGATIONS.—The final rule issued pursuant to subsection (a) for investigations under section 493 of the Public Health Service Act [this section] does not apply to investigations commenced before the date of the enactment of this Act [June 10, 1993] under authority of such section as in effect before such date.

''(c) DEFINITIONS.—For purposes of this section:

''(1) The term 'section 493 of the Public Health Service Act' means such section as amended by sections 161 and 163 of this Act [this section], except as indicated otherwise in subsection (b).

''(2) The term 'section 493A of the Public Health Service Act' means such section as added by section 164 of this Act [section 289b–1 of this title].

''(3) The term 'Secretary' means the Secretary of Health and Human Services.''

§ 289b–1. Protection against financial conflicts of interest in certain projects of research

(a) Issuance of regulations

The Secretary shall by regulation define the specific circumstances that constitute the existence of a financial interest in a project on the part of an entity or individual that will, or may be reasonably expected to, create a bias in favor of obtaining results in such project that are consistent with such financial interest. Such definition shall apply uniformly to each entity or individual conducting a research project under this chapter. In the case of any entity or individual receiving assistance from the Secretary for a project of research described in subsection (b) of this section, the Secretary shall by regulation establish standards for responding to, including managing, reducing, or eliminating, the existence of such a financial interest. The entity may adopt individualized procedures for implementing the standards.

(b) Relevant projects

A project of research referred to in subsection (a) of this section is a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment and for which such entity is receiving assistance from the Secretary.

(c) Identifying and reporting to Secretary

The Secretary shall by regulation require that each entity described in subsection (a) of this section that applies for assistance under this chapter for any project described in subsection (b) of this section submit in or with its application for such assistance—

(1) assurances satisfactory to the Secretary that such entity has established and has in effect an administrative process under subsection (a) of this section to identify financial interests (as defined under subsection (a) of this section) that exist regarding the project; and

(2) an agreement that the entity will report to the Secretary such interests identified by the entity and how any such interests identified by the entity will be managed or eliminated in order that the project in question will be protected from bias that may stem from such interests; and

(3) an agreement that the entity will comply with regulations issued under this section.

(d) Monitoring of process

The Secretary shall monitor the establishment and conduct of the administrative process established by an entity pursuant to subsection (a) of this section.

(e) Response

In any case in which the Secretary determines that an entity has failed to comply with subsection (c) of this section regarding a project of research described in subsection (b) of this section, the Secretary—

(1) shall require that, as a condition of receiving assistance, the entity disclose the existence of a financial interest (as defined under subsection (a) of this section) in each public presentation of the results of such project; and

(2) may take such other actions as the Secretary determines to be appropriate.

(f) Definitions

For purposes of this section:

(1) The term ''financial interest'' includes the receipt of consulting fees or honoraria and the ownership of stock or equity.

(2) The term ''assistance'', with respect to conducting a project of research, means a grant, contract, or cooperative agreement.

(July 1, 1944, ch. 373, title IV, § 493A, as added Pub. L. 103–43, title I, § 164, June 10, 1993, 107 Stat. 142.)

REGULATIONS

Final rule for regulations required in this section to be issued not later than 180 days after June 10, 1993, see section 165 of Pub. L. 103–43, set out as a note under section 289b of this title.

§ 289c. Research on public health emergencies; report to Congressional committees

(a) If the Secretary determines, after consultation with the Director of NIH, the Commissioner of the Food and Drug Administration, or the Director of the Centers for Disease Control and Prevention, that a disease or disorder constitutes a public health emergency, the Secretary, acting through the Director of NIH—

(1) shall expedite the review by advisory councils under section 284a of this title and by peer review groups under section 289a of this title of applications for grants for research on such disease or disorder or proposals for contracts for such research;

(2) shall exercise the authority in section 5 of title 41 respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) of this section in such fiscal year.

(July 1, 1944, ch. 373, title IV, § 494, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 875; amended Pub. L. 102–531, title III, § 312(d)(9), Oct. 27, 1992, 106 Stat. 3504.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 289c–1. Collaborative use of certain health services research funds

The Secretary shall ensure that amounts made available under subparts 14, 15 and 16 of part C for health services research relating to alcohol abuse and alcoholism, drug abuse and mental health be used collaboratively, as appropriate, and in consultation with the Agency for Health Care Policy Research.

(July 1, 1944, ch. 373, title IV, § 494A, as added Pub. L. 102–321, title I, § 125, July 10, 1992, 106 Stat. 366; amended Pub. L. 103–43, title XX, § 2016(c), June 10, 1993, 107 Stat. 218; Pub. L. 104–66, title I, § 1062(b), Dec. 21, 1995, 109 Stat. 720; Pub. L. 105–362, title VI, § 601(a)(1)(F), Nov. 10, 1998, 112 Stat. 3285.)

REFERENCES IN TEXT

Subparts 14, 15 and 16 of part C, referred to in text, are classified to sections 285n et seq., 285*o* et seq., and 285p et seq., respectively, of this title.

AMENDMENTS

1998—Pub. L. 105–362 struck out heading and designation of subsec. (a) and heading and text of subsec. (b). Text of subsec. (b) read as follows: ''Not later than December 30, 1993, and each December 30 thereafter, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out with the amounts referred to in subsection (a) of this section.''

1995—Subsec. (b). Pub. L. 104–66 substituted ''December 30, 1993, and each December 30 thereafter'' for ''September 30, 1993, and annually thereafter''.

1993—Subsec. (b). Pub. L. 103–43 substituted ''September 30, 1993'' for ''May 3, 1993''.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 289d. Animals in research

(a) Establishment of guidelines

The Secretary, acting through the Director of NIH, shall establish guidelines for the following:

(1) The proper care of animals to be used in biomedical and behavioral research.

(2) The proper treatment of animals while being used in such research. Guidelines under this paragraph shall require—

(A) the appropriate use of tranquilizers, analgesics, anesthetics, paralytics, and euthanasia for animals in such research; and

(B) appropriate pre-surgical and post-surgical veterinary medical and nursing care for animals in such research.

Such guidelines shall not be construed to prescribe methods of research.

(3) The organization and operation of animal care committees in accordance with subsection (b) of this section.

(b) Animal care committees; establishment; membership; functions

(1) Guidelines of the Secretary under subsection (a)(3) of this section shall require animal care committees at each entity which conducts biomedical and behavioral research with funds provided under this chapter (including the National Institutes of Health and the national research institutes) to assure compliance with the guidelines established under subsection (a) of this section.

(2) Each animal care committee shall be appointed by the chief executive officer of the entity for which the committee is established, shall be composed of not fewer than three members, and shall include at least one individual who has no association with such entity and at least one doctor of veterinary medicine.

(3) Each animal care committee of a research entity shall—

(A) review the care and treatment of animals in all animal study areas and facilities of the research entity at least semi-annually to evaluate compliance with applicable guidelines established under subsection (a) of this section for appropriate animal care and treatment;

(B) keep appropriate records of reviews conducted under subparagraph (A); and

(C) for each review conducted under subparagraph (A), file with the Director of NIH at least annually (i) a certification that the review has been conducted, and (ii) reports of any violations of guidelines established under subsection (a) of this section or assurances required under paragraph (1) which were observed in such review and which have continued after notice by the committee to the research entity involved of the violations.

Reports filed under subparagraph (C) shall include any minority views filed by members of the committee.

(c) Assurances required in application or contract proposal; reasons for use of animals; notice and comment requirements for promulgation of regulations

The Director of NIH shall require each applicant for a grant, contract, or cooperative agree-

ment involving research on animals which is administered by the National Institutes of Health or any national research institute to include in its application or contract proposal, submitted after the expiration of the twelve-month period beginning on November 20, 1985—

(1) assurances satisfactory to the Director of NIH that—

(A) the applicant meets the requirements of the guidelines established under paragraphs (1) and (2) of subsection (a) of this section and has an animal care committee which meets the requirements of subsection (b) of this section; and

(B) scientists, animal technicians, and other personnel involved with animal care, treatment, and use by the applicant have available to them instruction or training in the humane practice of animal maintenance and experimentation, and the concept, availability, and use of research or testing methods that limit the use of animals or limit animal distress; and

(2) a statement of the reasons for the use of animals in the research to be conducted with funds provided under such grant or contract.

Notwithstanding subsection (a)(2) of section 553 of title 5, regulations under this subsection shall be promulgated in accordance with the notice and comment requirements of such section.

(d) Failure to meet guidelines; suspension or revocation of grant or contract

If the Director of NIH determines that—

(1) the conditions of animal care, treatment, or use in an entity which is receiving a grant, contract, or cooperative agreement involving research on animals under this subchapter do not meet applicable guidelines established under subsection (a) of this section;

(2) the entity has been notified by the Director of NIH of such determination and has been given a reasonable opportunity to take corrective action; and

(3) no action has been taken by the entity to correct such conditions;

the Director of NIH shall suspend or revoke such grant or contract under such conditions as the Director determines appropriate.

(e) Disclosure of trade secrets or privileged or confidential information

No guideline or regulation promulgated under subsection (a) or (c) of this section may require a research entity to disclose publicly trade secrets or commercial or financial information which is privileged or confidential.

(July 1, 1944, ch. 373, title IV, § 495, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 875.)

PROHIBITION ON FUNDING OF PROJECTS INVOLVING USE OF CHIMPANZEES OBTAINED FROM THE WILD

Pub. L. 102–394, title II, § 213, Oct. 6, 1992, 106 Stat. 1812, provided that: ''No funds appropriated under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term 'recipient of Federal funds' includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–170, title II, § 213, Nov. 26, 1991, 105 Stat. 1127.

Pub. L. 101–517, title II, § 211, Nov. 5, 1990, 104 Stat. 2209.

Pub. L. 101–166, title II, § 214, Nov. 21, 1989, 103 Stat. 1178.

PLAN FOR RESEARCH INVOLVING ANIMALS

Section 4 of Pub. L. 99–158 directed Director of National Institutes of Health to establish, not later than Oct. 1, 1986, a plan for research into methods of biomedical research and experimentation which reduces the use of animals in research or which produce less pain and distress in animals to develop methods found to be valid and reliable, to train scientists in use of such methods, to disseminate information on such methods and to establish an Interagency Coordinating Committee to assist in development of the plan, prior to repeal by Pub. L. 103–43, title II, § 205(b), June 10, 1993, 107 Stat. 148. See section 283e of this title.

§ 289e. Use of appropriations

(a) Appropriations to carry out the purposes of this subchapter, unless otherwise expressly provided, may be expended in the District of Columbia for—

(1) personal services;

(2) stenographic recording and translating services;

(3) travel expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary);

(4) rental;

(5) supplies and equipment;

(6) purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings;

(7) purchase, operation, and maintenance of passenger motor vehicles;

(8) printing and binding (in addition to that otherwise provided by law); and

(9) all other necessary expenses in carrying out this subchapter.

Such appropriations may be expended by contract if deemed necessary, without regard to section 5 of title 41.

(b)(1) None of the amounts appropriated under this chapter for the purposes of this subchapter may be obligated for the construction of facilities (including the acquisition of land) unless a provision of this subchapter establishes express authority for such purpose and unless the Act making appropriations under such provision specifies that the amounts appropriated are available for such purpose.

(2) Any grants, cooperative agreements, or contracts authorized in this subchapter for the construction of facilities may be awarded only on a competitive basis.

(July 1, 1944, ch. 373, title IV, § 496, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 877; amended Pub. L. 101–190, § 8, Nov. 29, 1989, 103 Stat. 1695; Pub. L. 103–43, title XX, § 2008(b)(15), June 10, 1993, 107 Stat. 211.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–43 substituted ''Appropriations to carry out the purposes of this subchapter'' for ''Such appropriations''.

1989—Subsec. (a). Pub. L. 101–190 designated existing provisions as subsec. (a), struck out first sentence which read as follows: ''Appropriations to carry out the purposes of this subchapter shall be available for the acquisition of land or the erection of buildings only if so specified.'', and added subsec. (b).

CONSTRUCTION OF BIOMEDICAL FACILITIES FOR DEVELOPMENT AND BREEDING OF SPECIALIZED STRAINS OF MICE

Sections 1 to 7 of Pub. L. 101–190, as amended by Pub. L. 101–374, § 4(a), (c)(1), Aug. 15, 1990, 104 Stat. 458, 459, authorized a reservation of funds for making a grant to construct facilities for development and breeding of specialized strains of mice for use in biomedical research, provided for a competitive grant award process, required applicant for the grant to agree to a twenty-year transferable obligation, restricted grant applicant to public or nonprofit private status, with assurances of sufficient financial resources, set forth other grant requirements, and specified consequences of failure to comply with agreements and violation of the twenty-year obligation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 285a–3, 285b–4, 285*o*–4 of this title.

§ 289f. Gifts and donations; memorials

The Secretary may, in accordance with section 238 of this title, accept conditional gifts for the National Institutes of Health or a national research institute or for the acquisition of grounds or for the erection, equipment, or maintenance of facilities for the National Institutes of Health or a national research institute. Donations of $50,000 or over for the National Institutes of Health or a national research institute for carrying out the purposes of this subchapter may be acknowledged by the establishment within the National Institutes of Health or a national research institute of suitable memorials to the donors.

(July 1, 1944, ch. 373, title IV, § 497, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 877; amended Pub. L. 99–660, title III, § 311(b)(1), Nov. 14, 1986, 100 Stat. 3779; Pub. L. 100–607, title II, § 204(3), Nov. 4, 1988, 102 Stat. 3079; Pub. L. 100–690, title II, § 2620(b)(2), Nov. 18, 1988, 102 Stat. 4244; Pub. L. 101–381, title I, § 102(5), Aug. 18, 1990, 104 Stat. 586; Pub. L. 103–43, title XX, § 2010(b)(6), June 10, 1993, 107 Stat. 214.)

AMENDMENTS

1993—Pub. L. 103–43 substituted ''section 238'' for ''section 300aaa''.

1990—Pub. L. 101–381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

1988—Pub. L. 100–690 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

Pub. L. 100–607 substituted ''300aaa'' for ''300cc''.

1986—Pub. L. 99–660 substituted ''section 300cc of this title'' for ''section 300aa of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Dec. 22, 1987, see section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

§ 289g. Fetal research

(a) Conduct or support by Secretary; restrictions

The Secretary may not conduct or support any research or experimentation, in the United States or in any other country, on a nonviable living human fetus ex utero or a living human fetus ex utero for whom viability has not been ascertained unless the research or experimentation—

(1) may enhance the well-being or meet the health needs of the fetus or enhance the probability of its survival to viability; or

(2) will pose no added risk of suffering, injury, or death to the fetus and the purpose of the research or experimentation is the development of important biomedical knowledge which cannot be obtained by other means.

(b) Risk standard for fetuses intended to be aborted and fetuses intended to be carried to term to be same

In administering the regulations for the protection of human research subjects which—

(1) apply to research conducted or supported by the Secretary;

(2) involve living human fetuses in utero; and

(3) are published in section 46.208 of part 46 of title 45 of the Code of Federal Regulations;

or any successor to such regulations, the Secretary shall require that the risk standard (published in section 46.102(g) of such part 46 or any successor to such regulations) be the same for fetuses which are intended to be aborted and fetuses which are intended to be carried to term.

(July 1, 1944, ch. 373, title IV, § 498, as added Pub. L. 99–158, § 2, Nov. 20, 1985, 99 Stat. 877; amended Pub. L. 100–607, title I, §§ 156, 157(b), Nov. 4, 1988, 102 Stat. 3059; Pub. L. 103–43, title I, § 121(b)(1), June 10, 1993, 107 Stat. 133.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–43 struck out subsec. (c) which directed Biomedical Ethics Advisory Committee to conduct a study of the nature, advisability, and biomedical and ethical implications of exercising any waiver of the risk standard published in section 46.102(g) of part 46 of title 45 of the Code of Federal Regulations and to report its finding to the Biomedical Ethics Board not later than 24 months after Nov. 4, 1988, which report was to be then transmitted to specified Congressional committees.

1988—Subsec. (c)(1). Pub. L. 100–607, § 157(b), substituted ''24 months after November 4, 1988'' for ''thirty months after November 20, 1985''.

Subsec. (c)(2). Pub. L. 100–607, § 156(1), substituted ''24-month period beginning on November 4, 1988'' for ''thirty-six month period beginning on November 20, 1985''.

Subsec. (c)(3). Pub. L. 100–607, § 156(2), substituted ''1990'' for ''1988''.

NULLIFICATION OF CERTAIN PROVISIONS

Section 121(c) of Pub. L. 103–43 provided that: ''The provisions of Executive Order 12806 (57 Fed. Reg. 21589 (May 21, 1992)) [formerly set out below] shall not have any legal effect. The provisions of section 204(d) of part 46 of title 45 of the Code of Federal Regulations (45 CFR 46.204(d)) shall not have any legal effect.''

EXECUTIVE ORDER NO. 12806. ESTABLISHMENT OF FETAL TISSUE BANK

Ex. Ord. No. 12806, May 19, 1992, 57 F.R. 21589, which established a human fetal tissue bank, was nullified by

Pub. L. 103–43, title I, § 121(c), June 10, 1993, 107 Stat. 133, set out above.

FEDERAL FUNDING OF FETAL TISSUE TRANSPLANTATION RESEARCH

Memorandum of President of the United States, Jan. 22, 1993, 58 F.R. 7457, provided:

Memorandum for the Secretary of Health and Human Services

On March 22, 1988, the Assistant Secretary for Health of Health and Human Services (''HHS'') imposed a temporary moratorium on Federal funding of research involving transplantation of fetal tissue from induced abortions. Contrary to the recommendations of a National Institutes of Health advisory panel, on November 2, 1989, the Secretary of Health and Human Services extended the moratorium indefinitely. This moratorium has significantly hampered the development of possible treatments for individuals afflicted with serious diseases and disorders, such as Parkinson's disease, Alzheimer's disease, diabetes, and leukemia. Accordingly, I hereby direct that you immediately lift the moratorium.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 289g–1. Research on transplantation of fetal tissue

(a) Establishment of program

(1) In general

The Secretary may conduct or support research on the transplantation of human fetal tissue for therapeutic purposes.

(2) Source of tissue

Human fetal tissue may be used in research carried out under paragraph (1) regardless of whether the tissue is obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth.

(b) Informed consent of donor

(1) In general

In research carried out under subsection (a) of this section, human fetal tissue may be used only if the woman providing the tissue makes a statement, made in writing and signed by the woman, declaring that—

(A) the woman donates the fetal tissue for use in research described in subsection (a) of this section;

(B) the donation is made without any restriction regarding the identity of individuals who may be the recipients of transplantations of the tissue; and

(C) the woman has not been informed of the identity of any such individuals.

(2) Additional statement

In research carried out under subsection (a) of this section, human fetal tissue may be used only if the attending physician with respect to obtaining the tissue from the woman involved makes a statement, made in writing and signed by the physician, declaring that—

(A) in the case of tissue obtained pursuant to an induced abortion—

(i) the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for a donation of the tissue for use in such research;

(ii) no alteration of the timing, method, or procedures used to terminate the pregnancy was made solely for the purposes of obtaining the tissue; and

(iii) the abortion was performed in accordance with applicable State law;

(B) the tissue has been donated by the woman in accordance with paragraph (1); and

(C) full disclosure has been provided to the woman with regard to—

(i) such physician's interest, if any, in the research to be conducted with the tissue; and

(ii) any known medical risks to the woman or risks to her privacy that might be associated with the donation of the tissue and that are in addition to risks of such type that are associated with the woman's medical care.

(c) Informed consent of researcher and donee

In research carried out under subsection (a) of this section, human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved makes a statement, made in writing and signed by the individual, declaring that the individual—

(1) is aware that—

(A) the tissue is human fetal tissue;

(B) the tissue may have been obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth; and

(C) the tissue was donated for research purposes;

(2) has provided such information to other individuals with responsibilities regarding the research;

(3) will require, prior to obtaining the consent of an individual to be a recipient of a transplantation of the tissue, written acknowledgment of receipt of such information by such recipient; and

(4) has had no part in any decisions as to the timing, method, or procedures used to terminate the pregnancy made solely for the purposes of the research.

(d) Availability of statements for audit

(1) In general

In research carried out under subsection (a) of this section, human fetal tissue may be used only if the head of the agency or other entity conducting the research involved certifies to the Secretary that the statements required under subsections (b)(2) and (c) of this section will be available for audit by the Secretary.

(2) Confidentiality of audit

Any audit conducted by the Secretary pursuant to paragraph (1) shall be conducted in a confidential manner to protect the privacy rights of the individuals and entities involved in such research, including such individuals and entities involved in the donation, transfer, receipt, or transplantation of human fetal tissue. With respect to any material or information obtained pursuant to such audit, the Secretary shall—

(A) use such material or information only for the purposes of verifying compliance with the requirements of this section;

(B) not disclose or publish such material or information, except where required by Federal law, in which case such material or information shall be coded in a manner such that the identities of such individuals and entities are protected; and

(C) not maintain such material or information after completion of such audit, except where necessary for the purposes of such audit.

(e) Applicability of State and local law

(1) Research conducted by recipients of assistance

The Secretary may not provide support for research under subsection (a) of this section unless the applicant for the financial assistance involved agrees to conduct the research in accordance with applicable State law.

(2) Research conducted by Secretary

The Secretary may conduct research under subsection (a) of this section only in accordance with applicable State and local law.

(f) Report

The Secretary shall annually submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this section during the preceding fiscal year, including a description of whether and to what extent research under subsection (a) of this section has been conducted in accordance with this section.

(g) "Human fetal tissue" defined

For purposes of this section, the term ''human fetal tissue'' means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth.

(July 1, 1944, ch. 373, title IV, § 498A, as added Pub. L. 103–43, title I, § 111, June 10, 1993, 107 Stat. 129.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

NULLIFICATION OF MORATORIUM

Section 113 of Pub. L. 103–43 provided that:

''(a) IN GENERAL.—Except as provided in subsection (c), no official of the executive branch may impose a policy that the Department of Health and Human Services is prohibited from conducting or supporting any research on the transplantation of human fetal tissue for therapeutic purposes. Such research shall be carried out in accordance with section 498A of the Public Health Service Act [this section] (as added by section 111 of this Act), without regard to any such policy that may have been in effect prior to the date of the enactment of this Act [June 10, 1993].

''(b) PROHIBITION AGAINST WITHHOLDING OF FUNDS IN CASES OF TECHNICAL AND SCIENTIFIC MERIT.—

''(1) IN GENERAL.—Subject to subsection (b)(2) of section 492A of the Public Health Service Act [section 289a–1(b)(2) of this title] (as added by section 101 of this Act), in the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may not withhold funds for the research if—

''(A) the research has been approved for purposes of subsection (a) of such section 492A;

''(B) the research will be carried out in accordance with section 498A of such Act [this section] (as added by section 111 of this Act); and

''(C) there are reasonable assurances that the research will not utilize any human fetal tissue that has been obtained in violation of section 498B(a) of such Act [section 289g–2(a) of this title] (as added by section 112 of this Act).

''(2) STANDING APPROVAL REGARDING ETHICAL STATUS.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the issuance in December 1988 of the Report of the Human Fetal Tissue Transplantation Research Panel shall be deemed to be a report—

''(A) issued by an ethics advisory board pursuant to section 492A(b)(5)(B)(ii) of the Public Health Service Act (as added by section 101 of this Act); and

''(B) finding, on a basis that is neither arbitrary nor capricious, that the nature of the research is such that it is not unethical to conduct or support the research.

''(c) AUTHORITY FOR WITHHOLDING FUNDS FROM RESEARCH.—In the case of any research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may withhold funds for the research if any of the conditions specified in any of subparagraphs (A) through (C) of subsection (b)(1) are not met with respect to the research.

''(d) DEFINITION.—For purposes of this section, the term 'human fetal tissue' has the meaning given such term in section 498A(f) of the Public Health Service Act [subsec. (f) of this section] (as added by section 111 of this Act).''

REPORT BY GENERAL ACCOUNTING OFFICE ON ADEQUACY OF REQUIREMENTS

Section 114 of Pub. L. 103–43 provided that, with respect to research on the transplantation of human fetal tissue for therapeutic purposes, the Comptroller General of the United States was to conduct an audit for the purpose of determining whether and to what extent such research conducted or supported by Secretary of Health and Human Services had been conducted in accordance with this section and whether and to what extent there have been violations of section 289g–2 of this title and directed the Comptroller General to complete the audit and report the findings to Congress, not later than May 19, 1995.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289g–2 of this title.

§ 289g–2. Prohibitions regarding human fetal tissue

(a) Purchase of tissue

It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

(b) Solicitation or acceptance of tissue as directed donation for use in transplantation

It shall be unlawful for any person to solicit or knowingly acquire, receive, or accept a donation of human fetal tissue for the purpose of transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained pursuant to an induced abortion, and—

(1) the donation will be or is made pursuant to a promise to the donating individual that

the donated tissue will be transplanted into a recipient specified by such individual;

(2) the donated tissue will be transplanted into a relative of the donating individual; or

(3) the person who solicits or knowingly acquires, receives, or accepts the donation has provided valuable consideration for the costs associated with such abortion.

(c) Criminal penalties for violations

(1) In general

Any person who violates subsection (a) or (b) of this section shall be fined in accordance with title 18, subject to paragraph (2), or imprisoned for not more than 10 years, or both.

(2) Penalties applicable to persons receiving consideration

With respect to the imposition of a fine under paragraph (1), if the person involved violates subsection (a) or (b)(3) of this section, a fine shall be imposed in an amount not less than twice the amount of the valuable consideration received.

(d) Definitions

For purposes of this section:

(1) The term ''human fetal tissue'' has the meaning given such term in section 289g–1(f)[1] of this title.

(2) The term ''interstate commerce'' has the meaning given such term in section 321(b) of title 21.

(3) The term ''valuable consideration'' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.

(July 1, 1944, ch. 373, title IV, § 498B, as added Pub. L. 103–43, title I, § 112, June 10, 1993, 107 Stat. 131.)

§ 289h. Repealed. Pub. L. 103–43, title I, § 121(b)(2), June 10, 1993, 107 Stat. 133

Section, act July 1, 1944, ch. 373, title IV, § 499, as added Nov. 20, 1985, Pub. L. 99–158, § 2, 99 Stat. 878, related to construction of subchapter.

§ 290. National Institutes of Health Management Fund; establishment; advancements; availability; final adjustments of advances

For the purpose of facilitating the economical and efficient conduct of operations in the National Institutes of Health which are financed by two or more appropriations where the costs of operation are not readily susceptible of distribution as charges to such appropriations, there is established the National Institutes of Health Management Fund. Such amounts as the Director of the National Institutes of Health may determine to represent a reasonable distribution of estimated costs among the various appropriations involved may be advanced each year to this fund and shall be available for expenditure for such costs under such regulations as may be prescribed by said Director, including the operation of facilities for the sale of meals to employees and others at rates to be determined by said Director to be sufficient to cover the reasonable value of the meals served and the proceeds thereof shall be deposited to the credit of this fund: *Provided*, That funds advanced to this fund shall be available only in the fiscal year in which they are advanced: *Provided further*, That final adjustments of advances in accordance with actual costs shall be effected wherever practicable with the appropriations from which such funds are advanced.

(Pub. L. 85–67, title II, § 201, June 29, 1957, 71 Stat. 220; Pub. L. 87–290, title II, § 201, Sept. 22, 1961, 75 Stat. 603.)

CODIFICATION

Section was enacted as a part of the Department of Health, Education, and Welfare Appropriation Act, 1958, and not as a part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1961—Pub. L. 87–290 substituted ''reasonable value of the meals served'' for ''cost of such operation''.

§ 290a. Victims of fire

(a) Research on burns, burn injuries, and rehabilitation

The Secretary of Health and Human Services shall establish, within the National Institutes of Health and in cooperation with the Secretary of Commerce, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. The National Institutes of Health shall—

(1) sponsor and encourage the establishment throughout the Nation of twenty-five additional burn centers, which shall comprise separate hospital facilities providing specialized burn treatment and including research and teaching programs and twenty-five additional burn units, which shall comprise specialized facilities in general hospitals used only for burn victims;

(2) provide training and continuing support of specialists to staff the new burn centers and burn units;

(3) sponsor and encourage the establishment of ninety burn programs in general hospitals which comprise staffs of burn injury specialists;

(4) provide special training in emergency care for burn victims;

(5) augment sponsorship of research on burns and burn treatment;

(6) administer and support a systematic program of research concerning smoke inhalation injuries; and

(7) sponsor and support other research and training programs in the treatment and rehabilitation of burn injury victims.

(b) Authorization of appropriations

For purposes of this section, there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year ending June 30, 1975 and not to exceed $8,000,000 for the fiscal year ending June 30, 1976.

(Pub. L. 93–498, § 19, Oct. 29, 1974, 88 Stat. 1547; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CODIFICATION

In subsec. (a), ''Secretary of Commerce'' substituted for ''Secretary'' pursuant to section 4(6) of the Federal

[1] So in original. Probably should be section ''289g–1(g)''.

Fire Prevention and Control Act of 1974, Pub. L. 93–498, which is classified to section 2203(6) of Title 15, Commerce and Trade.

Section was enacted as part of the Federal Fire Prevention and Control Act of 1974 (which is classified principally to chapter 49 (§ 2201 et seq.) of Title 15), and not as a part of the Public Health Service Act which comprises this chapter.

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.

PART I—FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH

AMENDMENTS

1998—Pub. L. 105–392, title IV, § 418(1), Nov. 13, 1998, 112 Stat. 3591, substituted ''Foundation for the National Institutes of Health'' for ''National Foundation for Biomedical Research'' in part heading.

1993—Pub. L. 103–43, title I, § 141(a)(2), June 10, 1993, 107 Stat. 136, redesignated part H ''National Foundation for Biomedical Research'' as I.

§ 290b. Establishment and duties of Foundation

(a) In general

The Secretary shall, acting through the Director of NIH, establish a nonprofit corporation to be known as the Foundation for the National Institutes of Health (hereafter in this section referred to as the ''Foundation''). The Foundation shall not be an agency or instrumentality of the United States Government.

(b) Purpose of Foundation

The purpose of the Foundation shall be to support the National Institutes of Health in its mission, and to advance collaboration with biomedical researchers from universities, industry, and nonprofit organizations.

(c) Certain activities of Foundation

(1) In general

In carrying out subsection (b) of this section, the Foundation may solicit and accept gifts, grants, and other donations, establish accounts, and invest and expend funds in support of the following activities with respect to the purpose described in such subsection:

(A) A program to provide and administer endowed positions that are associated with the research program of the National Institutes of Health. Such endowments may be expended for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the endowed positions.

(B) A program to provide and administer fellowships and grants to research personnel in order to work and study in association with the National Institutes of Health. Such fellowships and grants may include stipends, travel, health insurance benefits and other appropriate expenses. The recipients of fellowships shall be selected by the donors and the Foundation upon the recommendation of the National Institutes of Health employees in the laboratory where the fellow would serve, and shall be subject to the agreement of the Director of the National Institutes of Health and the Executive Director of the Foundation.

(C) Supplementary programs to provide for—

(i) scientists of other countries to serve in research capacities in the United States in association with the National Institutes of Health or elsewhere, or opportunities for employees of the National Institutes of Health or other public health officials in the United States to serve in such capacities in other countries, or both;

(ii) the conduct and support of studies, projects, and research, which may include stipends, travel and other support for personnel in collaboration with national and international non-profit and for-profit organizations;

(iii) the conduct and support of forums, meetings, conferences, courses, and training workshops that may include undergraduate, graduate, post-graduate, and post-doctoral accredited courses and the maintenance of accreditation of such courses by the Foundation at the State and national level for college or continuing education credits or for degrees;

(iv) programs to support and encourage teachers and students of science at all levels of education and programs for the general public which promote the understanding of science;

(v) programs for writing, editing, printing, publishing, and vending of books and other materials; and

(vi) the conduct of other activities to carry out and support the purpose described in subsection (b) of this section.

(2) Fees

The Foundation may assess fees for the provision of professional, administrative and management services by the Foundation in amounts determined reasonable and appropriate by the Executive Director.

(3) Authority of Foundation

The Foundation shall be the sole entity responsible for carrying out the activities described in this subsection.

(d) Board of Directors

(1) Composition

(A) The Foundation shall have a Board of Directors (hereafter referred to in this section as the ''Board''), which shall be composed of ex officio and appointed members in accordance with this subsection. All appointed members of the Board shall be voting members.

(B) The ex officio members of the Board shall be—

(i) the Chairman and ranking minority member of the Subcommittee on Health and the Environment (Committee on Energy and Commerce) or their designees, in the case of the House of Representatives;

(ii) the Chairman and ranking minority member of the Committee on Labor and Human Resources or their designees, in the case of the Senate; and

(iii) the Director of the National Institutes of Health.

(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Board 11 individuals from among a list of candidates to be provided by the National Academy of Science. Of such appointed members—

(i) 4 shall be representative of the general biomedical field;

(ii) 2 shall be representatives of the general biobehavorial field; and

(iii) 5 shall be representatives of the general public.

(D)(i) Not later than 30 days after June 10, 1993, the Director of the National Institutes of Health shall convene a meeting of the ex officio members of the Board to—

(I) incorporate the Foundation and establish the general policies of the Foundation for carrying out the purposes of subsection (b) of this section, including the establishment of the bylaws of the Foundation; and

(II) appoint the members of the Board in accordance with subparagraph (C).

(ii) Upon the appointment of the members of the Board under clause (i)(II), the terms of service of the ex officio members of the Board as members of the Board shall terminate.

(E) The agreement of not less than three-fifths of the members of the ex officio members of the Board shall be required for the appointment of each member to the initial Board.

(F) No employee of the National Institutes of Health shall be appointed as a member of the Board.

(G) The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be greater than the number specified in subparagraph (C).

(2) Chair

(A) The ex officio members of the Board under paragraph (1)(B) shall designate an individual to serve as the initial Chair of the Board.

(B) Upon the termination of the term of service of the initial Chair of the Board, the appointed members of the Board shall elect a member of the Board to serve as the Chair of the Board.

(3) Terms and vacancies

(A) The term of office of each member of the Board appointed under paragraph (1)(C) shall be 5 years, except that the terms of offices for the initial appointed members of the Board shall expire as determined by the ex officio members and the Chair.

(B) Any vacancy in the membership of the Board shall be filled in the manner in which the original position was made and shall not affect the power of the remaining members to execute the duties of the Board.

(C) If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(D) A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

(4) Compensation

Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

(5) Meetings and quorum

A majority of the members of the Board shall constitute a quorum for purposes of conducting the business of the Board.

(6) Certain bylaws

(A) In establishing bylaws under this subsection, the Board shall ensure that the following are provided for:

(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

(ii) Policies, including ethical standards, for the acceptance, solicitation, and disposition of donations and grants to the Foundation and for the disposition of the assets of the Foundation. Policies with respect to ethical standards shall ensure that officers, employees and agents of the Foundation (including members of the Board) avoid encumbrances that would result in a conflict of interest, including a financial conflict of interest or a divided allegiance. Such policies shall include requirements for the provision of information concerning any ownership or controlling interest in entities related to the activities of the Foundation by such officers, employees and agents and their spouses and relatives.

(iii) Policies for the conduct of the general operations of the Foundation.

(iv) Policies for writing, editing, printing, publishing, and vending of books and other materials.

(B) In establishing bylaws under this subsection, the Board shall ensure that such bylaws (and activities carried out under the bylaws) do not—

(i) reflect unfavorably upon the ability of the Foundation or the National Institutes of Health to carry out its responsibilities or official duties in a fair and objective manner; or

(ii) compromise, or appear to compromise, the integrity of any governmental agency or program, or any officer or employee involved in such program.

(e) Redesignated (g)

(f) Incorporation

The initial members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

(g) Nonprofit status

The Foundation shall be considered to be a corporation under section 501(c) of title 26, and shall be subject to the provisions of such section.

(h) Executive Director

(1) In general

The Foundation shall have an Executive Director who shall be appointed by the Board and shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

(2) Compensation

The rate of compensation of the Executive Director shall be fixed by the Board.

(i) Powers

In carrying out subsection (b) of this section, the Foundation may—

(1) operate under the direction of its Board;

(2) adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) provide for 1 or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees;

(5) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this section;

(6) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(7) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this part;

(8) establish a process for the selection of candidates for positions under subsection (c) of this section;

(9) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(10) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

(11) solicit[1] accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(12) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation;

(13) appoint other groups of advisors as may be determined necessary from time to time to carry out the functions of the Foundation;

(14) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; and

(15) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this part.

(j) Administrative control

No participant in the program established under this part shall exercise any administrative control over any Federal employee.

(k) General provisions

(1) Foundation integrity

The members of the Board shall be accountable for the integrity of the operations of the Foundation and shall ensure such integrity through the development and enforcement of criteria and procedures relating to standards of conduct (including those developed under subsection (d)(2)(B)(i)(II)),[2] financial disclosure statements, conflict of interest rules, recusal and waiver rules, audits and other matter determined appropriate by the Board.

(2) Financial conflicts of interest

Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with policies and requirements developed under subsection (d)(2)(B)(i)(II))[2] personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109(16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

(3) Audits; availability of records

The Foundation shall—

(A) provide for annual audits of the financial condition of the Foundation; and

(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

(4) Reports

(A) Not later than 5 months following the end of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts or grants to the Foundation of real or personal property, and the source and amount of all gifts or grants to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts or grants to the Foundation may be used.

(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any in-

[1] So in original. Probably should be followed by a comma.

[2] So in original. Probably should be subsection ''(d)(6)(A)''.

dividual for a charge not exceeding the cost of providing the copy.

(D) The Board shall annually hold a public meeting to summarize the activities of the Foundation and distribute written reports concerning such activities and the scientific results derived from such activities.

(5) Service of Federal employees

Federal employees may serve on committees advisory to the Foundation and otherwise cooperate with and assist the Foundation in carrying out its function, so long as the employees do not direct or control Foundation activities.

(6) Relationship with existing entities

The Foundation may, pursuant to appropriate agreements, merge with, acquire, or use the resources of existing nonprofit private corporations with missions similar to the purposes of the Foundation, such as the Foundation for Advanced Education in the Sciences.

(7) Intellectual property rights

The Board shall adopt written standards with respect to the ownership of any intellectual property rights derived from the collaborative efforts of the Foundation prior to the commencement of such efforts.

(8) National Institutes of Health Amendments of 1990

The activities conducted in support of the National Institutes of Health Amendments of 1990 (Public Law 101–613), and the amendments made by such Act, shall not be nullified by the enactment of this section.[3]

(9) Limitation of activities

The Foundation shall exist solely as an entity to work in collaboration with the research programs of the National Institutes of Health. The Foundation may not undertake activities (such as the operation of independent laboratories or competing for Federal research funds) that are independent of those of the National Institutes of Health research programs.

(10) Transfer of funds

The Foundation may transfer funds to the National Institutes of Health. Any funds transferred under this paragraph shall be subject to all Federal limitations relating to federally-funded research.

(*l*) Duties of Director

(1) Applicability of certain standards to non-Federal employees

In the case of any individual who is not an employee of the Federal Government and who serves in association with the National Institutes of Health, with respect to financial assistance received from the Foundation, the Foundation may not provide the assistance of, or otherwise permit the work at the National Institutes of Health to begin until a memorandum of understanding between the individual and the Director of the National Institutes of Health, or the designee of such Director, has been executed specifying that the individual shall be subject to such ethical and procedural standards of conduct relating to duties performed at the National Institutes of Health, as the Director of the National Institutes of Health determines is appropriate.

(2) Support services

The Director of the National Institutes of Health may provide facilities, utilities and support services to the Foundation if it is determined by the Director to be advantageous to the research programs of the National Institutes of Health.

(m) Funding

(1) Authorization of appropriations

For the purpose of carrying out this part, there is authorized to be appropriated an aggregate $500,000 for each fiscal year.

(2) Limitation regarding other funds

Amounts appropriated under any provision of law other than paragraph (1) may not be expended to establish or operate the Foundation.

(July 1, 1944, ch. 373, title IV, § 499, formerly § 499A, as added Pub. L. 101–613, § 2, Nov. 16, 1990, 104 Stat. 3224; amended Pub. L. 102–170, title II, § 216, Nov. 26, 1991, 105 Stat. 1128; Pub. L. 102–321, title I, § 163(b)(6), July 10, 1992, 106 Stat. 376; renumbered § 499 and amended Pub. L. 103–43, title I, § 121(b)(3), title XVII, § 1701, June 10, 1993, 107 Stat. 133, 186; Pub. L. 104–316, title I, § 122(b), Oct. 19, 1996, 110 Stat. 3836; Pub. L. 105–392, title IV, § 418(2), Nov. 13, 1998, 112 Stat. 3591.)

REFERENCES IN TEXT

Section 109(16) of the Ethics in Government Act of 1978, referred to in subsec. (k)(2), is section 109(16) of Pub. L. 95–521, which is set out in the Appendix to Title 5, Government Organization and Employees.

The National Institutes of Health Amendments of 1990, referred to in subsec. (k)(8), is Pub. L. 101–613, Nov. 16, 1990, 104 Stat. 3224, as amended, which enacted this section, section 285g–4 of this title, and provisions set out as notes under section 201 and 285g–4 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendments note set out under section 201 of this title and Tables.

PRIOR PROVISIONS

A prior section 499 of act July 1, 1944, was classified to section 289h of this title prior to repeal by Pub. L. 103–43.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 418(2)(A), substituted ''Foundation for the National Institutes of Health'' for ''National Foundation for Biomedical Research''.

Subsec. (k)(10). Pub. L. 105–392, § 418(2)(B), struck out ''not'' after ''may'' and inserted at end ''Any funds transferred under this paragraph shall be subject to all Federal limitations relating to federally-funded research.''

Subsec. (m)(1). Pub. L. 105–392, § 418(2)(C), substituted ''$500,000 for each fiscal year'' for ''$200,000 for the fiscal years 1994 and 1995''.

1996—Subsec. (n). Pub. L. 104–316 struck out subsec. (n) which required Comptroller General to conduct audit and prepare report to Congress on adequacy of compliance of the Foundation with guidelines established under this section.

1993—Subsec. (a). Pub. L. 103–43, § 1701(1), inserted '', acting through the Director of NIH,'' after ''Sec-

[3] So in original. Probably should be ''subsection''.

retary shall'' and struck out '', except for the purposes of the Ethics in Government Act and the Technology Transfer Act,'' after ''shall not''.

Subsec. (b). Pub. L. 103–43, §1701(3), added subsec. (b) and struck out heading and text of former subsec. (b). Text related to duties of Foundation.

Subsec. (c). Pub. L. 103–43, §1701(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 103–43, §1701(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (f).

Subsec. (d)(1). Pub. L. 103–43, §1701(4)(A), substituted ''appointed members of the Board'' for ''members of the Foundation'' in subpar. (A), ''Board'' for ''Council'' in subpar. (B), and ''appoint to the Board'' for ''appoint to the Council'' in subpar. (C), and added subpars. (D) to (G).

Subsec. (d)(2). Pub. L. 103–43, §1701(4)(B), designated existing provisions as subpar. (A), substituted ''an individual to serve as the initial Chair'' for ''an appointed member of the Board to serve as the Chair'', and added subpar. (B).

Subsec. (d)(3)(A). Pub. L. 103–43, §1701(4)(C), substituted ''(1)(C)'' for ''(2)(C)''.

Subsec. (d)(5), (6). Pub. L. 103–43, §1701(4)(D), added pars. (5) and (6).

Subsec. (e). Pub. L. 103–43, §1701(2), redesignated subsec. (e) as (g).

Subsecs. (f) to (h). Pub. L. 103–43, §1701(2), redesignated subsecs. (d) to (f) as (f) to (h), respectively. Former subsecs. (g) and (h) redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 103–43, §1701(2), redesignated subsec. (g) as (i). Former subsec. (i) redesignated (m).

Subsec. (i)(4). Pub. L. 103–43, §1701(5)(A), inserted before period at end '', and define the duties of the officers and employees''.

Subsec. (i)(5), (6). Pub. L. 103–43, §1701(5)(B), (C), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: ''prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

''(A) its officers, employees, and agents are selected;

''(B) its property is acquired, held, and transferred;

''(C) its general operations are to be conducted; and

''(D) the privileges granted by law are exercised and enjoyed;''.

Subsec. (i)(7). Pub. L. 103–43, §1701(5)(C), (D), redesignated par. (8) as (7) and substituted ''part'' for ''subtitle''. Former par. (7) redesignated (6).

Subsec. (i)(8). Pub. L. 103–43, §1701(5)(C), (E), redesignated par. (9) as (8) and substituted ''establish a process for the selection of candidates for positions under subsection (c) of this section'' for ''establish a mechanism for the selection of candidates, subject to the approval of the Director of the National Institutes of Health, for the endowed scientific positions within the organizational structure of the intramural research programs of the National Institutes of Health and candidates for participation in the National Institutes of Health Scholars program''.

Subsec. (i)(9), (10). Pub. L. 103–43, §1701(5)(C), redesignated pars. (10) and (11) as (9) and (10), respectively. Former par. (9) redesignated (8).

Subsec. (i)(11). Pub. L. 103–43, §1701(5)(C), (F), redesignated par. (12) as (11) and inserted ''solicit'' before ''accept''. Former par. (11) redesignated (10).

Subsec. (i)(12), (13). Pub. L. 103–43, §1701(5)(C), redesignated pars. (13) and (14) as (12) and (13), respectively. Former par. (12) redesignated (11).

Subsec. (i)(14). Pub. L. 103–43, §1701(5)(G), (H), added par. (14). Former par. (14) redesignated (13).

Subsec. (i)(15). Pub. L. 103–43, §1701(5)(I), substituted ''part'' for ''subtitle''.

Subsec. (j). Pub. L. 103–43, §1701(2), redesignated subsec. (h) as (j).

Subsecs. (k), (*l*). Pub. L. 103–43, §1701(6), added subsecs. (k) and (*l*).

Subsec. (m). Pub. L. 103–43, §1701(7), amended heading and text of subsec. (m) generally. Prior to amendment, text read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Subject to paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

''(2) LIMITATIONS.—

''(A) Amounts appropriated under paragraph (1) or made available under subparagraph (C) may not be provided to the fund established under subsection (b)(1)(A) of this section.

''(B) For the first fiscal year for which amounts are appropriated under paragraph (1), $200,000 is authorized to be appropriated.

''(C) With respect to the first fiscal year for which amounts are appropriated under paragraph (1), the Secretary may, from amounts appropriated for such fiscal year for the programs of the Department of Health and Human Services, make available not more than $200,000 for carrying out this part, subject to subparagraph (A).''

Pub. L. 103–43, §1701(2), redesignated subsec. (i) as (m).

Subsec. (n). Pub. L. 103–43, §1701(8), added subsec. (n).

1992—Subsec. (g)(9). Pub. L. 102–321 struck out ''or the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration'' after ''Director of the National Institutes of Health'' and ''and the Alcohol, Drug Abuse, and Mental Health Administration'' after ''research programs of the National Institutes of Health''.

1991—Subsec. (c)(1)(C). Pub. L. 102–170, §216(1), substituted ''11'' for ''9''.

Subsec. (c)(1)(C)(iii). Pub. L. 102–170, §216(2), substituted ''5'' for ''3''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SUBCHAPTER III–A—SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247b–6, 256d of this title; title 31 section 6703.

PART A—ORGANIZATION AND GENERAL AUTHORITIES

§ 290aa. Substance Abuse and Mental Health Services Administration

(a) Establishment

The Substance Abuse and Mental Health Services Administration (hereafter referred to in this subchapter as the ''Administration'') is an agency of the Service.

(b) Agencies

The following entities are agencies of the Administration:

(1) The Center for Substance Abuse Treatment.

(2) The Center for Substance Abuse Prevention.

(3) The Center for Mental Health Services.

(c) Administrator and Deputy Administrator

(1) Administrator

The Administration shall be headed by an Administrator (hereinafter in this subchapter

referred to as the ''Administrator'') who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Deputy Administrator

The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

(d) Authorities

The Secretary, acting through the Administrator, shall—

(1) supervise the functions of the agencies of the Administration in order to assure that the programs carried out through each such agency receive appropriate and equitable support and that there is cooperation among the agencies in the implementation of such programs;

(2) establish and implement, through the respective agencies, a comprehensive program to improve the provision of treatment and related services to individuals with respect to substance abuse and mental illness and to improve prevention services, promote mental health and protect the legal rights of individuals with mental illnesses and individuals who are substance abusers;

(3) carry out the administrative and financial management, policy development and planning, evaluation, knowledge dissemination, and public information functions that are required for the implementation of this subchapter;

(4) assure that the Administration conduct and coordinate demonstration projects, evaluations, and service system assessments and other activities necessary to improve the availability and quality of treatment, prevention and related services;

(5) support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs;

(6) in cooperation with the National Institutes of Health, the Centers for Disease Control and the Health Resources and Services Administration develop educational materials and intervention strategies to reduce the risks of HIV or tuberculosis among substance abusers and individuals with mental illness and to develop appropriate mental health services for individuals with such illnesses;

(7) coordinate Federal policy with respect to the provision of treatment services for substance abuse utilizing anti-addiction medications, including methadone;

(8) conduct programs, and assure the coordination of such programs with activities of the National Institutes of Health and the Agency for Health Care Policy Research, as appropriate, to evaluate the process, outcomes and community impact of treatment and prevention services and systems of care in order to identify the manner in which such services can most effectively be provided;

(9) collaborate with the Director of the National Institutes of Health in the development of a system by which the relevant research findings of the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the National Institute of Mental Health, and, as appropriate, the Agency for Health Care Policy Research are disseminated to service providers in a manner designed to improve the delivery and effectiveness of treatment and prevention services;

(10) encourage public and private entities that provide health insurance to provide benefits for substance abuse and mental health services;

(11) promote the integration of substance abuse and mental health services into the mainstream of the health care delivery system of the United States;

(12) monitor compliance by hospitals and other facilities with the requirements of sections 290dd–1 and 290dd–2 of this title;

(13) with respect to grant programs authorized under this subchapter, assure that—

(A) all grants that are awarded for the provision of services are subject to performance and outcome evaluations; and

(B) all grants that are awarded to entities other than States are awarded only after the State in which the entity intends to provide services—

(i) is notified of the pendency of the grant application; and

(ii) is afforded an opportunity to comment on the merits of the application;

(14) assure that services provided with amounts appropriated under this subchapter are provided bilingually, if appropriate;

(15) improve coordination among prevention programs, treatment facilities and nonhealth care systems such as employers, labor unions, and schools, and encourage the adoption of employee assistance programs and student assistance programs;

(16) maintain a clearinghouse for substance abuse and mental health information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, treatment providers, and the general public;

(17) in collaboration with the National Institute on Aging, and in consultation with the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism and the National Institute of Mental Health, as appropriate, promote and evaluate substance abuse services for older Americans in need of such services, and mental health services for older Americans who are seriously mentally ill; and

(18) promote the coordination of service programs conducted by other departments, agencies, organizations and individuals that are or may be related to the problems of individuals suffering from mental illness or substance abuse, including liaisons with the Social Security Administration, Health Care Financing Administration, and other programs of the Department, as well as liaisons with the Department of Education, Department of Justice, and other Federal Departments and offices, as appropriate.

(e) Associate Administrator for Alcohol Prevention and Treatment Policy

(1) In general

There shall be in the Administration an Associate Administrator for Alcohol Prevention and Treatment Policy to whom the Administrator shall delegate the functions of promoting, monitoring, and evaluating service programs for the prevention and treatment of alcoholism and alcohol abuse within the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, and the Center for Mental Health Services, and coordinating such programs among the Centers, and among the Centers and other public and private entities. The Associate Administrator also shall ensure that alcohol prevention, education, and policy strategies are integrated into all programs of the Centers that address substance abuse prevention, education, and policy, and that the Center for Substance Abuse Prevention addresses the Healthy People 2000 goals and the National Dietary Guidelines of the Department of Health and Human Services and the Department of Agriculture related to alcohol consumption.

(2) Plan

(A) The Administrator, acting through the Associate Administrator for Alcohol Prevention and Treatment Policy, shall develop, and periodically review and as appropriate revise, a plan for programs and policies to treat and prevent alcoholism and alcohol abuse. The plan shall be developed (and reviewed and revised) in collaboration with the Directors of the Centers of the Administration and in consultation with members of other Federal agencies and public and private entities.

(B) Not later than 1 year after July 10, 1992, the Administrator shall submit to the Congress the first plan developed under subparagraph (A).

(3) Report

(A) Not less than once during each 2 years, the Administrator, acting through the Associate Administrator for Alcohol Prevention and Treatment Policy, shall prepare a report describing the alcoholism and alcohol abuse prevention and treatment programs undertaken by the Administration and its agencies, and the report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities.

(B) Each report under subparagraph (A) shall include a description of any revisions in the plan under paragraph (2) made during the preceding 2 years.

(C) Each report under subparagraph (A) shall be submitted to the Administrator for inclusion in the biennial report under subsection (k) of this section.

(f) Associate Administrator for Women's Services

(1) Appointment

The Administrator, with the approval of the Secretary, shall appoint an Associate Administrator for Women's Services.

(2) Duties

The Associate Administrator appointed under paragraph (1) shall—

(A) establish a committee to be known as the Coordinating Committee for Women's Services (hereafter in this subparagraph referred to as the ''Coordinating Committee''), which shall be composed of the Directors of the agencies of the Administration (or the designees of the Directors);

(B) acting through the Coordinating Committee, with respect to women's substance abuse and mental health services—

(i) identify the need for such services, and make an estimate each fiscal year of the funds needed to adequately support the services;

(ii) identify needs regarding the coordination of services;

(iii) encourage the agencies of the Administration to support such services; and

(iv) assure that the unique needs of minority women, including Native American, Hispanic, African-American and Asian women, are recognized and addressed within the activities of the Administration; and

(C) establish an advisory committee to be known as the Advisory Committee for Women's Services, which shall be composed of not more than 10 individuals, a majority of whom shall be women, who are not officers or employees of the Federal Government, to be appointed by the Administrator from among physicians, practitioners, treatment providers, and other health professionals, whose clinical practice, specialization, or professional expertise includes a significant focus on women's substance abuse and mental health conditions, that shall—

(i) advise the Associate Administrator on appropriate activities to be undertaken by the agencies of the Administration with respect to women's substance abuse and mental health services, including services which require a multidisciplinary approach;

(ii) collect and review data, including information provided by the Secretary (including the material referred to in paragraph (3)), and report biannually to the Administrator regarding the extent to which women are represented among senior personnel, and make recommendations regarding improvement in the participation of women in the workforce of the Administration; and

(iii) prepare, for inclusion in the biennial report required pursuant to subsection (k) of this section, a description of activities of the Committee, including findings made by the Committee regarding—

(I) the extent of expenditures made for women's substance abuse and mental health services by the agencies of the Administration; and

(II) the estimated level of funding needed for substance abuse and mental health services to meet the needs of women;

(D) improve the collection of data on women's health by—

(i) reviewing the current data at the Administration to determine its uniformity and applicability;

(ii) developing standards for all programs funded by the Administration so that data are, to the extent practicable, collected and reported using common reporting formats, linkages and definitions; and

(iii) reporting to the Administrator a plan for incorporating the standards developed under clause (ii) in all Administration programs and a plan to assure that the data so collected are accessible to health professionals, providers, researchers, and members of the public; and

(E) shall establish, maintain, and operate a program to provide information on women's substance abuse and mental health services.

(3) Study

(A) The Secretary, acting through the Assistant Secretary for Personnel, shall conduct a study to evaluate the extent to which women are represented among senior personnel at the Administration.

(B) Not later than 90 days after July 10, 1992, the Assistant Secretary for Personnel shall provide the Advisory Committee for Women's Services with a study plan, including the methodology of the study and any sampling frames. Not later than 180 days after July 10, 1992, the Assistant Secretary shall prepare and submit directly to the Advisory Committee a report concerning the results of the study conducted under subparagraph (A).

(C) The Secretary shall prepare and provide to the Advisory Committee for Women's Services any additional data as requested.

(4) Definition

For purposes of this subsection, the term ''women's substance abuse and mental health conditions'', with respect to women of all age, ethnic, and racial groups, means all aspects of substance abuse and mental illness—

(A) unique to or more prevalent among women; or

(B) with respect to which there have been insufficient services involving women or insufficient data.

(g) Services of experts

(1) In general

The Administrator may obtain (in accordance with section 3109 of title 5, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have professional qualifications. Such experts and consultants shall be obtained for the Administration and for each of its agencies.

(2) Compensation and expenses

(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a), 5724a(c), and 5726(c) of title 5.

(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

(h) Peer review groups

The Administrator shall, 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, establish such peer review groups and program advisory committees as are needed to carry out the requirements of this subchapter and appoint and pay members of such groups, except that officers and employees of the United States shall not receive additional compensation for services as members of such groups. The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under this subsection.

(i) Voluntary services

The Administrator may accept voluntary and uncompensated services.

(j) Administration

The Administrator shall ensure that programs and activities assigned under this subchapter to the Administration are fully administered by the respective Centers to which such programs and activities are assigned.

(k) Report concerning activities and progress

Not later than February 10, 1994, and once every 2 years thereafter, the Administrator shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the report containing—

(1) a description of the activities carried out by the Administration;

(2) a description of any measurable progress made in improving the availability and quality of substance abuse and mental health services;

(3) a description of the mechanisms by which relevant research findings of the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute of Mental Health have been disseminated to service providers or otherwise utilized by the Administration to further the purposes of this subchapter; and

(4) any report required in this subchapter to be submitted to the Adminstrator[1] for inclusion in the report under this subsection.

(*l*) Applications for grants and contracts

With respect to awards of grants, cooperative agreements, and contracts under this subchapter, the Administrator, or the Director of the Center involved, as the case may be, may not make such an award unless—

(1) an application for the award is submitted to the official involved;

(2) with respect to carrying out the purpose for which the award is to be provided, the application provides assurances of compliance satisfactory to such official; and

(3) the application is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the official determines to be necessary to carry out the purpose for which the award is to be provided.

(m) Authorization of appropriations

For the purpose of providing grants, cooperative agreements, and contracts under this section, there are authorized to be appropriated $25,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 501, formerly Pub. L. 93–282, title II, § 201, May 14, 1974, 88 Stat. 134, as amended Pub. L. 94–371, § 8, July 26, 1976, 90 Stat. 1040; renumbered § 501 of act July 1, 1944, and amended Pub. L. 98–24, § 2(b)(2), Apr. 26, 1983, 97 Stat. 176; Pub. L. 98–509, title II, § 201, title III, § 301(c)(1), Oct. 19, 1984, 98 Stat. 2359, 2364; Pub. L. 99–570, title IV, § 4003, Oct. 27, 1986, 100 Stat. 3207–106; Pub. L. 100–690, title II, § 2058(a)(2), Nov. 18, 1988, 102 Stat. 4213; Pub. L. 101–93, § 3(f), Aug. 16, 1989, 103 Stat. 611; Pub. L. 102–321, title I, § 101(a), July 10, 1992, 106 Stat. 324; Pub. L. 104–201, div. A, title XVII, § 1723(a)(3)(A), Sept. 23, 1996, 110 Stat. 2759.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

CODIFICATION

Section was formerly classified to section 3511 of this title prior to renumbering by Pub. L. 98–24.

PRIOR PROVISIONS

A prior section 501 of act July 1, 1944, which was classified to section 219 of this title, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

AMENDMENTS

1996—Subsec. (g)(2)(A). Pub. L. 104–201 substituted ''5724a(a), 5724a(c)'' for ''5724a(a)(1), 5724a(a)(3)''.

1992—Pub. L. 102–321 amended section generally, substituting provisions relating to the Substance Abuse and Mental Health Services Administration for provisions relating to the Alcohol, Drug Abuse, and Mental Health Administration.

1989—Subsec. (b)(4). Pub. L. 101–93, § 3(f)(1), substituted ''for'' for ''of''.

Subsec. (j). Pub. L. 101–93, § 3(f)(2), substituted ''section 290aa–5 of this title, establish program advisory committees, and pay members of such groups and committees'' for ''section 290aa–5 of this title and appoint and pay members of such groups'' and ''as members of such groups or committees'' for ''as members of such groups''.

1988—Subsec. (b)(4). Pub. L. 100–690, § 2058(a)(2)(A), added par. (4).

Subsec. (e)(2). Pub. L. 100–690, § 2058(a)(2)(B), substituted ''Not less than once each three years, the Administrator'' for ''The Administrator'' and ''shall submit'' for ''shall annually submit''.

Subsec. (f). Pub. L. 100–690, § 2058(a)(2)(C), substituted ''misconduct'' for ''fraud'' in heading and two places in text.

Subsecs. (k) to (m). Pub. L. 100–690, § 2058(a)(2)(D), (E), added subsecs. (k) to (m) and struck out former subsec. (k), which related to Alcohol, Drug Abuse, and Mental Health Advisory Board, including its duties, membership, terms of office, compensation, personnel, chairman, meetings, and reports to Congress.

1986—Pub. L. 99–570 amended section generally, revising and restating former subsecs. (a), (b), (c), (d), (e), (f), (g), and (h) as (c), (d), (k), (h), (e), (f), (g), and (i), respectively, and adding new subsecs. (a), (b), and (j).

1984—Pub. L. 98–509, § 301(c)(1), amended directory language of Pub. L. 98–24, § 2(b)(2). See 1983 Amendment note below.

Subsec. (c). Pub. L. 98–509, § 201(a), substituted provisions relating to the Alcohol, Drug Abuse, and Mental Health Advisory Board for provisions relating to the National Panel on Alcohol, Drug Abuse, and Mental Health.

Subsecs. (g), (h). Pub. L. 98–509, § 201(b), added subsecs. (g) and (h).

1983—Pub. L. 98–24, § 2(b)(2), as amended by Pub. L. 98–509, § 301(c)(1), renumbered section 3511 of this title as this section.

Subsec. (a). Pub. L. 98–24, § 2(b)(2)(A), struck out ''of Health, Education, and Welfare'' after ''The Secretary'' and ''Department''.

Subsec. (c). Pub. L. 98–24, § 2(b)(2)(A), (B), struck out ''of Health, Education, and Welfare'' after ''The Secretary'', and made a technical amendment to reference to section 218 of this title to reflect the transfer of this section to the Public Health Service Act.

Subsec. (d). Pub. L. 98–24, § 2(b)(2)(C), substituted provisions directing the Administrator to distribute information on the hazards of alcoholism and the abuse of alcohol and drugs for provisions directing the Secretary, through the Administration, to evaluate and make recommendations regarding improved, coordinated activities, where appropriate, for public education and other prevention programs with respect to the abuse of alcohol and other substances.

Subsecs. (e), (f). Pub. L. 98–24, § 2(b)(2)(D), added subsecs. (e) and (f).

1976—Subsec. (d). Pub. L. 94–371 added subsec. (d).

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

Section 161 of Pub. L. 102–321 provided that: ''Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Alcohol, Drug Abuse and Mental Health Administration or to the Administrator of the Alcohol, Drug Abuse and Mental Health Administration shall be deemed to refer to the Substance Abuse and Mental Health Services Administration or to the Administrator of the Substance Abuse and Mental Health Services Administration.''

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

[1] So in original. Probably should be ''Administrator''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

TRANSFER PROVISIONS

Subtitle D of title I of Pub. L. 102–321, as amended by Pub. L. 102–352, § 2(b)(1), Aug. 26, 1992, 106 Stat. 939, provided that:

''SEC. 141. TRANSFERS.

''(a) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except as specifically provided otherwise in this Act [see Tables for classification] or an amendment made by this Act, there are transferred to the Administrator of the Substance Abuse and Mental Health Services Administration all service related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, or the Director of any entity within the Alcohol, Drug Abuse and Mental Health Administration, exercised before the date of the enactment of this Act [July 10, 1992] and all related functions of any officer or employee of the Alcohol, Drug Abuse and Mental Health Administration.

''(b) NATIONAL INSTITUTES.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the appropriate Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, through the Director of the National Institutes of Health, all research related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse, and Mental Health Administration.

''(c) ADEQUATE PERSONNEL AND RESOURCES.—The transfers required under this subtitle shall be effectuated in a manner that ensures that the Substance Abuse and Mental Health Services Administration has adequate personnel and resources to carry out its statutory responsibilities and that the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health have adequate personnel and resources to enable such institutes to carry out their respective statutory responsibilities.

''SEC. 142. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

''(a) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except as otherwise provided in the Public Health Service Act [this chapter], all personnel employed in connection with, and all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Administrator of the Substance Abuse and Mental Health Services Administration by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the Substance Abuse and Mental Health Services Administration. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

''(b) NATIONAL INSTITUTES.—Except as otherwise provided in the Public Health Service Act, all personnel employed in connection with, and all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

''(c) CUSTODY OF BALANCES.—The actual transfer of custody of obligation balances is not required in order to implement this section.

''SEC. 143. INCIDENTAL TRANSFERS.

''Prior to October 1, 1992, the Secretary of Health and Human Services is authorized to make such determinations as may be necessary with regard to the functions transferred by this subtitle, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subtitle and the Public Health Service Act [this chapter]. Such Secretary shall provide for the termination of the affairs of all entities terminated by this subtitle and for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

''SEC. 144. EFFECT ON PERSONNEL.

''(a) IN GENERAL.—Except as otherwise provided by this subtitle and the Public Health Service Act [this chapter], the transfer pursuant to this subtitle of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this subtitle.

''(b) EXECUTIVE SCHEDULE POSITIONS.—Any person who, on the day preceding the effective date of this Act [see Effective Date of 1992 Amendment note set out under section 236 of this title], held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Substance Abuse and Mental Health Services Administration to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

''SEC. 145. SAVINGS PROVISIONS.

''(a) EFFECT ON PREVIOUS DETERMINATIONS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

''(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this subtitle; and

''(2) are in effect on the date of enactment of this Act [July 10, 1992];

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the National Institutes of Health, or the Administrator of the Substance Abuse and Mental Health Services Administration, as appropriate, a court of competent jurisdiction, or by operation of law.

''(b) CONTINUATION OF PROCEEDINGS.—

''(1) IN GENERAL.—The provisions of this subtitle shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance

pending on the date of enactment of this Act before the Department of Health and Human Services, which relates to the Alcohol, Drug Abuse and Mental Health Administration or the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health, or any office thereof with respect to functions transferred by this subtitle. Such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act [see Tables for classification] had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subtitle had not been enacted.

''(2) REGULATIONS.—The Secretary of Health and Human Services is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

''(c) EFFECT ON LEGAL ACTIONS.—Except as provided in subsection (e)—

''(1) the provisions of this subtitle do not affect actions commenced prior to the date of enactment of this Act [July 10, 1992]; and

''(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

''(d) NO ABATEMENT OF ACTIONS OR PROCEEDINGS.—No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services with respect to functions transferred by this subtitle shall abate by reason of the enactment of this Act [see Tables for classification]. No cause of action by or against the Department of Health and Human Services with respect to functions transferred by this subtitle, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function transferred by this subtitle, or other proceedings may be asserted by or against the United States or the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, as may be appropriate, and, in an action pending when this Act takes effect [see Effective Date of 1992 Amendment note set out under section 236 of this title], the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

''(e) SUBSTITUTION.—If, before the date of enactment of this Act [July 10, 1992], the Department of Health and Human Services, or any officer thereof in the official capacity of such officer, is a party to an action, and under this subtitle any function of such Department, Office, or officer is transferred to the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, then such action shall be continued with the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, as the case may be, substituted or added as a party.

''(f) JUDICIAL REVIEW.—Orders and actions of the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health in the exercise of functions transferred to the Directors by this subtitle shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this subtitle shall apply to the exercise of such function by the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors.

''SEC. 146. TRANSITION.

''With the consent of the Secretary of Health and Human Services, the Administrator of the Substance Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health are authorized to utilize—

''(1) the services of such officers, employees, and other personnel of the Department with respect to functions transferred to the Administrator of the Substance Abuse and Mental Health Services Administration and the Director of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle; and

''(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subtitle.

''SEC. 147. PEER REVIEW.

''With respect to fiscal years 1993 through 1996, the peer review systems, advisory councils and scientific advisory committees utilized, or approved for utilization, by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health prior to the transfer of such Institutes to the National Institute of Health shall be utilized by such Institutes.

''SEC. 148. MERGERS.

''Notwithstanding the provisions of section 401(c)(2) of the Public Health Service Act (42 U.S.C. 281(c)(2)), the Secretary of Health and Human Services may not merge the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse or the National Institute of Mental Health with any other institute or entity (or with each other) within the national research institutes for a 5-year period beginning on the date of enactment of this Act [July 10, 1992].

''SEC. 149. CONDUCT OF MULTI-YEAR RESEARCH PROJECTS.

''With respect to multi-year grants awarded prior to fiscal year 1993 by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health with amounts received under section 1911(b) [former section 300x(b) of this title], as such section existed one day prior to the date of enactment of this Act [July 10, 1992], such grants shall be continued for the entire period of the grant through the utilization of funds made available pursuant to sections 464H, 464L, and 464R [sections 285n, 285*o*, 285p of this title], as appropriate, subject to satisfactory performance.

''SEC. 150. SEPARABILITY.

''If a provision of this subtitle or its application to any person or circumstance is held invalid, neither the

remainder of this Act [see Tables for classification] nor the application of the provision to other persons or circumstances shall be affected.

''SEC. 151. BUDGETARY AUTHORITY.

''With respect to fiscal years 1994 and 1995, the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health shall notwithstanding section 405(a) [section 284(a) of this title], prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institute) for their respective Institutes, after reasonable opportunity for comment (but without change) by the Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Institute's advisory council.''

REPORT BY SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

Section 708 of Pub. L. 102–321 directed Administrator of Substance Abuse and Mental Health Services Administration to submit to Congress an interim report, not later than 6 months after July 10, 1992, and a final report, not later than Oct. 1, 1993, concerning current policies and barriers to provision of substance abuse and mental health services, with emphasis on barriers to health insurance and Medicaid coverage of such services, and further directed Secretary of Health and Human Services to initiate, not later than Jan. 1, 1994, research and demonstration projects which, consistent with information from reports submitted by the Administrator, explore alternative mechanisms of providing health insurance and treatment services for substance abuse and mental illness.

RELATIONSHIP BETWEEN MENTAL ILLNESS AND SUBSTANCE ABUSE

Section 2071 of Pub. L. 100–690 directed Secretary of Health and Human Services to conduct a study for the purpose of determining the relationship between mental illness and substance abuse, and developing recommendations on the most effective methods of treatment for individuals with both mental illness and substance abuse problems, and, not later than 12 months after Nov. 18, 1988, to complete the study and submit to Congress the findings made as a result of the study.

REPORT WITH RESPECT TO ADMINISTRATION OF CERTAIN RESEARCH PROGRAMS

Section 2073 of Pub. L. 100–690 directed Secretary of Health and Human Services to request National Academy of Sciences to conduct a review of research activities of National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration and, not later than 12 months after the date on which any contract requested is entered into, provide for the completion of the review and submit to Congress a report describing the findings made as a result of the review, with Secretary of Health and Human Services authorized to enter into a contract with National Academy of Sciences to carry out the review.

CONGRESSIONAL STATEMENT OF POLICY FOR ALCOHOL AND DRUG ABUSE AMENDMENTS OF 1983

Section 1(b) of Pub. L. 98–24 provided that: ''It is the policy of the United States and the purpose of this Act [see Short Title of 1983 Amendment note set out under section 201 of this title] to provide leadership in the national effort to reduce the incidence of alcoholism and alcohol-related problems and drug abuse through—

''(1) a continued Federal commitment to research into the behavioral and biomedical etiology, the treatment, and the mental and physical health and social and economic consequences of alcohol abuse and alcoholism and drug abuse;

''(2) a commitment to—

''(A) extensive dissemination to States, units of local government, community organizations, and private groups of the most recent information and research findings with respect to alcohol abuse and alcoholism and drug abuse, including information with respect to the application of research findings; and

''(B) the accomplishment of such dissemination through up-to-date publications, demonstrations, educational programs, and other appropriate means;

''(3) the provision of technical assistance to research personnel; services personnel, and prevention personnel in the field of alcohol abuse and alcoholism and drug abuse;

''(4) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, drug abuse, and the abuse of other legal and illegal substances;

''(5) the development and encouragement of effective occupational prevention and treatment programs within Government and in cooperation with the private sector; and

''(6) the provision of a Federal response to alcohol abuse and alcoholism and drug abuse which encourages the greatest participation by the private sector, both financially and otherwise, and concentrates on carrying out functions relating to alcohol abuse and alcoholism and drug abuse which are truly national in scope.''

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH REPORTS BY THE SECRETARY

Section 3 of Pub. L. 98–24 directed Secretary of Health and Human Services to submit to Congress, on or before Jan. 15, 1984, a report describing the extent to which Federal and State programs, departments, and agencies are concerned and are dealing effectively with problems of alcohol abuse and alcoholism, problems of drug abuse, and mental illness.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290bb–1 of this title; title 20 section 7131.

§ 290aa–1. Advisory councils

(a) Appointment

(1) In general

The Secretary shall appoint an advisory council for—

(A) the Substance Abuse and Mental Health Services Administration;

(B) the Center for Substance Abuse Treatment;

(C) the Center for Substance Abuse Prevention; and

(D) the Center for Mental Health Services.

Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Administrator or Director of the Administration or Center for which the advisory council is established concerning matters relating to the activities carried out by and through the Administration or Center and the policies respecting such activities.

(2) Function and activities

An advisory council—

(A)(i) may on the basis of the materials provided by the organization respecting activities conducted at the organization, make recommendations to the Administrator or Director of the Administration or Center for which it was established respecting such activities;

(ii) shall review applications submitted for grants and cooperative agreements for ac-

tivities for which advisory council approval is required under section 290aa–3(d)(2) of this title and recommend for approval applications for projects that show promise of making valuable contributions to the Administration's mission; and

(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the organization;

(B) may collect, by correspondence or by personal investigation, information as to studies and services that are being carried on in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the organization was established and with the approval of the Administrator or Director, whichever is appropriate, make such information available through appropriate publications for the benefit of public and private health entities and health professions personnel and for the information of the general public; and

(C) may appoint subcommittees and convene workshops and conferences.

(b) Membership

(1) In general

Each advisory council shall consist of nonvoting ex officio members and not more than 12 members to be appointed by the Secretary under paragraph (3).

(2) Ex officio members

The ex officio members of an advisory council shall consist of—

(A) the Secretary;

(B) the Administrator;

(C) the Director of the Center for which the council is established;

(D) the Under Secretary for Health of the Department of Veterans Affairs;

(E) the Assistant Secretary for Defense for Health Affairs (or the designates of such officers); and

(F) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

(3) Appointed members

Individuals shall be appointed to an advisory council under paragraph (1) as follows:

(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health disciplines (including public health and behavioral and social sciences) relevant to the activities of the Administration or Center for which the advisory council is established.

(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy economics, or management.

(4) Compensation

Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent to the annual rate in effect for grade GS–18 of the General Schedule.

(c) Terms of office

(1) In general

The term of office of a member of an advisory council appointed under subsection (b) of this section shall be 4 years, except that any member appointed to fill a vacancy for an unexpired term shall serve for the remainder of such term. The Secretary shall make appointments to an advisory council in such a manner as to ensure that the terms of the members not all expire in the same year. A member of an advisory council may serve after the expiration of such member's term until a successor has been appointed and taken office.

(2) Reappointments

A member who has been appointed to an advisory council for a term of 4 years may not be reappointed to an advisory council during the 2-year period beginning on the date on which such 4-year term expired.

(3) Time for appointment

If a vacancy occurs in an advisory council among the members under subsection (b) of this section, the Secretary shall make an appointment to fill such vacancy within 90 days from the date the vacancy occurs.

(d) Chair

The Secretary shall select a member of an advisory council to serve as the chair of the council. The Secretary may so select an individual from among the appointed members, or may select the Administrator or the Director of the Center involved. The term of office of the chair shall be 2 years.

(e) Meetings

An advisory council shall meet at the call of the chairperson or upon the request of the Administrator or Director of the Administration or Center for which the advisory council is established, but in no event less than 3 times during each fiscal year. The location of the meetings of each advisory council shall be subject to the approval of the Administrator or Director of Administration or Center for which the council was established.

(f) Executive Secretary and staff

The Administrator or Director of the Administration or Center for which the advisory council is established shall designate a member of the staff of the Administration or Center for which the advisory council is established to serve as the Executive Secretary of the advisory council. The Administrator or Director shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Administrator or Director shall provide orientation and training for new members of the advisory council to provide for their effective participation in the functions of the advisory council.

(July 1, 1944, ch. 373, title V, § 502, formerly § 505, as added Pub. L. 99–570, title IV, § 4004(a), Oct. 27,

1986, 100 Stat. 3207–109; amended Pub. L. 100–527, § 10(4), Oct. 25, 1988, 102 Stat. 2641; Pub. L. 101–381, title I, § 102(6), Aug. 18, 1990, 104 Stat. 586; renumbered § 502 and amended Pub. L. 102–321, title I, § 102, July 10, 1992, 106 Stat. 331; Pub. L. 102–352, § 2(a)(6), Aug. 26, 1992, 106 Stat. 938; Pub. L. 103–446, title XII, § 1203(a)(1), Nov. 2, 1994, 108 Stat. 4689.)

CODIFICATION

Section was formerly classified to section 290aa–3a of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 290aa–1, act July 1, 1944, ch. 373, title V, § 502, formerly Pub. L. 91–616, title I, § 101, Dec. 31, 1970, 84 Stat. 1848, as amended Pub. L. 93–282, title II, § 203(a), May 14, 1974, 88 Stat. 135; Pub. L. 96–180, § 3, Jan. 2, 1980, 93 Stat. 1302; Pub. L. 97–35, title IX, § 966(a), Aug. 13, 1981, 95 Stat. 595; renumbered § 502 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(3), 97 Stat. 177; Oct. 19, 1984, Pub. L. 98–509, title II, § 205(b)(2), 98 Stat. 2361; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4005(b)(1), 100 Stat. 3207–114, related to National Institute on Alcohol Abuse and Alcoholism, prior to repeal by Pub. L. 102–321, title I, § 101(b), July 10, 1992, 106 Stat. 331. See section 285n of this title.

A prior section 502 of act July 1, 1944, which was classified to section 220 of this title, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

AMENDMENTS

1994—Subsec. (b)(2)(D). Pub. L. 103–446 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the Chief Medical Director of the Veterans Administration; and".

1992—Pub. L. 102–352 substituted "or management" for "and management" in subsec. (b)(3)(B).

Pub. L. 102–321 amended section generally, substituting provisions relating to appointment of advisory councils to Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, Center for Substance Abuse Prevention, and Center for Mental Health Services for provisions appointing advisory councils for National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse, and National Institute of Mental Health.

1990—Subsec. (a)(2). Pub. L. 101–381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (b)(2)(A). Pub. L. 100–527 substituted "Chief Medical Director of the Department of Veterans Affairs" for "Chief Medical Director of the Veterans' Administration".

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

CONTINUATION OF EXISTING ADVISORY COUNCILS

Section 4004(b) of Pub. L. 99–570 provided that: "The amendment made by subsection (a) [enacting this section and renumbering this section and section 290aa–5 of this title] does not terminate the membership of any advisory council for the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health which was in existence on the date of enactment of this Act [Oct. 27, 1986]. After such date—

"(1) the Secretary of Health and Human Services shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition for such council prescribed by section 505 [now 502] of the Public Health Service Act [this section];

"(2) each advisory council shall organize itself in accordance with such section and exercise the functions prescribed by such section; and

"(3) the Director of each such institute shall perform for such advisory council the functions prescribed by such section."

§ 290aa–2. Reports: health consequences, current research, recommendations

(a) Alcoholism and alcohol abuse

The Secretary shall submit to Congress on or before January 15, 1984, and every three years thereafter a report—

(1) containing current information on the health consequences of using alcoholic beverages,

(2) containing a description of current research findings made with respect to alcohol abuse and alcoholism, and

(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

(b) Drug abuse

The Secretary shall submit to Congress on or before January 15, 1984, and every three years thereafter a report—

(1) describing the health consequences and extent of drug abuse in the United States;

(2) describing current research findings made with respect to drug abuse, including current findings on the health effects of marihuana and the addictive property of tobacco; and

(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

(July 1, 1944, ch. 373, title V, § 503, formerly § 505, as added Pub. L. 98–24, § 2(b)(7), Apr. 26, 1983, 97 Stat. 178; renumbered § 506, Pub. L. 99–570, title IV, § 4004(a), Oct. 27, 1986, 100 Stat. 3207–109; renumbered § 503, Pub. L. 102–321, title I, § 103, July 10, 1992, 106 Stat. 333.)

CODIFICATION

Section was formerly classified to section 290aa–4 of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 290aa–2, act July 1, 1944, ch. 373, title V, § 503, formerly Pub. L. 92–255, title IV, § 406(a), title V, § 501, Mar. 21, 1972, 86 Stat. 78, 85; amended Pub. L. 93–282, title II, § 204, May 14, 1974, 88 Stat. 136; Pub. L. 94–237, § 12(a), Mar. 19, 1976, 90 Stat. 247; Pub. L. 96–181, § 10, Jan. 2, 1980, 93 Stat. 1314; Pub. L. 97–35, title IX, §§ 968(a), 973(f), Aug. 13, 1981, 95 Stat. 595, 598; renumbered § 503 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(4), (5), 97 Stat. 177; Oct. 19, 1984, Pub. L. 98–509, title II, §§ 202, 205(b)(1), 98 Stat. 2360, 2361; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4005(b)(2), 100 Stat. 3207–114, related to National Institute on Drug Abuse, prior to repeal by Pub. L. 102–321, title I, § 101(b), July 10, 1992, 106 Stat. 331. See section 285*o* of this title.

A prior section 503 of act July 1, 1944, which was classified to section 221 of this title, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

REGULATIONS

Secretary of Health and Human Services to promulgate regulations, within 90 days of Oct. 19, 1984, for the administration of section 802(28) of Title 21, Food and Drugs, as amended by Pub. L. 98–509, title III, § 301(a), Oct. 19, 1984, 98 Stat. 2364, and to include in the first report submitted under subsec. (b) of this section after such period the findings of the Secretary with respect to the effect of the amendment by section 301(a) of Pub. L. 98–509, see section 301(b) of Pub. L. 98–509, set out as a note under section 802 of Title 21.

RELATIONSHIP BETWEEN CONSUMPTION OF LEGAL AND ILLEGAL DRUGS

Pub. L. 103–43, title XIX, § 1908, June 10, 1993, 107 Stat. 204, directed Secretary of Health and Human Services to review and consider all existing relevant data and research concerning whether there is a relationship between an individual's receptivity to use or consume legal drugs and consumption or abuse by the individual of illegal drugs and, on basis of such review, to determine whether additional research is necessary, with Secretary to conduct a study of those subjects where the Secretary's review indicates additional research is needed, and directed Secretary, not later than 12 months after June 10, 1993, to prepare and submit to Congress a report containing results of the review and, no later than 2 years after June 10, 1993, prepare and submit to Congress a report containing results of any additional research.

§ 290aa–3. Peer review

(a) In general

The Secretary, after consultation with the Directors of the Center for Substance Abuse Treatment, the Center for Substance Abuse Prevention, and the Center for Mental Health Services, shall require appropriate peer review of grants, cooperative agreements, and contracts to be administered through such Centers.

(b) Members

The members of any peer review group established under regulations under subsection (a) of this section shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group. Not more than one-fourth of the members of any peer review group established under such regulation shall be officers or employees of the United States.

(c) Requirements

Regulations promulgated pursuant to subsection (a) of this section—

(1) shall require that the reviewing entity be provided a written description of the matter to be reviewed;

(2) shall require that the reviewing entity provide the advisory council of the Center involved with such description and the results of the review by the entity; and

(3) may specify the conditions under which limited exceptions may be granted to the limitations contained in the last sentence of subsection (b) of this section and subsection (d) of this section.

(d) Recommendations

(1) In general

If the direct cost of a grant, cooperative agreement, or contract (described in subsection (a) of this section) to be made does not exceed $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended after peer review required by regulations under subsection (a) of this section.

(2) By appropriate advisory council

If the direct cost of a grant,[1] or cooperative agreement (described in subsection (a) of this section) to be made exceeds $50,000, the Secretary may make such grant,[1] or cooperative agreement only if such grant,[1] or cooperative agreement is recommended—

(A) after peer review required by regulations under subsection (a) of this section, and

(B) by the appropriate advisory council.

(July 1, 1944, ch. 373, title V, § 504, formerly § 506, as added Pub. L. 98–24, § 2(b)(7), Apr. 26, 1983, 97 Stat. 178; amended Pub. L. 99–158, § 3(c), Nov. 20, 1985, 99 Stat. 879; renumbered § 507 and amended Pub. L. 99–570, title IV, §§ 4004(a), 4007, Oct. 27, 1986, 100 Stat. 3207–109, 3207–115; renumbered § 504 and amended Pub. L. 102–321, title I, § 104, July 10, 1992, 106 Stat. 333; Pub. L. 102–352, § 2(a)(7), Aug. 26, 1992, 106 Stat. 938; Pub. L. 105–392, title IV, § 412, Nov. 13, 1998, 112 Stat. 3590.)

CODIFICATION

Section was formerly classified to section 290aa–5 of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 290aa–3, act July 1, 1944, ch. 373, title V, § 504, formerly title IV, § 455, as added May 14, 1974, Pub. L. 93–282, title II, § 202, 88 Stat. 135; amended Oct. 7, 1980, Pub. L. 96–398, title III, § 325, title IV, § 401(a), title VIII, § 804(a), 94 Stat. 1596, 1597, 1608; Aug. 13, 1981, Pub. L. 97–35, title IX, § 902(g)(1), 95 Stat. 560; renumbered title V, § 504, Apr. 26, 1983, Pub. L. 98–24, § 2(b)(6), 97 Stat. 177; Oct. 19, 1984, Pub. L. 98–509, title II, §§ 203,

[1] So in original. The comma probably should not appear.

204, 98 Stat. 2360, 2361; Oct. 7, 1985, Pub. L. 99–117, § 11(b), 99 Stat. 495; Oct. 27, 1986, Pub. L. 99–570, title IV, §§ 4011(a), 4012, 4013, 4021(a), (b)(1), 100 Stat. 3207–115, 3207–116, 3207–124; Nov. 14, 1986, Pub. L. 99–660, title V, § 504, 100 Stat. 3797; Nov. 18, 1988, Pub. L. 100–690, title II, § 2057(1), (2), 102 Stat. 4211, related to National Institute of Mental Health, prior to repeal by Pub. L. 102–321, title I, § 101(b), July 10, 1992, 106 Stat. 331. See section 285p of this title.

A prior section 504 of act July 1, 1944, which was classified to section 222 of this title, was renumbered section 2104 of act July 1, 1944, by Pub. L. 98–24 and transferred to section 300aa–3 of this title, renumbered section 2304 of act July 1, 1944, by Pub. L. 99–660 and transferred to section 300cc–3 of this title, prior to repeal by Pub. L. 98–621, § 10(s), Nov. 8, 1984, 98 Stat. 3381.

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105–392 substituted ''or cooperative agreement'' for ''cooperative agreement, or contract'' wherever appearing in introductory provisions.

1992—Pub. L. 102–352 struck out ''by regulation'' after ''Center for Mental Health Services, shall'' in subsec. (a).

Pub. L. 102–321 amended section generally, substituting provisions relating to peer review of grants, cooperative agreements, and contracts administered through the Centers for Substance Abuse Treatment, Substance Abuse Prevention, and Mental Health Services for provisions relating to peer review of biomedical and behavioral research and development grants, cooperative agreements, and contracts administered through the National Institutes of Mental Health, Alcohol Abuse and Alcoholism, and Drug Abuse.

1986—Subsec. (b). Pub. L. 99–570, § 4007, inserted ''applications made for'' before ''grants, cooperative'' in introductory text.

1985—Subsec. (e). Pub. L. 99–158 added subsec. (e).

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290aa–1 of this title.

§ 290aa–3a. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title V, § 505, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4004(a), 100 Stat. 3207–109, and amended, which related to advisory councils for the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, was renumbered section 502 of act July 1, 1944, by Pub. L. 102–321, title I, § 102(1), July 10, 1992, 106 Stat. 331, and transferred to section 290aa–1 of this title.

§ 290aa–4. Data collection

(a) Requirement of annual collection of data on mental illness and substance abuse

The Secretary, acting through the Administrator, shall collect data each year on—

(1) the national incidence and prevalence of the various forms of mental illness and substance abuse; and

(2) the incidence and prevalence of such various forms in major metropolitan areas selected by the Administrator.

(b) Requisite areas of data collection on mental health

With respect to the activities of the Administrator under subsection (a) of this section relating to mental health, the Administrator shall ensure that such activities include, at a minimum, the collection of data on—

(1) the number and variety of public and nonprofit private treatment programs;

(2) the number and demographic characteristics of individuals receiving treatment through such programs;

(3) the type of care received by such individuals; and

(4) such other data as may be appropriate.

(c) Requisite areas of data collection on substance abuse

(1) With respect to the activities of the Administrator under subsection (a) of this section relating to substance abuse, the Administrator shall ensure that such activities include, at a minimum, the collection of data on—

(A) the number of individuals admitted to the emergency rooms of hospitals as a result of the abuse of alcohol or other drugs;

(B) the number of deaths occurring as a result of substance abuse, as indicated in reports by coroners;

(C) the number and variety of public and private nonprofit treatment programs, including the number and type of patient slots available;

(D) the number of individuals seeking treatment through such programs, the number and demographic characteristics of individuals receiving such treatment, the percentage of individuals who complete such programs, and, with respect to individuals receiving such treatment, the length of time between an individual's request for treatment and the commencement of treatment;

(E) the number of such individuals who return for treatment after the completion of a prior treatment in such programs and the method of treatment utilized during the prior treatment;

(F) the number of individuals receiving public assistance for such treatment programs;

(G) the costs of the different types of treatment modalities for drug and alcohol abuse and the aggregate relative costs of each such treatment modality provided within a State in each fiscal year;

(H) to the extent of available information, the number of individuals receiving treatment for alcohol or drug abuse who have private insurance coverage for the costs of such treatment;

(I) the extent of alcohol and drug abuse among high school students and among the general population; and

(J) the number of alcohol and drug abuse counselors and other substance abuse treatment personnel employed in public and private treatment facilities.

(2) Annual surveys shall be carried out in the collection of data under this subsection. Summaries and analyses of the data collected shall be made available to the public.

(d) Development of uniform criteria for data collection

After consultation with the States and with appropriate national organizations, the Administrator shall develop uniform criteria for the collection of data, using the best available technology, pursuant to this section.

(July 1, 1944, ch. 373, title V, § 505, formerly § 509D, as added Pub. L. 100–690, title II, § 2052(a), Nov. 18, 1988, 102 Stat. 4207; amended Pub. L. 101–93, § 3(b), Aug. 16, 1989, 103 Stat. 609; renumbered § 505, Pub. L. 102–321, title I, § 105, July 10, 1992, 106 Stat. 334; Pub. L. 103–43, title XX, § 2010(b)(7), June 10, 1993, 107 Stat. 214.)

CODIFICATION

Section was formerly classified to section 290aa–11 of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 290aa–4, act July 1, 1944, ch. 373, title V, § 506, formerly § 505, as added Apr. 26, 1983, Pub. L. 98–24, § 2(b)(7), 97 Stat. 178; renumbered § 506, Oct. 27, 1986, Pub. L. 99–570, title IV, § 4004(a), 100 Stat. 3207–109, which related to reports on alcoholism and alcohol and drug abuse, was renumbered section 503 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290aa–2 of this title.

A prior section 505 of act July 1, 1944, was renumbered section 502 by section 102 of Pub. L. 102–321 and is classified to section 290aa–1 of this title.

Another prior section 505 of act July 1, 1944, which was classified to section 223 of this title, was renumbered section 2105 of act July 1, 1944, by Pub. L. 98–24 and transferred to section 300aa–4 of this title, renumbered section 2305 of act July 1, 1944, by Pub. L. 99–660 and transferred to section 300cc–4 of this title, prior to repeal by Pub. L. 99–117, § 12(f), Oct. 7, 1985, 99 Stat. 495.

AMENDMENTS

1993—Pub. L. 103–43, § 2010(b)(7), which directed the substitution of ''section 238 of this title'' for ''section 300aaa of this title'' in section 505(a)(2) of act July 1, 1944 (this section), could not be executed because the language did not appear. Amendment was probably intended for prior section 505 which was renumbered section 502 and amended generally by Pub. L. 102–321, § 102, which is classified to section 290aa–1 of this title.

1989—Subsec. (c)(1)(A). Pub. L. 101–93, § 3(b)(1), substituted ''alcohol or'' for ''alcohol and''.

Subsec. (c)(2). Pub. L. 101–93, § 3(b)(2), substituted ''this subsection'' for ''this section''.

PUBLIC HEALTH MONITORING OF METHAMPHETAMINE ABUSE

Pub. L. 104–237, title V, § 502, Oct. 3, 1996, 110 Stat. 3112, provided that: ''The Secretary of Health and Human Services shall develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program shall include the collection and dissemination of data related to methamphetamine abuse which can be used by public health officials in policy development.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–9, 300x–35, 300x–53 of this title.

§ 290aa–5. Grants for benefit of homeless individuals

(a) Grants for benefit of homeless individuals

The Secretary, acting through the Administrator, may make grants to, and enter into contracts and cooperative agreements with, community-based public and private nonprofit entities for the purpose of developing and expanding mental health and substance abuse treatment services for homeless individuals. In carrying out this subsection, the Administrator shall consult with the Administrator of the Health Resources and Services Administration, the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, and the Commissioner of the Administration for Children, Youth and Families.

(b) Preference

In awarding grants under subsection (a) of this section, the Secretary shall give preference to entities that provide integrated primary health care, substance abuse and mental health services to homeless individuals.

(c) Services for certain individuals

In making awards under subsection (a) of this section, the Secretary may not prohibit the provision of services under such subsection to homeless individuals who have a primary diagnosis of substance abuse and are not suffering from mental illness.

(d) Term of grant

No entity may receive grants under subsection (a) of this section for more than 5 years although such grants may be renewed.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 506, formerly § 512, as added Pub. L. 98–509, title II, § 206(a), Oct. 19, 1984, 98 Stat. 2361; amended Pub. L. 100–77, title VI, § 613(a), (b), July 22, 1987, 101 Stat. 524; renumbered § 506 and amended Pub. L. 102–321, title I, § 106, July 10, 1992, 106 Stat. 334.)

CODIFICATION

Section was formerly classified to section 290bb–1a of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 290aa–5, act July 1, 1944, ch. 373, title V, § 507, formerly § 506, as added Apr. 26, 1983, Pub. L. 98–24, § 2(b)(7), 97 Stat. 178; amended Nov. 20, 1985, Pub. L. 99–158, § 3(c), 99 Stat. 879; renumbered § 507 and amended Oct. 27, 1986, Pub. L. 99–570, title IV, §§ 4004(a), 4007, 100 Stat. 3207–109, 3207–115, which related to peer review of biomedical and behavioral research and development grants, was renumbered section 504 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290aa–3 of this title.

A prior section 506 of act July 1, 1944, which was classified to section 224 of this title, was successively renumbered by subsequent acts, and transferred, see section 238c of this title.

AMENDMENTS

1992—Pub. L. 102–321 amended section generally, substituting provisions relating to grants for benefit of homeless individuals for provisions relating to alcohol abuse and alcoholism demonstration projects.

1987—Subsecs. (c), (d). Pub. L. 100–77 added subsec. (c), redesignated former subsec. (c) as (d), and substituted ''subsection (a) or (c)'' for ''subsection (a)''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assist-

ance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

§§ 290aa–6 to 290aa–8. Transferred

CODIFICATION

Section 290aa–6, act July 1, 1944, ch. 373, title V, § 508, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4005(a), 100 Stat. 3207–111, and amended, which related to the Office of Substance Abuse Prevention, was renumbered section 515 of act July 1, 1944, by Pub. L. 102–321, title I, § 113(b), July 10, 1992, 106 Stat. 345, and transferred to section 290bb–21 of this title.

Section 290aa–7, act July 1, 1944, ch. 373, title V, § 509, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4005(a), 100 Stat. 3207–112, which related to Alcohol and Drug Abuse Information Clearinghouse, was renumbered section 516 of act July 1, 1944, by Pub. L. 102–321, title I, § 113(f)(1)–(3), July 10, 1992, 106 Stat. 345, and transferred to section 290bb–22 of this title.

Section 290aa–8, act July 1, 1944, ch. 373, title V, § 509A, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4005(a), 100 Stat. 3207–113, and amended, which related to alcohol and drug abuse prevention, treatment, and rehabilitation model projects for high risk youth, was renumbered section 517 of act July 1, 1944, by Pub. L. 102–321, title I, § 114(a), July 10, 1992, 106 Stat. 346, and transferred to section 290bb–23 of this title.

§§ 290aa–9, 290aa–10. Repealed. Pub. L. 102–321, title I, § 120(a), July 10, 1992, 106 Stat. 358

Section 290aa–9, act July 1, 1944, ch. 373, title V, § 509B, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4006, 100 Stat. 3207–114; amended Oct. 27, 1992, Pub. L. 102–531, title III, § 312(d)(11), 106 Stat. 3505, related to research on public health emergencies.

Section 290aa–10, act July 1, 1944, ch. 373, title V, § 509C, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 420 [4020], 100 Stat. 3207–122, related to guidelines for use of animals in research.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 290aa–11. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title V, § 509D, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2052(a), 102 Stat. 4207, and amended, which related to the collection of data on mental illness and substance abuse, was renumbered section 505 of act July 1, 1944, by Pub. L. 102–321, title I, § 105, July 10, 1992, 106 Stat. 334, and transferred to section 290aa–4 of this title.

§§ 290aa–12 to 290aa–14. Repealed. Pub. L. 102–321, title I, § 120(a), July 10, 1992, 106 Stat. 358

Section 290aa–12, act July 1, 1944, ch. 373, title V, § 509E, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2053, 102 Stat. 4208; amended Aug. 16, 1989, Pub. L. 101–93, § 3(c), 103 Stat. 610; Aug. 15, 1990, Pub. L. 101–374, § 2(a)–(c)(2), 104 Stat. 456, related to reduction of waiting periods for drug abuse treatment.

Section 290aa–13, act July 1, 1944, ch. 373, title V, § 509F, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2054, 102 Stat. 4209, related to model projects for pregnant and post partum women and their infants.

Section 290aa–14, act July 1, 1944, ch. 373, title V, § 509G, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2055, 102 Stat. 4210; amended Aug. 16, 1989, Pub. L. 101–93, § 3(d), 103 Stat. 610, related to drug abuse demonstration projects of national significance.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

PART B—CENTERS AND PROGRAMS

SUBPART 1—CENTER FOR SUBSTANCE ABUSE TREATMENT

§ 290bb. Center for Substance Abuse Treatment

(a) Establishment

There is established in the Administration a Center for Substance Abuse Treatment (hereafter in this section referred to as the ''Center''). The Center shall be headed by a Director (hereafter in this section referred to as the ''Director'') appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of substance abuse or in the evaluation of substance abuse treatment systems.

(b) Duties

The Director of the Center shall—

(1) administer the substance abuse treatment block grant program authorized in section 300x–21 of this title;

(2) collaborate with the Director of the Center for Substance Abuse Prevention in order to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to pregnant and postpartum women and their infants and to individuals who abuse drugs intravenously;

(3) collaborate with the Director of the National Institute on Drug Abuse, with the Director of the National Institute on Alcohol Abuse and Alcoholism, and with the States to promote the study, dissemination, and implementation of research findings that will improve the delivery and effectiveness of treatment services;

(4) collaborate with the Administrator of the Health Resources and Services Administration and the Administrator of the Health Care Financing Administration to promote the increased integration into the mainstream of the health care system of the United States of programs for providing treatment services;

(5) evaluate plans submitted by the States pursuant to section 300x–32(a)(6) of this title in order to determine whether the plans adequately provide for the availability, allocation, and effectiveness of treatment services, and monitor the use of revolving loan funds pursuant to section 300x–25 of this title;

(6) sponsor regional workshops on improving the quality and availability of treatment services;

(7) provide technical assistance to public and nonprofit private entities that provide treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants or contracts carried out by the Director;

(8) encourage the States to expand the availability (relative to fiscal year 1992) of programs providing treatment services through self-run, self-supported recovery based on the programs of housing operated pursuant to section 300x–25 of this title;

(9) carry out activities to educate individuals on the need for establishing treatment facilities within their communities;

(10) encourage public and private entities that provide health insurance to provide benefits for outpatient treatment services and other nonhospital-based treatment services;

(11) evaluate treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in housing provided by programs established under section 300x–25 of this title, which shall be carried out through grants, contracts, or cooperative agreements provided to public or nonprofit private entities; and

(12) in carrying out paragraph (11), assess the quality, appropriateness, and costs of various treatment forms for specific patient groups.

(c) Grants and contracts

In carrying out the duties established in subsection (b) of this section, the Director may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities.

(July 1, 1944, ch. 373, title V, § 507, as added Pub. L. 102–321, title I, § 107(2), July 10, 1992, 106 Stat. 335.)

PRIOR PROVISIONS

A prior section 290bb, act July 1, 1944, ch. 373, title V, § 510, formerly Pub. L. 91–616, title V, § 501, as added Pub. L. 94–371, § 7, July 26, 1976, 90 Stat. 1038; amended Pub. L. 95–622, title II, § 268(c), (d), Nov. 9, 1978, 92 Stat. 3437; Pub. L. 96–180, § 14, Jan. 2, 1980, 93 Stat. 1305; renumbered § 510 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(9), 97 Stat. 179; Oct. 19, 1984, Pub. L. 98–509, title II, §§ 205(a)(1), 206(c)(1), 98 Stat. 2361, 2362, related to encouragement of alcohol abuse and alcoholism research, prior to repeal by Pub. L. 102–321, § 122(b)(1). Prior to repeal, section 510(b) of act July 1, 1944, was renumbered section 464H(b) by Pub. L. 102–321 and transferred to section 285n(b) of this title.

A prior section 507 of act July 1, 1944, which was classified to section 290aa–5 of this title, was renumbered section 504 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290aa–3 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 290bb–1. Residential treatment programs for pregnant and postpartum women

(a) In general

The Director of the Center for Substance Abuse Treatment shall provide awards of grants, cooperative agreement, or contracts to public and nonprofit private entities for the purpose of providing to pregnant and postpartum women treatment for substance abuse through programs in which, during the course of receiving treatment—

(1) the women reside in facilities provided by the programs;

(2) the minor children of the women reside with the women in such facilities, if the women so request; and

(3) the services described in subsection (d) of this section are available to or on behalf of the women.

(b) Availability of services for each participant

A funding agreement for an award under subsection (a) of this section for an applicant is that, in the program operated pursuant to such subsection—

(1) treatment services and each supplemental service will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

(2) the services will be made available to each woman admitted to the program.

(c) Individualized plan of services

A funding agreement for an award under subsection (a) of this section for an applicant is that—

(1) in providing authorized services for an eligible woman pursuant to such subsection, the applicant will, in consultation with the women, prepare an individualized plan for the provision to the woman of the services; and

(2) treatment services under the plan will include—

(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

(B) follow-up services to assist the woman in preventing a relapse into such abuse.

(d) Required supplemental services

In the case of an eligible woman, the services referred to in subsection (a)(3) of this section are as follows:

(1) Prenatal and postpartum health care.

(2) Referrals for necessary hospital services.

(3) For the infants and children of the woman—

(A) pediatric health care, including treatment for any perinatal effects of maternal substance abuse and including screenings regarding the physical and mental development of the infants and children;

(B) counseling and other mental health services, in the case of children; and

(C) comprehensive social services.

(4) Providing supervision of children during periods in which the woman is engaged in therapy or in other necessary health or rehabilitative activities.

(5) Training in parenting.

(6) Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

(7) Counseling on domestic violence and sexual abuse.

(8) Counseling on obtaining employment, including the importance of graduating from a secondary school.

(9) Reasonable efforts to preserve and support the family units of the women, including promoting the appropriate involvement of parents and others, and counseling the children of the women.

(10) Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the women and the children of the women.

(11) Case management services, including—

(A) assessing the extent to which authorized services are appropriate for the women and their children;

(B) in the case of the services that are appropriate, ensuring that the services are provided in a coordinated manner; and

(C) assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, housing services, employment services, educational services, or social services.

(e) Minimum qualifications for receipt of award

(1) Certification by relevant State agency

With respect to the principal agency of the State involved that administers programs relating to substance abuse, the Director may make an award under subsection (a) of this section to an applicant only if the agency has certified to the Director that—

(A) the applicant has the capacity to carry out a program described in subsection (a) of this section;

(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

(2) Status as medicaid provider

(A) Subject to subparagraphs (B) and (C), the Director may make an award under subsection (a) of this section only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(i) the applicant for the award will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

(ii) A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(C) With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age. For purposes of the preceding sentence, the term ''institution for mental diseases'' has the meaning given such term in section 1905(i) of the Social Security Act [42 U.S.C. 1396d(i)].

(f) Requirement of matching funds

(1) In general

With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a) of this section, a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

(2) Determination of amount contributed

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

(g) Outreach

A funding agreement for an award under subsection (a) of this section for an applicant is that the applicant will provide outreach services in the community involved to identify women who are engaging in substance abuse and to encourage the women to undergo treatment for such abuse.

(h) Accessibility of program; cultural context of services

A funding agreement for an award under subsection (a) of this section for an applicant is that—

(1) the program operated pursuant to such subsection will be operated at a location that is accessible to low-income pregnant and postpartum women; and

(2) authorized services will be provided in the language and the cultural context that is most appropriate.

(i) Continuing education

A funding agreement for an award under subsection (a) of this section is that the applicant involved will provide for continuing education in treatment services for the individuals who

will provide treatment in the program to be operated by the applicant pursuant to such subsection.

(j) Imposition of charges

A funding agreement for an award under subsection (a) of this section for an applicant is that, if a charge is imposed for the provision of authorized services to on[1] behalf of an eligible woman, such charge—

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the woman involved; and

(3) will not be imposed on any such woman with an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(k) Reports to Director

A funding agreement for an award under subsection (a) of this section is that the applicant involved will submit to the Director a report—

(1) describing the utilization and costs of services provided under the award;

(2) specifying the number of women served, the number of infants served, and the type and costs of services provided; and

(3) providing such other information as the Director determines to be appropriate.

(*l*) Requirement of application

The Director may make an award under subsection (a) of this section only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

(m) Equitable allocation of awards

In making awards under subsection (a) of this section, the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

(n) Duration of award

The period during which payments are made to an entity from an award under subsection (a) of this section may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of awards under such subsection that may be made to an entity.

(*o*) Evaluations; dissemination of findings

The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a) of this section. The Director shall disseminate to the States the findings made as a result of the evaluations.

[1] So in original. Probably should be preceded by ''or''.

(p) Reports to Congress

Not later than October 1, 1994, the Director shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing programs carried out pursuant to this section. Every 2 years thereafter, the Director shall prepare a report describing such programs carried out during the preceding 2 years, and shall submit the report to the Administrator for inclusion in the biennial report under section 290aa(k) of this title. Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) of this section during the period with respect to which the report is prepared.

(q) Definitions

For purposes of this section:

(1) The term ''authorized services'' means treatment services and supplemental services.

(2) The term ''eligible woman'' means a woman who has been admitted to a program operated pursuant to subsection (a) of this section.

(3) The term ''funding agreement under subsection (a)'' of this section, with respect to an award under subsection (a) of this section, means that the Director may make the award only if the applicant makes the agreement involved.

(4) The term ''treatment services'' means treatment for substance abuse, including the counseling and services described in subsection (c)(2) of this section.

(5) The term ''supplemental services'' means the services described in subsection (d) of this section.

(r) Authorization of appropriations

(1) In general

For the purpose of carrying out this section and section 290bb–2 of this title, there are authorized to be appropriated $100,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Transfer

For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

(3) Rule of construction

The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

(July 1, 1944, ch. 373, title V, § 508, as added Pub. L. 102–321, title I, § 108(a), July 10, 1992, 106 Stat. 336.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title.

For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 290bb–1, act July 1, 1944, ch. 373, title V, § 511, formerly Pub. L. 91–616, title V, § 503, formerly § 504, as added Pub. L. 94–371, § 7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 95–622, title I, § 110(d), Nov. 9, 1978, 92 Stat. 3420; Pub. L. 96–180, § 16, Jan. 2, 1980, 93 Stat. 1305; renumbered § 503 of Pub. L. 91–616 and amended Pub. L. 97–35, title IX, § 965(b), (c), Aug. 13, 1981, 95 Stat. 594; renumbered § 511 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(9), 97 Stat. 179; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4008, 100 Stat. 3207–115, which related to National Alcohol Research Centers and a mandatory grant for research of the effects of alcohol on the elderly, was renumbered section 464J of title IV of act July 1, 1944, by Pub. L. 102–321 and transferred to section 285n–2 of this title.

A prior section 508 of act July 1, 1944, which was classified to section 290aa–6 of this title, was renumbered section 515 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290bb–21 of this title.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

TRANSITIONAL AND SAVINGS PROVISIONS

Section 108(b) of Pub. L. 102–321 provided that:

''(1) SAVINGS PROVISION FOR COMPLETION OF CURRENT PROJECTS.—

''(A) Subject to paragraph (2), in the case of any project for which a grant under former section 509F [former 42 U.S.C. 290aa–13] was provided for fiscal year 1992, the Secretary of Health and Human Services may continue in effect the grant for fiscal year 1993 and subsequent fiscal years, subject to the duration of any such grant not exceeding the period determined by the Secretary in first approving the grant. Subject to approval by the Administrator, such grants may be administered by the Center for Substance Abuse Prevention.

''(B) Subparagraph (A) shall apply with respect to a project notwithstanding that the project is not eligible to receive a grant under current section 508 or 509 [42 U.S.C. 290bb–1, 290bb–2].

''(2) LIMITATION ON FUNDING FOR CERTAIN PROJECTS.—With respect to the amounts appropriated for any fiscal year under current section 508, any such amounts appropriated in excess of the amount appropriated for fiscal year 1992 under former section 509F shall be available only for grants under current section 508.

''(3) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'former section 509F' means section 509F of the Public Health Service Act [former 42 U.S.C. 290aa–13], as in effect for fiscal year 1992.

''(B) The term 'current section 508' means section 508 of the Public Health Service Act [42 U.S.C. 290bb–1], as in effect for fiscal year 1993 and subsequent fiscal years.

''(C) The term 'current section 509' means section 509 of the Public Health Service Act [42 U.S.C. 290bb–2], as in effect for fiscal year 1993 and subsequent fiscal years.''

§ 290bb–1a. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title V, § 512, as added Oct. 19, 1984, Pub. L. 98–509, title II, § 206(a), 98 Stat. 2361, and amended, which related to alcohol abuse and alcoholism demonstration projects, was renumbered section 506 of act July 1, 1944, by Pub. L. 102–321, title I, § 106(a), July 10, 1992, 106 Stat. 334, and transferred to section 290aa–5 of this title.

§ 290bb–2. Outpatient treatment programs for pregnant and postpartum women

(a) Grants

The Secretary, acting through the Director of the Treatment Center, shall make grants to establish projects for the outpatient treatment of substance abuse among pregnant and postpartum women, and in the case of conditions arising in the infants of such women as a result of such abuse by the women, the outpatient treatment of the infants for such conditions.

(b) Prevention

Entities receiving grants under this section shall engage in activities to prevent substance abuse among pregnant and postpartum women.

(c) Evaluation

The Secretary shall evaluate projects carried out under subsection (a) of this section and shall disseminate to appropriate public and private entities information on effective projects.

(July 1, 1944, ch. 373, title V, § 509, as added Pub. L. 102–321, title I, § 108(a), July 10, 1992, 106 Stat. 341.)

PRIOR PROVISIONS

A prior section 290bb–2, act July 1, 1944, ch. 373, title V, § 513, formerly § 512, formerly Pub. L. 91–616, title V, § 504, formerly § 503, as added Pub. L. 94–371, § 7, July 26, 1976, 90 Stat. 1039; amended Pub. L. 96–180, § 15, Jan. 2, 1980, 93 Stat. 1305; renumbered § 504 of Pub. L. 91–616 and amended Pub. L. 97–35, title IX, § 965(a), (c), Aug. 13, 1981, 95 Stat. 594; Pub. L. 97–414, § 9(e), Jan. 4, 1983, 96 Stat. 2064; renumbered § 512 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(9), 97 Stat. 179; renumbered § 513 and amended Oct. 19, 1984, Pub. L. 98–509, title II, §§ 206(a), 207(a), 98 Stat. 2361, 2362; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4010(a), 100 Stat. 3207–115; July 22, 1987, Pub. L. 100–77, title VI, § 613(c), 101 Stat. 524; Nov. 4, 1988, Pub. L. 100–607, title VIII, § 822, 102 Stat. 3171; Nov. 7, 1988, Pub. L. 100–628, title VI, § 622, 102 Stat. 3244; Nov. 18, 1988, Pub. L. 100–690, title II, § 2056(a), 102 Stat. 4211; Aug. 16, 1989, Pub. L. 101–93, § 5(t)(1), 103 Stat. 615; Nov. 29, 1990, Pub. L. 101–645, title V, § 522, 104 Stat. 4734, authorized appropriations to carry out alcohol abuse and alcoholism research, prior to repeal by Pub. L. 102–321, § 122(d)[(e)].

A prior section 509 of act July 1, 1944, which was classified to section 290aa–7 of this title, was renumbered section 516 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290bb–22 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290bb–1 of this title.

§ 290bb–3. Demonstration projects of national significance

(a) Grants for treatment improvement

The Director of the Center for Substance Abuse Treatment shall provide grants to public

and nonprofit private entities for the purpose of establishing demonstration projects that will improve the provision of treatment services for substance abuse.

(b) Nature of projects

Grants under subsection (a) of this section shall be awarded to—

(1) projects that provide treatment to adolescents, female addicts and their children, racial and ethnic minorities, or individuals in rural areas, with preference given to such projects that provide treatment for substance abuse to women with dependent children, which treatment is provided in settings in which both primary health services for the women and pediatric care are available;

(2) projects that provide treatment in exchange for public service;

(3) projects that provide treatment services and which are operated by public and nonprofit private entities receiving grants under section 254b, 254c, 256, 256a[1] of this title,[2] or other public or nonprofit private entities that provide primary health services;

(4) ''treatment campus'' projects that—

(A) serve a significant number of individuals simultaneously;

(B) provide residential, non-community based drug treatment;

(C) provide patients with ancillary social services and referrals to community-based aftercare; and

(D) provide services on a voluntary basis;

(5) projects in large metropolitan areas to identify individuals in need of treatment services and to improve the availability and delivery of such services in the areas;

(6) in the case of drug abusers who are at risk of HIV infection, projects to conduct outreach activities to the individuals regarding the prevention of exposure to and the transmission of the human immunodefiency[3] virus, and to encourage the individuals to seek treatment for such abuse; and

(7) projects to determine the long-term efficacy of the projects described in this section and to disseminate to appropriate public and private entities information on the projects that have been effective.

(c) Preferences in making grants

In awarding grants under subsection (a) of this section, the Director of the Treatment Center shall give preference to projects that—

(1) demonstrate a comprehensive approach to the problems associated with substance abuse and provide evidence of broad community involvement and support; or

(2) initiate and expand programs for the provision of treatment services (including renovation of facilities, but not construction) in localities in which, and among populations for which, there is a public health crisis as a result of the inadequate availability of such services and a substantial rate of substance abuse.

[1] So in original. Probably should be preceded by ''or''.

[2] See References in Text notes below.

[3] So in original. Probably should be ''immunodeficiency''.

(d) Duration of grants

The period during which payments are made under a grant under subsection (a) of this section may not exceed 5 years.

(e) Authorization of appropriations

(1) In general

For the purpose of carrying out this section, there are authorized to be appropriated $175,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994. The amounts so authorized are in addition to any other amounts that are authorized to be appropriated and available for such purpose.

(2) Allocation

Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Treatment Center shall reserve not less than 5 percent for carrying out projects described in subsections (b)(2) and (b)(3) of this section.

(July 1, 1944, ch. 373, title V, § 510, as added Pub. L. 102–321, title I, § 109, July 10, 1992, 106 Stat. 342.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (b)(3), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in subsec. (b)(3), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

PRIOR PROVISIONS

A prior section 510 of act July 1, 1944, was classified to section 290bb of this title, prior to repeal by Pub. L. 102–321, § 122(b)(1). Prior to repeal, section 510(b) of act July 1, 1944, was renumbered section 464H(b) by Pub. L. 102–321 and transferred to section 285n(b) of this title.

Another prior section 510 of act July 1, 1944, which was classified to section 228 of this title, was successively renumbered by subsequent acts and transferred, see section 238g of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 290bb–4. Grants for substance abuse treatment in State and local criminal justice systems

(a) In general

The Director of the Center for Substance Abuse Treatment shall provide grants to public and nonprofit private entities that provide treatment for substance abuse to individuals under criminal justice supervision.

(b) Eligibility

In awarding grants under subsection (a) of this section, the Director shall ensure that the grants are reasonably distributed among—

(1) projects that provide treatment services to individuals who are incarcerated in prisons, jails, or community correctional settings; and

(2) projects that provide treatment services to individuals who are not incarcerated, but who are under criminal justice supervision because of their status as pretrial releasees, post-trial releasees, probationers, parolees, or supervised releasees.

(c) Priority

In awarding grants under subsection (a) of this section, the Director shall give priority to programs commensurate with the extent to which such programs provide, directly or in conjunction with other public or private nonprofit entities, one or more of the following—

(1) a continuum of offender management services as individuals enter, proceed through, and leave the criminal justice system, including identification and assessment, substance abuse treatment, pre-release counseling and pre-release referrals with respect to housing, employment and treatment;

(2) comprehensive treatment services for juvenile offenders;

(3) comprehensive treatment services for female offenders, including related services such as violence counseling, parenting and child development classes, and perinatal care;

(4) outreach services to identify individuals under criminal justice supervision who would benefit from substance abuse treatment and to encourage such individuals to seek treatment; or

(5) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 511, as added Pub. L. 102–321, title I, § 110, July 10, 1992, 106 Stat. 343.)

PRIOR PROVISIONS

A prior section 511 of act July 1, 1944, which was classified to section 290bb–1 of this title, was renumbered section 464J of act July 1, 1944, by Pub. L. 102–321 and transferred to section 285n–2 of this title.

Another prior section 511 of act July 1, 1944, which was classified to section 229 of this title, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 290bb–5. Training in provision of treatment services

(a) In general

The Director of the Center for Substance Abuse Treatment shall develop programs to increase the number of substance abuse treatment professionals and the number of health professionals providing treatment services through the awarding of grants to appropriate public and nonprofit private entities, including agencies of State and local governments, hospitals, schools of medicine, schools of osteopathic medicine, schools of nursing, schools of social work, and graduate programs in marriage and family therapy.

(b) Priority

In awarding grants under subsection (a) of this section, the Director shall give priority to projects that train full-time substance abuse treatment professionals and projects that will receive financial support from public entities for carrying out the projects.

(c) Health professions education

In awarding grants under subsection (a) of this section, the Director may make grants—

(1) to train individuals in the diagnosis and treatment of alcohol abuse and other drug abuse; and

(2) to develop appropriate curricula and materials for the training described in paragraph (1).

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 512, as added Pub. L. 102–321, title I, § 111, July 10, 1992, 106 Stat. 344.)

PRIOR PROVISIONS

A prior section 512 of act July 1, 1944, which was classified to section 290bb–1a of this title, was renumbered section 506 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290aa–5 of this title.

Another prior section 512 of act July 1, 1944, was renumbered section 513 by Pub. L. 98–509 and classified to section 290bb–2 of this title, prior to repeal by Pub. L. 102–321, § 122(d)[(e)].

Another prior section 512 of act July 1, 1944, which was classified to section 229a of this title, was successively renumbered by subsequent acts and transferred, see section 238i of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 290bb–6. Action by Center for Substance Abuse Treatment and States concerning military facilities

(a) Center for Substance Abuse Treatment

The Director of the Center for Substance Abuse Treatment shall—

(1) coordinate with the agencies represented on the Commission on Alternative Utilization of Military Facilities the utilization of military facilities or parts thereof, as identified by such Commission, established under the National Defense Authorization Act of 1989, that could be utilized or renovated to house nonviolent persons for drug treatment purposes;

(2) notify State agencies responsible for the oversight of drug abuse treatment entities and programs of the availability of space at the installations identified in paragraph (1); and

(3) assist State agencies responsible for the oversight of drug abuse treatment entities and programs in developing methods for adapting the installations described in paragraph (1) into residential treatment centers.

(b) States

With regard to military facilities or parts thereof, as identified by the Commission on Alternative Utilization of Military Facilities established under section 3042 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988,[1] that could be utilized or renovated to house nonviolent persons for drug treatment purposes, State agencies responsible for the oversight of drug abuse treatment entities and programs shall—

(1) establish eligibility criteria for the treatment of individuals at such facilities;

(2) select treatment providers to provide drug abuse treatment at such facilities;

(3) provide assistance to treatment providers selected under paragraph (2) to assist such providers in securing financing to fund the cost of the programs at such facilities; and

(4) establish, regulate, and coordinate with the military official in charge of the facility, work programs for individuals receiving treatment at such facilities.

(c) Reservation of space

Prior to notifying States of the availability of space at military facilities under subsection (a)(2) of this section, the Director may reserve space at such facilities to conduct research or demonstration projects.

(July 1, 1944, ch. 373, title V, § 513, formerly § 561, as added Pub. L. 100–690, title II, § 2081(a), Nov. 18, 1988, 102 Stat. 4215; renumbered § 513 and amended Pub. L. 102–321, title I, § 112(a), (b)(1), July 10, 1992, 106 Stat. 344, 345.)

REFERENCES IN TEXT

The National Defense Authorization Act of 1989, referred to in subsec. (a)(1), probably means the National Defense Authorization Act, Fiscal Year 1989, Pub. L. 100–456, Sept. 29, 1988, 102 Stat. 1918. For complete classification of this Act to the Code, see Tables.

Section 3042 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, referred to in subsec. (b), probably should be a reference to section 2819 of the National Defense Authorization Act, Fiscal Year 1989, Pub. L. 100–456, div. B, title XXVIII, Sept. 29, 1988, 102 Stat. 2119, which established the Commission on Alternative Utilization of Military Facilities and which was set out as a note under section 2391 of Title 10, Armed Forces, prior to repeal by Pub. L. 105–261, div. A, title X, § 1031(b), Oct. 17, 1998, 112 Stat. 2123. The Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988 is subtitle A of title II of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4193, and does not contain a section 3042.

CODIFICATION

Section was formerly classified to section 290ff of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 513 of act July 1, 1944, was classified to section 290bb–2 of this title prior to repeal by Pub. L. 102–321, title I, § 122(d)[(e)], July 10, 1992, 106 Stat. 360.

Another prior section 513 of act July 1, 1944, which was classified to section 229b of this title, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–321, § 112(b)(1), substituted provisions relating to Center for Substance Abuse Treatment for provisions relating to National Institute on Drug Abuse in heading and text.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SUBPART 2—CENTER FOR SUBSTANCE ABUSE PREVENTION

§ 290bb–21. Office for Substance Abuse Prevention

(a) Establishment; Director

There is established in the Administration an Office for Substance Abuse Prevention (hereafter referred to in this part as the ''Prevention Center''). The Office[1] shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

(b) Duties of Director

The Director of the Prevention Center shall—

(1) sponsor regional workshops on the prevention of drug and alcohol abuse;

(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse;

(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as ''crack''));

(4) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems;

(5) support clinical training programs for substance abuse counselors and other health professionals involved in drug abuse education, prevention,;[2]

(6) in cooperation with the Director of the Centers for Disease Control and Prevention, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers;

(7) conduct training, technical assistance, data collection, and evaluation activities of programs supported under the Drug Free Schools and Communities Act of 1986;

(8) support the development of model, innovative, community-based programs to discourage alcohol and drug abuse among young people;

(9) prepare for distribution documentary films and public service announcements for television and radio to educate the public concerning the dangers to health resulting from the consumption of alcohol and drugs and, to

[1] See References in Text note below.

[1] So in original. Probably should be ''Prevention Center''.

[2] So in original. Probably should be ''education and prevention;''.

the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements; and

(10) develop and support innovative demonstration programs designed to identify and deter the improper use or abuse of anabolic steroids by students, especially students in secondary schools.

(c) Grants, contracts and cooperative agreements

The Director may make grants and enter into contracts and cooperative agreements in carrying out subsection (b) of this section.

(d) National data base

The Director of the Prevention Center shall establish a national data base providing information on programs for the prevention of substance abuse. The data base shall contain information appropriate for use by public entities and information appropriate for use by nonprofit private entities.

(July 1, 1944, ch. 373, title V, § 515, formerly § 508, as added Pub. L. 99–570, title IV, § 4005(a), Oct. 27, 1986, 100 Stat. 3207–111; amended Pub. L. 100–690, title II, § 2051(a)–(c), Nov. 18, 1988, 102 Stat. 4206; Pub. L. 101–93, § 3(a), Aug. 16, 1989, 103 Stat. 609; Pub. L. 101–647, title XIX, § 1906, Nov. 29, 1990, 104 Stat. 4854; renumbered § 515 and amended Pub. L. 102–321, title I, § 113(b)–(e), July 10, 1992, 106 Stat. 345; Pub. L. 102–531, title III, § 312(d)(10), Oct. 27, 1992, 106 Stat. 3505.)

REFERENCES IN TEXT

The Drug-Free Schools and Communities Act of 1986, referred to in subsec. (b)(7), means title V of Pub. L. 89–10 as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252, which was classified generally to subchapter V (§ 3171 et seq.) of chapter 47 of Title 20, Education, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. For provisions relating to safe and drug-free schools and communities, see section 7101 et seq. of Title 20.

CODIFICATION

Section was formerly classified to section 290aa–6 of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 515 of act July 1, 1944, was classified to section 290cc of this title, prior to repeal by Pub. L. 102–321, title I, § 123(c), July 10, 1992, 106 Stat. 363.

Another prior section 515 of act July 1, 1944, which was classified to section 229d of this title, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–321, § 113(e)(1), substituted ''(hereafter referred to in this part as the 'Prevention Center')'' for ''(hereafter in this part referred to as the 'Office')''.

Subsec. (b). Pub. L. 102–321, § 113(e)(2), substituted ''Prevention Center'' for ''Office'' in introductory provisions.

Subsec. (b)(5). Pub. L. 102–321, § 113(c)(1), struck out ''and intervention'' after ''prevention,''.

Subsec. (b)(6). Pub. L. 102–531, which directed the amendment of ''section 508(b)(6) (42 U.S.C. 290aa–6(b)(6))'' of act July 1, 1944, by substituting ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'', was executed to subsec. (b)(6) of this section to reflect the probable intent of Congress and the intervening renumbering of section 508 of act July 1, 1944, as section 515 of that act by Pub. L. 102–321, § 113(b)(2).

Subsec. (b)(9). Pub. L. 102–321, § 113(c)(4), inserted ''and'' after semicolon at end.

Subsec. (b)(10) to (12). Pub. L. 102–321, § 113(c)(2)–(4), redesignated par. (12) as (10) and struck out former pars. (10) and (11) which read as follows:

''(10)(A) provide assistance to communities to develop comprehensive long-term strategies for the prevention of substance abuse; and

''(B) evaluate the success of different community approaches toward the prevention of substance abuse;

''(11) through schools of health professions, schools of allied health professions, schools of nursing, and schools of social work, carry out programs—

''(A) to train individuals in the diagnosis and treatment of alcohol and drug abuse; and

''(B) to develop appropriate curricula and materials for the training described in subparagraph (A); and''.

Subsec. (d). Pub. L. 102–321, § 113(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(1) For the purpose of carrying out this section and sections 290aa–7, 290aa–8, and 290aa–13 of this title, there are authorized to be appropriated $95,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

''(2) Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Secretary shall make available not less than $5,000,000 to carry out paragraphs (5) and (11) of subsection (b) of this section.''

1990—Subsec. (b)(12). Pub. L. 101–647 added par. (12).

1989—Subsec. (b)(11)(B). Pub. L. 101–93, § 3(a)(2), substituted ''subparagraph (A)'' for ''subparagraph (a)''.

Subsec. (d)(1). Pub. L. 101–93, § 3(a)(1), inserted a comma after ''290aa–13 of this title''.

1988—Subsec. (b)(5). Pub. L. 100–690, § 2051(b)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''support programs of clinical training of substance abuse counselors and other health professionals;''.

Subsec. (b)(10). Pub. L. 100–690, § 2051(b)(2) added par. (10).

Subsec. (b)(11). Pub. L. 100–690, § 2051(c), added par. (11).

Subsec. (d). Pub. L. 100–690, § 2051(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Of the amounts available under the second sentence of section 300y(a) of this title to carry out this section and section 290aa–8 of this title, $20,000,000 shall be available to carry out section 290aa–8 of this title.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–35 of this title.

§ 290bb–22. Community programs

(a) In general

The Secretary, acting through the Director of the Prevention Center, shall—

(1) provide assistance to communities to develop comprehensive long-term strategies for the prevention of substance abuse; and

(2) evaluate the success of different community approaches toward the prevention of such abuse.

(b) Strategies for reducing use

The Director of the Prevention Center shall ensure that strategies developed under subsection (a)(1) of this section include strategies

for reducing the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

(c) Authorization of appropriations

For the purpose of carrying out subsection (a) of this section, there are authorized to be appropriated $120,000,000 for fiscal year 1993, such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 516, formerly § 509, as added Pub. L. 99–570, title IV, § 4005(a), Oct. 27, 1986, 100 Stat. 3207–112; renumbered § 516 and amended Pub. L. 102–321, title I, § 113(f), July 10, 1992, 106 Stat. 345.)

CODIFICATION

Section was formerly classified to section 290aa–7 of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 516 of act July 1, 1944, was classified to section 290cc–1 of this title, prior to repeal by Pub. L. 102–321, title I, § 123(c), July 10, 1992, 106 Stat. 363.

AMENDMENTS

1992—Pub. L. 102–321, § 113(f)(4), amended section generally, substituting provisions relating to community programs for provisions relating to alcohol and drug abuse information clearinghouse.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

§ 290bb–23. Prevention, treatment, and rehabilitation model projects for high risk youth

(a) Grants to public and nonprofit private entities

The Secretary, through the Director of the Prevention Center, shall make grants to public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among high risk youth.

(b) Priority of projects

(1) In making grants for drug abuse and alcohol abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act [42 U.S.C. 9831 et seq.], children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

(2) In making grants for drug abuse and alcohol abuse treatment and rehabilitation projects under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

(3) In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects to develop innovative models with multiple, coordinated services for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

(4) In making grants under this section, the Secretary shall give priority to applications for projects to demonstrate effective models with multiple, coordinated services which may be replicated and which are for the prevention or for the treatment and rehabilitation of drug abuse or alcohol abuse by high risk youth.

(5) In making grants under this section, the Secretary shall give priority to applications that employ research designs adequate for evaluating the effectiveness of the program.

(c) Strategies for reducing use

The Secretary shall ensure that projects under subsection (a) of this section include strategies for reducing the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

(d) Regionally equal distribution of grants

To the extent feasible, the Secretary shall make grants under this section in all regions of the United States, and shall ensure the distribution of grants under this section among urban and rural areas.

(e) Application for grants

In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Secretary, acting through the Office.[1] The Secretary may provide to the Governor of the State the opportunity to review and comment on such application. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

(f) Evaluation of projects

The Director of the Office[1] shall evaluate projects conducted with grants under this section.

(g) "High risk youth" defined

For purposes of this section, the term ''high risk youth'' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(1) is identified as a child of a substance abuser;

(2) is a victim of physical, sexual, or psychological abuse;

(3) has dropped out of school;

(4) has become pregnant;

(5) is economically disadvantaged;

(6) has committed a violent or delinquent act;

(7) has experienced mental health problems;

(8) has attempted suicide;

(9) has experienced long-term physical pain due to injury; or

(10) has experienced chronic failure in school.

(h) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated

[1] So in original. Probably should be ''Prevention Center''.

$70,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 517, formerly § 509A, as added Pub. L. 99–570, title IV, § 4005(a), Oct. 27, 1986, 100 Stat. 3207–113; amended Pub. L. 100–690, title II, § 2051(d), Nov. 18, 1988, 102 Stat. 4206; renumbered § 517 and amended Pub. L. 102–321, title I, § 114, July 10, 1992, 106 Stat. 346.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (b)(1), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

CODIFICATION

Section was formerly classified to section 290aa–8 of this title prior to renumbering by Pub. L. 102–321.

PRIOR PROVISIONS

A prior section 517 of act July 1, 1944, was classified to section 290cc–2 of this title, prior to repeal by Pub. L. 102–321, title I, § 123(c), July 10, 1992, 106 Stat. 363.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–321, § 114(d), substituted ''Prevention Center'' for ''Office''.

Subsecs. (c) to (g). Pub. L. 102–321, § 114(b), added subsec. (c) and redesignated former subsecs. (c) through (f) as (d) through (g), respectively.

Subsec. (h). Pub. L. 102–321, § 114(c), added subsec. (h).

1988—Subsec. (b)(5). Pub. L. 100–690, § 2051(d)(1), added par. (5).

Subsec. (f)(9). Pub. L. 100–690, § 2051(d)(2)(B), amended par. (9) generally, substituting ''has experienced long-term physical pain due to injury; or'' for ''is disabled by injuries.''

Subsec. (f)(10). Pub. L. 100–690, § 2051(d)(2)(C), added par. (10).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

§ 290bb–24. Employee assistance programs

(a) In general

The Director of the Prevention Center may make grants to public and nonprofit private entities for the purpose of assisting business organizations in establishing employee assistance programs to provide appropriate services for employees of the organizations regarding substance abuse, including education and prevention services and referrals for treatment.

(b) Certain requirements

A business organization may not be assisted under subsection (a) of this section if the organization has an employee assistance program in operation. The organization may receive such assistance only if the organization lacks the financial resources for operating such a program.

(c) Special consideration for certain small businesses

In making grants under subsection (a) of this section, the Director of the Prevention Office shall give special consideration to business organizations with 50 or fewer employers.[1]

(d) Consultation and technical assistance

In the case of small businesses being assisted under subsection (a) of this section, the Secretary shall consult with the entities and organizations involved and provide technical assistance and training with respect to establishing and operating employee assistance programs in accordance with this subtitle.[2] Such assistance shall include technical assistance in establishing workplace substance abuse programs.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title V, § 518, as added Pub. L. 102–321, title I, § 171, July 10, 1992, 106 Stat. 377.)

REFERENCES IN TEXT

This subtitle, referred to in subsec. (d), probably means subtitle F of title I of Pub. L. 102–321, which enacted this section. Neither title V of act July 1, 1944, which is classified to this subchapter, nor any other title of that act, contains subtitles.

PRIOR PROVISIONS

A prior section 518 of act July 1, 1944, was classified to section 290cc–11 of this title, prior to repeal by Pub. L. 102–321, § 120(b)(3).

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SUBPART 3—CENTER FOR MENTAL HEALTH SERVICES

§ 290bb–31. Center for Mental Health Services

(a) Establishment

There is established in the Administration a Center for Mental Health Services (hereafter in this section referred to as the ''Center''). The Center shall be headed by a Director (hereafter in this section referred to as the ''Director'') appointed by the Secretary from among individuals with extensive experience or academic qualifications in the provision of mental health services or in the evaluation of mental health service systems.

(b) Duties

The Director of the Center shall—

(1) design national goals and establish national priorities for—

(A) the prevention of mental illness; and

(B) the promotion of mental health;

(2) encourage and assist local entities and State agencies to achieve the goals and priorities described in paragraph (1);

(3) develop and coordinate Federal prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health;

(4) develop improved methods of treating individuals with mental health problems and im-

[1] So in original. Probably should be ''employees.''

[2] See References in Text note below.

proved methods of assisting the families of such individuals;

(5) administer the mental health services block grant program authorized in section 300x of this title;

(6) promote policies and programs at Federal, State, and local levels and in the private sector that foster independence and protect the legal rights of persons with mental illness, including carrying out the provisions of the Protection and Advocacy of Mentally Ill Individuals Act [42 U.S.C. 10801 et seq.];

(7) carry out the programs authorized under sections 290bb–32 and 290cc–21 of this title, including the Community Support Program and the Child and Adolescent Service System Programs;

(8) carry out responsibilities for the Human Resource Development program, and programs of clinical training for professional and paraprofessional personnel pursuant to section 242a of this title;

(9) conduct services-related assessments, including evaluations of the organization and financing of care, self-help and consumer-run programs, mental health economics, mental health service systems, rural mental health, and improve the capacity of State to conduct evaluations of publicly funded mental health programs;

(10) establish a clearinghouse for mental health information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, treatment and prevention service providers, and the general public, including information concerning the practical application of research supported by the National Institute of Mental Health that is applicable to improving the delivery of services;

(11) provide technical assistance to public and private entities that are providers of mental health services;

(12) monitor and enforce obligations incurred by community mental health centers pursuant to the Community Mental Health Centers Act (as in effect prior to the repeal of such Act on August 13, 1981, by section 902(e)(2)(B) of Public Law 97–35 (95 Stat. 560));

(13) conduct surveys with respect to mental health, such as the National Reporting Program; and

(14) assist States in improving their mental health data collection.

(c) Grants and contracts

In carrying out the duties established in subsection (b) of this section, the Director may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities.

(July 1, 1944, ch. 373, title V, § 520, as added Pub. L. 102–321, title I, § 115(a), July 10, 1992, 106 Stat. 346.)

REFERENCES IN TEXT

The Protection and Advocacy of Mentally Ill Individuals Act, referred to in subsec. (b)(6), probably means the Protection and Advocacy for Mentally Ill Individuals Act of 1986, which is Pub. L. 99–319, May 23, 1986, 100 Stat. 478, which is classified generally to chapter 114 (§ 10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

The Community Mental Health Centers Act, referred to in subsec. (b)(12), is title II of Pub. L. 88–164, as added by Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309, and amended, which was classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title prior to its repeal by Pub. L. 97–35, title IX, § 902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560.

PRIOR PROVISIONS

A prior section 520 of act July 1, 1944, which was classified to section 290cc–13 of this title, was renumbered section 520A of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290bb–32 of this title.

Another prior section 520 of act July 1, 1944, was renumbered section 519 by Pub. L. 101–93 and classified to section 290cc–12 of this title, prior to repeal by Pub. L. 102–321, § 117.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

MENTAL HEALTH SERVICES FOR INDIVIDUALS IN CORRECTIONAL FACILITIES

Section 703 of Pub. L. 102–321 directed Secretary of Health and Human Services, acting through Director of Center for Mental Health Services, not later than July 10, 1992, to prepare and submit to Congress a report concerning most effective methods for providing mental health services to individuals who come into contact with the criminal justice system, including those individuals incarcerated in correctional facilities (including local jails and detention facilities), and the obstacles to providing such services, with such study to be carried out in consultation with the National Institute of Mental Health, the Department of Justice, and other appropriate public and private entities.

§ 290bb–32. Establishment of grant programs for demonstration projects

(a) Seriously mentally ill individuals, and children and adolescents with serious emotional and mental disturbances

(1) In general

The Secretary, acting through the Director of the Center for Mental Health Services, may make grants to States, political subdivisions of States, and nonprofit private agencies for—

(A) mental health services demonstration projects for the planning, coordination and improvement of community services (including outreach and consumer-run self-help services) for seriously mentally ill individuals and their families, seriously emotionally and mentally disturbed children and youth and their families, and seriously mentally ill homeless and elderly individuals;

(B) demonstration projects for the prevention of youth suicide;

(C) demonstration projects for the improvement of the recognition, assessment, treatment and clinical management of depressive disorders;

(D) demonstration projects for programs to prevent the occurrence of sex offenses, and for the provision of treatment and psychological assistance to the victims of sex offenses; and

(E) demonstration projects for programs to provide mental health services to victims of family violence.

(2) Mental health services

Mental health services provided under paragraph (1)(A) should encompass a range of delivery systems designed to permit individuals to receive treatment in the most therapeutically appropriate, least restrictive setting. Grants shall be awarded under such paragraph for—

(A) research demonstration programs concerning such services; and

(B) systems improvements to assist States and local entities to develop appropriate comprehensive mental health systems for adults with serious long-term mental illness and children and adolescents with serious emotional and mental disturbance.

(b) Individuals at risk of mental illness

(1) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit agencies for prevention services demonstration projects for the provision of prevention services for individuals who, in the determination of the Secretary, are at risk of developing mental illness.

(2) Demonstration projects under paragraph (1) may include—

(A) prevention services for populations at risk of developing mental illness, particularly displaced workers, young children, and adolescents;

(B) the development and dissemination of education materials;

(C) the sponsoring of local, regional, or national workshops or conferences;

(D) the conducting of training programs with respect to the provision of mental health services to individuals described in paragraph (1); and

(E) the provision of technical assistance to providers of such services.

(c) Limitation on duration of grant

The Secretary may make a grant under subsection (a) or (b) of this section for not more than five consecutive one-year periods.

(d) Limitation on administrative expenses

The Secretary may not make a grant under subsection (a) or (b) of this section to an applicant unless the applicant agrees that not more than 10 percent of such a grant will be expended for administrative expenses.

(e) Authorizations of appropriations

(1) For the purposes of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available 15 percent for demonstration projects to carry out the purpose of this section in rural areas.

(July 1, 1944, ch. 373, title V, § 520A, as added Pub. L. 100–690, title II, § 2057(3), Nov. 18, 1988, 102 Stat. 4212; renumbered § 520 and amended Pub. L. 101–93, § 3(e), (g), Aug. 16, 1989, 103 Stat. 610, 611; Pub. L. 101–639, § 2, Nov. 28, 1990, 104 Stat. 4600; renumbered § 520A and amended Pub. L. 102–321, title I, § 116, July 10, 1992, 106 Stat. 348.)

CODIFICATION

Section was formerly classified to section 290cc–13 of this title prior to renumbering by Pub. L. 102–321.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–321, § 116(b)(1), substituted ''Center for Mental Health Services'' for ''National Institute of Mental Health''.

Subsec. (c). Pub. L. 102–321, § 116(b)(2), substituted ''five'' for ''three''.

Subsec. (e)(1). Pub. L. 102–321, § 116(b)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purposes of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.''

1990—Subsec. (a). Pub. L. 101–639, § 2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and nonprofit private agencies—

''(1) for mental health services demonstration projects for the planning, coordination, and improvement of community services (including outreach and self-help services) for seriously mentally ill individuals, seriously emotionally disturbed children and youth, elderly individuals, and homeless seriously mentally ill individuals, and for the conduct of research concerning such services;

''(2) for demonstration projects for the prevention of youth suicide;

''(3) for demonstration projects for the improvement of the recognition, assessment, treatment, and clinical management of depressive disorders; and

''(4) for demonstration projects for treatment and prevention relating to sex offenses.''

Subsec. (e)(1). Pub. L. 101–639, § 2(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purposes of carrying out this section, there are authorized to be appropriated $60,000,000 for each of the fiscal years 1989 and 1990.''

1989—Pub. L. 101–93 substituted ''programs'' for ''program'' in section catchline and in subsec. (a) substituted ''seriously mentally ill'' for ''chronically mentally ill'' wherever appearing, redesignated par. (5) as (4), and inserted ''for'' before ''demonstration'' in pars. (2), (3), and (4).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS FOR HOMELESS INDIVIDUALS WHO ARE CHRONICALLY MENTALLY ILL

Pub. L. 100–77, title VI, § 612, July 22, 1987, 101 Stat. 523, as amended by Pub. L. 100–607, title VIII, § 821, Nov. 4, 1988, 102 Stat. 3171; Pub. L. 100–628, title VI, § 621, Nov. 7, 1988, 102 Stat. 3244; Pub. L. 101–93, § 5(t)(1), (2), Aug. 16, 1989, 103 Stat. 615; Pub. L. 101–645, title V, § 521, Nov. 29, 1990, 104 Stat. 4734, provided that:

''(a) IN GENERAL.—For payments pursuant to section 520 [now 520A] of the Public Health Service Act [this section], there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993, in addition to any other amounts authorized to be appropriated for such payments for each of such fiscal years. Such additional amounts shall be available only for the provision of community-based mental health services to homeless individuals who are chronically mentally ill.

''(b) AVAILABILITY.—Amounts paid to a grantee under section 520 [now 520A] of the Public Health Service Act pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the grantee during the succeeding fiscal year for the purposes for which the payments were made.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290bb–31 of this title.

§ 290bb–33. Demonstration projects for individuals with positive test results

(a) In general

The Secretary, acting through the Director of the Center for Mental Health Services, may make grants to public and nonprofit private entities for demonstration projects for the development, establishment, or expansion of programs to provide counseling and mental health treatment—

(1) for individuals who experience serious psychological reactions as a result of being informed that the results of testing for the etiologic agent for acquired immune deficiency syndrome indicate that the individuals are infected with such etiologic agent; and

(2) for the families of such individuals, and for others, who experience serious psychological reactions as a result of being informed of the results of such testing of such individuals.

(b) Preferences in making grants

In making grants under subsection (a) of this section, the Secretary shall give preference to applicants that are based at, or have relationships with, entities providing comprehensive health services to individuals who are infected with the etiologic agent for acquired immune deficiency syndrome.

(c) Requirement of provision of information on prevention

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees that counseling provided pursuant to such subsection will include counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

(d) Authority for training

A grantee under subsection (a) of this section may expend the grant to train individuals to provide the services described in such subsection.

(e) Requirement of identification of needs and objectives

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant submits to the Secretary—

(1) information demonstrating that the applicant has, with respect to mental health treatment related to the etiologic agent for acquired immune deficiency syndrome, identified the need for such treatment in the area in which the program will be developed, established, or expanded; and

(2) a description of—

(A) the objectives established by the applicant for the conduct of the program; and

(B) the method the applicant will use to evaluate the activities conducted under the program and to determine the extent to which such objectives have been met.

(f) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application contains the information required to be submitted under subsection (e) of this section; and

(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(g) Requirement of minimum number of grants for fiscal year 1989

Subject to the extent of amounts made available in appropriations Acts, the Secretary shall, for fiscal year 1989, make not less than 6 grants under subsection (a) of this section.

(h) Technical assistance and administrative support

The Secretary, acting through the Director of the National Institute of Mental Health, may provide technical assistance and administrative support to grantees under subsection (a) of this section.

(i) "Mental health treatment" defined

For purposes of this section, the term ''mental health treatment'' means individual, family or group services designed to alleviate distress, improve functional ability, or assist in changing dysfunctional behavior patterns.

(j) 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 1989 through 1994.

(July 1, 1944, ch. 373, title V, § 520B, formerly title XXIV, § 2441, as added Pub. L. 100–607, title II, § 211, Nov. 4, 1988, 102 Stat. 3092; renumbered title V, § 520B, and amended Pub. L. 102–321, title I, § 118(a), (b)(2), July 10, 1992, 106 Stat. 348, 349.)

CODIFICATION

Section was formerly classified to section 300dd–41 of this title prior to renumbering by Pub. L. 102–321.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–321, § 118(b)(2)(A), inserted ''acting through the Director of the Center for Mental Health Services,'' after ''Secretary'' in introductory provisions.

Subsec. (j). Pub. L. 102–321, § 118(b)(2)(B), substituted ''1994'' for ''1991''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

§§ 290cc to 290cc–2, 290cc–11, 290cc–12. Repealed. Pub. L. 102–321, title I, §§ 117, 120(b)(3), 123(c), July 10, 1992, 106 Stat. 348, 358, 363

Section 290cc, act July 1, 1944, ch. 373, title V, § 515, formerly Pub. L. 92–255, title V, § 503, as added Pub. L.

94–237, § 13(a), Mar. 19, 1976, 90 Stat. 248; amended Pub. L. 95–461, § 2(c), Oct. 14, 1978, 92 Stat. 1268; Pub. L. 96–181, § 12, Jan. 2, 1980, 93 Stat. 1315; Pub. L. 97–35, title IX, § 972(a), (b), Aug. 13, 1981, 95 Stat. 597; renumbered § 515 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(11), 97 Stat. 180; Oct. 19, 1984, Pub. L. 98–509, title II, §§ 205(a)(2), 206(c)(2), 207(b), 98 Stat. 2361–2363; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4009, 100 Stat. 3207–115; Nov. 18, 1988, Pub. L. 100–690, title II, § 2058(a)(3), 102 Stat. 4214, related to encouraging drug abuse research.

Section 290cc–1, act July 1, 1944, ch. 373, title V, § 516, as added Oct. 19, 1984, Pub. L. 98–509, title II, § 206(b), 98 Stat. 2362; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2058(a)(4), 102 Stat. 4214, related to drug abuse demonstration projects.

Section 290cc–2, act July 1, 1944, ch. 373, title V, § 517, as added Oct. 19, 1984, Pub. L. 98–509, title II, § 207(b), 98 Stat. 2363; amended Oct. 27, 1986, Pub. L. 99–570, title IV, § 4010(b), 100 Stat. 3207–115; Nov. 18, 1988, Pub. L. 100–690, title II, § 2056(b), 102 Stat. 4211; Aug. 15, 1990, Pub. L. 101–374, § 3(a), 104 Stat. 457, authorized appropriations for drug abuse research.

Section 290cc–11, act July 1, 1944, ch. 373, title V, § 518, formerly § 519, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2057(3), 102 Stat. 4212; renumbered § 518, Aug. 16, 1989, Pub. L. 101–93, § 3(e)(1)(A), 103 Stat. 610, related to establishment of a mental health research program.

Section 290cc–12, act July 1, 1944, ch. 373, title V, § 519, formerly § 520, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2057(3), 102 Stat. 4212; renumbered § 519, Aug. 16, 1989, Pub. L. 101–93, § 3(e)(1)(A), 103 Stat. 610, related to National Mental Health Education Program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

§ 290cc–13. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title V, § 520, formerly § 520A, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2057(3), 102 Stat. 4212, and amended, which related to establishment of grant programs for demonstration projects for drug abuse research, was renumbered section 520A of act July 1, 1944 by Pub. L. 102–321, title I, § 116(a), July 10, 1992, 106 Stat. 348, and transferred to section 290bb–32 of this title.

PART C—PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS

§ 290cc–21. Formula grants to States

For the purpose of carrying out section 290cc–22 of this title, the Secretary, acting through the Director of the Center for Mental Health Services, shall for each of the fiscal years 1991 through 1994 make an allotment for each State in an amount determined in accordance with section 290cc–24 of this title. The Secretary shall make payments, as grants, each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 290cc–29 of this title.

(July 1, 1944, ch. 373, title V, § 521, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 516; amended Pub. L. 100–607, title VIII, § 813(1), Nov. 4, 1988, 102 Stat. 3170; Pub. L. 100–628, title VI, § 613(1), Nov. 7, 1988, 102 Stat. 3243; Pub. L. 101–93, § 5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4726; Pub. L. 102–321, title I, §§ 162(1), 163(a)(1), July 10, 1992, 106 Stat. 375; Pub. L. 102–352, § 2(b)(2), Aug. 26, 1992, 106 Stat. 939.)

PRIOR PROVISIONS

A prior section 521 of act July 1, 1944, was renumbered section 542 by section 611(2) of Pub. L. 100–77 and is classified to section 290dd–1 of this title.

AMENDMENTS

1992—Pub. L. 102–352 repealed Pub. L. 102–321, § 163(a)(1), which directed the substitution of "Administrator of the Substance Abuse and Mental Health Services Administration" for "Director of the National Institute of Mental Health".

Pub. L. 102–321, § 162(1), substituted "Center for Mental Health Services" for "National Institute of Mental Health".

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to formula grants to States for provisions relating to establishment of block grant program for services to homeless individuals who are chronically mentally ill.

1989—Subsec. (a). Pub. L. 101–93 directed that subsec. (a) of this section as similarly amended by title VIII of Pub. L. 100–607 and title VI of Pub. L. 100–628 be amended to read as if the amendments made by title VI of Pub. L. 100–628 had not been enacted. See 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100–607 and Pub. L. 100–628 made identical amendments, amending first sentence generally. Prior to amendment, first sentence read as follows: "The Secretary shall for fiscal years 1987 and 1988 allot to each State an amount determined in accordance with sections 290cc–28 and 290cc–29 of this title."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–628 effective Nov. 7, 1988, see section 631 of Pub. L. 100–628, set out as a note under section 254e of this title.

Amendment by Pub. L. 100–607 effective Nov. 4, 1988, see section 831 of Pub. L. 100–607, set out as a note under section 254e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290bb–31, 290cc–22, 290cc–23, 290cc–24, 290cc–25, 290cc–26, 290cc–27, 290cc–28, 290cc–29, 290cc–31, 290cc–32, 290cc–33, 290cc–35 of this title.

§ 290cc–22. Purpose of grants

(a) In general

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that the payments will be expended solely for making grants to political subdivisions of the State, and to nonprofit private entities (including community-based veterans organizations and other community organizations), for the purpose of providing the services specified in subsection (b) of this section to individuals who—

(1)(A) are suffering from serious mental illness; or

(B) are suffering from serious mental illness and from substance abuse; and

(2) are homeless or at imminent risk of becoming homeless.

(b) Specification of services

The services referred to in subsection (a) of this section are—

(1) outreach services;

(2) screening and diagnostic treatment services;

(3) habilitation and rehabilitation services;

(4) community mental health services;

(5) alcohol or drug treatment services;

(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

(7) case management services, including—

(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

(D) referring the eligible homeless individual for such other services as may be appropriate; and

(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act [42 U.S.C. 1383(a)(2)] if the eligible homeless individual is receiving aid under title XVI of such act [42 U.S.C. 1381 et seq.] and if the applicant is designated by the Secretary to provide such services;

(8) supportive and supervisory services in residential settings;

(9) referrals for primary health services, job training, educational services, and relevant housing services;

(10) subject to subsection (h)(1) of this section—

(A) minor renovation, expansion, and repair of housing;

(B) planning of housing;

(C) technical assistance in applying for housing assistance;

(D) improving the coordination of housing services;

(E) security deposits;

(F) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

(G) 1-time rental payments to prevent eviction; and

(11) other appropriate services, as determined by the Secretary.

(c) Coordination

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees to make grants pursuant to subsection (a) of this section only to entities that have the capacity to provide, directly or through arrangements, the services specified in subsection (b) of this section, including coordinating the provision of services in order to meet the needs of eligible homeless individuals who are both mentally ill and suffering from substance abuse.

(d) Special consideration regarding veterans

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that, in making grants to entities pursuant to subsection (a) of this section, the State will give special consideration to entities with a demonstrated effectiveness in serving homeless veterans.

(e) Special rules

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that grants pursuant to subsection (a) of this section will not be made to any entity that—

(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; or

(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

(f) Administrative expenses

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that not more than 4 percent of the payments will be expended for administrative expenses regarding the payments.

(g) Maintenance of effort

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that the State will maintain State expenditures for services specified in subsection (b) of this section at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive such payments.

(h) Restrictions on use of funds

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that—

(1) not more than 20 percent of the payments will be expended for housing services under subsection (b)(10) of this section; and

(2) the payments will not be expended—

(A) to support emergency shelters or construction of housing facilities;

(B) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; or

(C) to make cash payments to intended recipients of mental health or substance abuse services.

(July 1, 1944, ch. 373, title V, § 522, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 516; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4726.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(7)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as

amended. Title XVI of the Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 522 of act July 1, 1944, was renumbered section 543 by section 611(2) of Pub. L. 100–77 and is classified to section 290dd–2 of this title.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to purpose of grants for provisions relating to requirement of submission of application containing certain agreements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290cc–21, 290cc–23, 290cc–25, 290cc–27, 290cc–31, 290cc–34, 290cc–35 of this title.

§ 290cc–23. Requirement of matching funds

(a) In general

The Secretary may not make payments under section 290cc–21 of this title unless, with respect to the costs of providing services pursuant to section 290cc–22 of this title, the State involved agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount that is not less than $1 for each $3 of Federal funds provided in such payments.

(b) Determination of amount

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

(c) Limitation regarding grants by States

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that the State will not require the entities to which grants are provided pursuant to section 290cc–22(a) of this title to provide non-Federal contributions in excess of the non-Federal contributions described in subsection (a) of this section.

(July 1, 1944, ch. 373, title V, § 523, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 517; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4728.)

PRIOR PROVISIONS

A prior section 523 of act July 1, 1944, was renumbered section 544 by section 611(2) of Pub. L. 100–77 and is classified to section 290dd–3 of this title.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), general requirements; and in subsec. (b), determination of amount of non-Federal contribution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290cc–26 of this title.

§ 290cc–24. Determination of amount of allotment

(a) Minimum allotment

The allotment for a State under section 290cc–21 of this title for a fiscal year shall be the greater of—

(1) $300,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(2) an amount determined in accordance with subsection (b) of this section.

(b) Determination under formula

The amount referred to in subsection (a)(2) of this section is the product of—

(1) an amount equal to the amount appropriated under section 290cc–35(a) of this title for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census; and

(B) an amount equal to the population living in urbanized areas of the United States, as indicated by the sum of the respective amounts determined for the States under subparagraph (A).

(July 1, 1944, ch. 373, title V, § 524, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 517; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4728.)

PRIOR PROVISIONS

A prior section 524 of act July 1, 1944, was renumbered section 545 by section 611(2) of Pub. L. 100–77 and is classified to section 290ee of this title.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to determination of amount of allotment for provisions relating to requiring provision of certain mental health services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290cc–21, 290cc–35 of this title.

§ 290cc–25. Conversion to categorical program in event of failure of State regarding expenditure of grants

(a) In general

Subject to subsection (c) of this section, the Secretary shall, from the amounts specified in subsection (b) of this section, make grants to public and nonprofit private entities for the purpose of providing to eligible homeless individuals the services specified in section 290cc–22(b) of this title.

(b) Specification of funds

The amounts referred to in subsection (a) of this section are any amounts made available in appropriations Acts for allotments under section 290cc–21 of this title that are not paid to a State as a result of—

(A) the failure of the State to submit an application under section 290cc–29 of this title;

(B) the failure of the State, in the determination of the Secretary, to prepare the ap-

plication in accordance with such section or to submit the application within a reasonable period of time; or

(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

(c) Requirement of provision of services in State involved

With respect to grants under subsection (a) of this section, amounts made available under subsection (b) of this section as a result of the State involved shall be available only for grants to provide services in such State.

(July 1, 1944, ch. 373, title V, § 525, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 518; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4729.)

PRIOR PROVISIONS

A prior section 525 of act July 1, 1944, was renumbered section 546 by section 611(2) of Pub. L. 100–77 and is classified to section 290ee–1 of this title.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to conversion to categorical program in event of failure of State regarding expenditure of grants for provisions relating to restrictions on use of payments.

§ 290cc–26. Provision of certain information from State

The Secretary may not make payments under section 290cc–21 of this title to a State unless, as part of the application required in section 290cc–29 of this title, the State submits to the Secretary a statement—

(1) identifying existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

(2) containing a plan for providing services and housing to eligible homeless individuals, which plan—

(A) describes the coordinated and comprehensive means of providing services and housing to homeless individuals; and

(B) includes documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

(3) describes the source of the non-Federal contributions described in section 290cc–23 of this title;

(4) contains assurances that the non-Federal contributions described in section 290cc–23 of this title will be available at the beginning of the grant period;

(5) describe any voucher system that may be used to carry out this part; and

(6) contain such other information or assurances as the Secretary may reasonably require.

(July 1, 1944, ch. 373, title V, § 526, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 519; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4729.)

PRIOR PROVISIONS

A prior section 526 of act July 1, 1944, was renumbered section 547 by section 611(2) of Pub. L. 100–77 and is classified to section 290ee–2 of this title.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to providing certain information from State for provisions relating to requirement of submission of description of intended use of block grant.

§ 290cc–27. Description of intended expenditures of grant

(a) In general

The Secretary may not make payments under section 290cc–21 of this title unless—

(1) as part of the application required in section 290cc–29 of this title, the State involved submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the State is applying pursuant to such section;

(2) such description identifies the geographic areas within the State in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

(4) the State agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State pursuant to section 290cc–22 of this title.

(b) Opportunity for public comment

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that, in developing and carrying out the description required in subsection (a) of this section, the State will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

(c) Relationship to State comprehensive mental health services plan

(1) In general

The Secretary may not make payments under section 290cc–21 of this title unless the services to be provided pursuant to the description required in subsection (a) of this section are consistent with the State comprehensive mental health services plan required in subpart 2[1] of part B of subchapter XVII of this chapter.

(2) Special rule

The Secretary may not make payments under section 290cc–21 of this title unless the services to be provided pursuant to the description required in subsection (a) of this section have been considered in the preparation of, have been included in, and are consistent

[1] See References in Text note below.

with, the State comprehensive mental health services plan referred to in paragraph (1).

(July 1, 1944, ch. 373, title V, § 527, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 520; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4730.)

REFERENCES IN TEXT

Subpart 2 of part B of subchapter XVII of this chapter, referred to in subsec. (c)(1), which related to State comprehensive mental health services plans and which was classified to section 300x–10 et seq. of this title, was repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378, and a new subpart 2 of part B of subchapter XVII of this chapter, relating to block grants for prevention and treatment of substance abuse, was added by section 202 of Pub. L. 102–321 and classified to section 300x–21 et seq. of this title.

PRIOR PROVISIONS

A prior section 527 of act July 1, 1944, was renumbered section 548 by section 611(2) of Pub. L. 100–77 and is classified to section 290ee–3 of this title.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to description of intended expenditures of grant for provisions relating to requirement of reports by States.

§ 290cc–28. Requirement of reports by States

(a) In general

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees that, by not later than January 31 of each fiscal year, the State will prepare and submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the Administrator of the Substance Abuse and Mental Health Services Administration) to be necessary for—

(1) securing a record and a description of the purposes for which amounts received under section 290cc–21 of this title were expended during the preceding fiscal year and of the recipients of such amounts; and

(2) determining whether such amounts were expended in accordance with the provisions of this part.

(b) Availability to public of reports

The Secretary may not make payments under section 290cc–21 of this title unless the State involved agrees to make copies of the reports described in subsection (a) of this section available for public inspection.

(c) Evaluations

The Administrator of the Substance Abuse and Mental Health Services Administration shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operations.

(July 1, 1944, ch. 373, title V, § 528, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 520; amended Pub. L. 100–607, title VIII, § 812(b), Nov. 4, 1988, 102 Stat. 3170; Pub. L. 100–628, title VI, § 612(b), Nov. 7, 1988, 102 Stat. 3243; Pub. L. 100–690, title II, § 2614(a), Nov. 18, 1988, 102 Stat. 4239; Pub. L. 101–93, § 5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4730; Pub. L. 102–321, title I, § 163(a)(1), formerly § 163(a)(2), July 10, 1992, 106 Stat. 375, renumbered § 163(a)(1), Pub. L. 102–352, § 2(b)(2), Aug. 26, 1992, 106 Stat. 939; Pub. L. 104–316, title I, § 122(c), Oct. 19, 1996, 110 Stat. 3836.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316, § 122(c)(1), struck out ''the Comptroller General of the United States, and'' after ''(after consultation with''.

Subsec. (c). Pub. L. 104–316, § 122(c)(2), struck out ''Comptroller General of the United States in cooperation with the'' before ''Administrator'' and struck out comma after ''Administration''.

1992—Subsec. (a). Pub. L. 102–321, § 163(a)(1)(A), as renumbered by Pub. L. 102–352, substituted ''and the Administrator of the Substance Abuse and Mental Health Services Administration'' for ''the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse''.

Subsec. (c). Pub. L. 102–321, § 163(a)(1)(B), as renumbered by Pub. L. 102–352, substituted ''Administrator of the Substance Abuse and Mental Health Services Administration'' for ''National Institute of Mental Health''.

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to requirement of reports by States for provisions relating to determination of amount of allotments.

1989—Subsec. (a)(1). Pub. L. 101–93 directed that subsec. (a)(1) of this section as similarly amended by title VIII of Pub. L. 100–607 and title VI of Pub. L. 100–628 be amended to read as if the amendments made by title VI of Pub. L. 100–628 had not been enacted. See 1988 Amendment note below.

1988—Subsec. (a)(1). Pub. L. 100–690 substituted ''the Commonwealth of the Northern Mariana Islands'' for ''the Northern Mariana Islands''.

Pub. L. 100–607 and Pub. L. 100–628 made identical amendments, amending par. (1) generally. Prior to amendment, par. (1) read as follows: ''$275,000; and''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

Amendment by Pub. L. 100–628 effective Nov. 7, 1988, see section 631 of Pub. L. 100–628, set out as a note under section 254e of this title.

Amendment by Pub. L. 100–607 effective Nov. 4, 1988, see section 831 of Pub. L. 100–607, set out as a note under section 254e of this title.

§ 290cc–29. Requirement of application

The Secretary may not make payments under section 290cc–21 of this title unless the State involved—

(1) submits to the Secretary an application for the payments containing agreements and information in accordance with this part;

(2) the agreements are made through certification from the chief executive officer of the State; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(July 1, 1944, ch. 373, title V, § 529, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 520; amended Pub. L. 100–607, title VIII, § 811(b), Nov. 4, 1988, 102 Stat. 3170; Pub. L. 100–628, title VI, § 611(b), Nov. 7, 1988, 102 Stat. 3243; Pub. L. 101–93, § 5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4731.)

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to requirement of application for provisions relating to conversion to State categorical program in event of failure of State with respect to expending allotment.

1989—Pub. L. 101–93 directed that this section as similarly amended by title VIII of Pub. L. 100–607 and title VI of Pub. L. 100–628 be amended to read as if the amendments made by title VI of Pub. L. 100–628 had not been enacted. See 1988 Amendment note below.

1988—Pub. L. 100–607 and Pub. L. 100–628 made identical amendments, amending section generally by substituting present provisions for provisions which had related to: in subsec. (a), additional allotments for certain States; in subsec. (b), description of funds; and in subsec. (c), determination of amount of allotment.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–628 effective Nov. 7, 1988, see section 631 of Pub. L. 100–628, set out as a note under section 254e of this title.

Amendment by Pub. L. 100–607 effective Nov. 4, 1988, see section 831 of Pub. L. 100–607, set out as a note under section 254e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290cc–21, 290cc–25, 290cc–26, 290cc–27, 290cc–31 of this title.

§ 290cc–30. Technical assistance

The Secretary, through the agencies of the Administration, shall provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

(July 1, 1944, ch. 373, title V, § 530, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 521; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4731; Pub. L. 102–321, title I, §§ 162(2), 163(a)(3), July 10, 1992, 106 Stat. 375; Pub. L. 102–352, § 2(b)(2), Aug. 26, 1992, 106 Stat. 939.)

AMENDMENTS

1992—Pub. L. 102–352 repealed Pub. L. 102–321, § 163(a)(3), which directed the substitution of ''the Administrator of the Substance Abuse and Mental Health Services Administration'' for ''the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse''.

Pub. L. 102–321, § 162(2), which directed the substitution of ''through the agencies of the Administration'' for ''through the National'' and all that follows through ''Abuse'', was executed by making the substitution for ''through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse'' to reflect the probable intent of Congress.

1990—Pub. L. 101–645 amended section generally, substituting provision relating to technical assistance for provision relating to disbursement and availability of funds.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

§ 290cc–31. Failure to comply with agreements

(a) Repayment of payments

(1) The Secretary may, subject to subsection (c) of this section, require a State to repay any payments received by the State under section 290cc–21 of this title that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 290cc–29 of this title.

(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 290cc–21 of this title.

(b) Withholding of payments

(1) The Secretary may, subject to subsection (c) of this section, withhold payments due under section 290cc–21 of this title if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 290cc–29 of this title.

(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 290cc–21 of this title in accordance with the agreements referred to in such paragraph.

(3) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the agreements referred to in such paragraph.

(c) Opportunity for hearing

Before requiring repayment of payments under subsection (a)(1) of this section, or withholding payments under subsection (b)(1) of this section, the Secretary shall provide to the State an opportunity for a hearing.

(d) Rule of construction

Notwithstanding any other provision of this part, a State receiving payments under section 290cc–21 of this title may not, with respect to any agreements required to be contained in the application submitted under section 290cc–29 of this title, be considered to be in violation of any such agreements by reason of the fact that the State, in the regular course of providing services under section 290cc–22(b) of this title to eligible homeless individuals, incidentally provides services to homeless individuals who are not eligible homeless individuals.

(July 1, 1944, ch. 373, title V, § 531, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 521; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4731.)

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to failure to comply with

agreements for provision relating to technical assistance.

§ 290cc–32. Prohibition against certain false statements

(a) In general

(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 290cc–21 of this title.

(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any amounts from payments made to the State under section 290cc–21 of this title may not conceal or fail to disclose any such event with the intent of securing such an amount that the person is not authorized to receive or securing such an amount in an amount greater than the amount the person is authorized to receive.

(b) Criminal penalty for violation of prohibition

Any person who violates a prohibition established in subsection (a) of this section may for each violation be fined in accordance with title 18 or imprisoned for not more than 5 years, or both.

(July 1, 1944, ch. 373, title V, § 532, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 521; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4732.)

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to prohibition against certain false statements for provisions relating to failure to comply with agreements.

§ 290cc–33. Nondiscrimination

(a) In general

(1) Rule of construction regarding certain civil rights laws

For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], on the basis of sex under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], programs and activities funded in whole or in part with funds made available under section 290cc–21 of this title shall be considered to be programs and activities receiving Federal financial assistance.

(2) Prohibition

No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 290cc–21 of this title.

(b) Enforcement

(1) Referrals to Attorney General after notice

Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 290cc–21 of this title, has failed to comply with a provision of law referred to in subsection (a)(1) of this section, with subsection (a)(2) of this section, or with an applicable regulation (including one prescribed to carry out subsection (a)(2) of this section), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], as may be applicable; or

(C) take such other actions as may be authorized by law.

(2) Authority of Attorney General

When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) of this section or in violation of subsection (a)(2) of this section, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(July 1, 1944, ch. 373, title V, § 533, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 522; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4732.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsecs. (a)(1) and (b)(1)(B), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Education Amendments of 1972, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Education Amendments of 1972 is classified principally to chapter 38 (§ 1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to nondiscrimination for provision relating to establishment of prohibition against making certain false statements.

§ 290cc–34. Definitions

For purposes of this part:

(1) Eligible homeless individual

The term ''eligible homeless individual'' means an individual described in section 290cc–22(a) of this title.

(2) Homeless individual

The term ''homeless individual'' has the meaning given such term in section 256(r)[1] of this title.

(3) State

The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) Substance abuse

The term ''substance abuse'' means the abuse of alcohol or other drugs.

(July 1, 1944, ch. 373, title V, § 534, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 522; amended Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4733.)

REFERENCES IN TEXT

Section 256 of this title, referred to in par. (2), was repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting provisions relating to definitions for provisions relating to nondiscrimination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254b of this title.

§ 290cc–35. Funding

(a) Authorization of appropriations

For the purpose of carrying out this part, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 through 1994.

(b) Effect of insufficient appropriations for minimum allotments

(1) In general

If the amounts made available under subsection (a) of this section for a fiscal year are insufficient for providing each State with an allotment under section 290cc–21 of this title of not less than the applicable amount under section 290cc–24(a)(1) of this title, the Secretary shall, from such amounts as are made available under such subsection, make grants to the States for providing to eligible homeless individuals the services specified in section 290cc–22(b) of this title.

(2) Rule of construction

Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.

(July 1, 1944, ch. 373, title V, § 535, as added Pub. L. 100–77, title VI, § 611(3), July 22, 1987, 101 Stat. 523; amended Pub. L. 100–607, title VIII, § 811(a), Nov. 4, 1988, 102 Stat. 3169; Pub. L. 100–628, title VI, § 611(a), Nov. 7, 1988, 102 Stat. 3242; Pub. L. 101–93, § 5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 101–645, title V, § 511, Nov. 29, 1990, 104 Stat. 4733.)

PRIOR PROVISIONS

A prior section 290cc–36, act July 1, 1944, ch. 373, title V, § 536, as added July 22, 1987, Pub. L. 100–77, title VI, § 611(3), 101 Stat. 523, and amended Nov. 4, 1988, Pub. L. 100–607, title VIII, §§ 802(b)(3), 812(a), 102 Stat. 3169, 3170; Nov. 7, 1988, Pub. L. 100–628, title VI, §§ 602(b)(3), 612(a), 102 Stat. 3242, 3243; Nov. 18, 1988, Pub. L. 100–690, title II, § 2614(b), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101–93, § 5(t)(1), 103 Stat. 615, defined terms used in this part, prior to the general revision of this part by Pub. L. 101–645.

AMENDMENTS

1990—Pub. L. 101–645 amended section generally, substituting present provisions for similar provisions authorizing appropriations and providing for minimum allotments.

1989—Pub. L. 101–93 directed that this section as similarly amended by title VIII of Pub. L. 100–607 and title VI of Pub. L. 100–628 be amended to read as if the amendments made by title VI of Pub. L. 100–628 had not been enacted. See 1988 Amendment note below.

1988—Pub. L. 100–607 and Pub. L. 100–628 made identical amendments, amending section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to carry out this part $35,000,000 for fiscal year 1987 and such sums as may be necessary for fiscal year 1988.''

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–628 effective Nov. 7, 1988, see section 631 of Pub. L. 100–628, set out as a note under section 254e of this title.

Amendment by Pub. L. 100–607 effective Nov. 4, 1988, see section 831 of Pub. L. 100–607, set out as a note under section 254e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290cc–24 of this title.

PART D—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

§ 290dd. Substance abuse among government and other employees

(a) Programs and services

(1) Development

The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall be responsible for fostering substance abuse prevention and treatment programs and services in State and local governments and in private industry.

(2) Model programs

(A) In general

Consistent with the responsibilities described in paragraph (1), the Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

(B) Dissemination of information

The Secretary, acting through the Administrator of the Substance Abuse and Mental

[1] See References in Text note below.

Health Services Administration, shall disseminate information and materials relative to such model programs to the State agencies responsible for the administration of substance abuse prevention, treatment, and rehabilitation activities and shall, to the extent feasible provide technical assistance to such agencies as requested.

(b) Deprivation of employment

(1) Prohibition

No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the grounds of prior substance abuse.

(2) Application

This subsection shall not apply to employment in—

(A) the Central Intelligence Agency;

(B) the Federal Bureau of Investigation;

(C) the National Security Agency;

(D) any other department or agency of the Federal Government designated for purposes of national security by the President; or

(E) in any position in any department or agency of the Federal Government, not referred to in subparagraphs (A) through (D), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(3) Rehabilitation Act

The inapplicability of the prohibition described in paragraph (1) to the employment described in paragraph (2) shall not be construed to reflect on the applicability of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] or other anti-discrimination laws to such employment.

(c) Construction

This section shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

(July 1, 1944, ch. 373, title V, § 541, formerly Pub. L. 91–616, title III, § 301, Dec. 31, 1970, 84 Stat. 1849, as amended Pub. L. 92–554, Oct. 25, 1972, 86 Stat. 1167; Pub. L. 93–282, title I, § 105(a), May 14, 1974, 88 Stat. 127; Pub. L. 94–371, § 3(a), July 26, 1976, 90 Stat. 1035; Pub. L. 96–180, § 7, Jan. 2, 1980, 93 Stat. 1303; Pub. L. 97–35, title IX, § 962(a), Aug. 13, 1981, 95 Stat. 592; renumbered § 520 of act July 1, 1944, and amended Pub. L. 98–24, § 2(b)(13), Apr. 26, 1983, 97 Stat. 181; Pub. L. 98–509, title III, § 301(c)(2), Oct. 19, 1984, 98 Stat. 2364; renumbered § 541, Pub. L. 100–77, title VI, § 611(2), July 22, 1987, 101 Stat. 516; Pub. L. 100–607, title VIII, § 813(2), Nov. 4, 1988, 102 Stat. 3170; Pub. L. 100–628, title VI, § 613(2), Nov. 7, 1988, 102 Stat. 3243; Pub. L. 101–93, § 5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 102–321, title I, § 131, July 10, 1992, 106 Stat. 366.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (b)(3), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

Section was formerly classified to section 4571 of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS

1992—Pub. L. 102–321 amended section generally, substituting provisions relating to substance abuse among government and other employees for provisions relating to technical assistance to States relative to alcohol abuse and alcoholism programs.

1989—Subsec. (a)(4). Pub. L. 101–93 directed that subsec. (a)(4) of this section as similarly amended by title VIII of Pub. L. 100–607 and title VI of Pub. L. 100–628 be amended to read as if the amendments made by title VI of Pub. L. 100–628 had not been enacted. See 1988 Amendment note below.

1988—Subsec. (a)(4). Pub. L. 100–607 and Pub. L. 100–628 made identical technical amendments to reference to section 290dd–2 of this title to reflect renumbering of corresponding section of original act.

1984—Pub. L. 98–509 amended directory language of Pub. L. 98–24, § 2(b)(13). See 1983 Amendment note below.

1983—Pub. L. 98–24, § 2(b)(13), as amended by Pub. L. 98–509 renumbered section 4571 of this title as this section.

Subsec. (a). Pub. L. 98–24, § 2(b)(13)(A)(i), substituted ''the National Institute on Alcohol Abuse and Alcoholism'' for ''the Institute''.

Subsec. (a)(4). Pub. L. 98–24, § 2(b)(13)(A)(ii), substituted ''section 290dd–2 of this title'' for ''section 4581 of this title''.

Subsec. (b). Pub. L. 98–24, § 2(b)(13)(A)(iii), substituted ''this subchapter'' for references to ''this chapter'', meaning chapter 60 (§ 4541 et seq.) of this title, and the Drug Abuse Prevention, Treatment, and Rehabilitation Act [21 U.S.C. 1101 et seq.].

1981—Pub. L. 97–35 restructured provisions and substituted provisions relating to technical assistance for enumerated activities, and improvement of coordination with Drug Abuse Prevention, Treatment, and Rehabilitation Act, for provisions authorizing appropriations through fiscal year ending Sept. 30, 1981, for covered activities.

1980—Pub. L. 96–180 authorized appropriation of $60,000,000 and $65,000,000 for fiscal years ending Sept. 30, 1980, and 1981.

1976—Pub. L. 94–371 struck out ''and'' after ''1975'' and inserted provisions authorizing $70,000,000 to be appropriated for fiscal year ending Sept. 30, 1977, $77,000,000 to be appropriated for fiscal year ending Sept. 30, 1978, and $85,000,000 to be appropriated for fiscal year ending Sept. 30, 1979.

1974—Pub. L. 93–282 authorized appropriation of $80,000,000 for fiscal years ending June 30, 1975 and June 30, 1976.

1972—Pub. L. 92–554 substituted ''for each of the next two fiscal years'' for ''for the fiscal year ending June 30, 1973''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–628 effective Nov. 7, 1988, see section 631 of Pub. L. 100–628, set out as a note under section 254e of this title.

Amendment by Pub. L. 100–607 effective Nov. 4, 1988, see section 831 of Pub. L. 100–607, set out as a note under section 254e of this title.

§ 290dd–1. Admission of substance abusers to private and public hospitals and outpatient facilities

(a) Nondiscrimination

Substance abusers who are suffering from medical conditions shall not be discriminated

against in admission or treatment, solely because of their substance abuse, by any private or public general hospital, or outpatient facility (as defined in section 300s–3(4) of this title) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

(b) Regulations

(1) In general

The Secretary shall issue regulations for the enforcement of the policy of subsection (a) of this section with respect to the admission and treatment of substance abusers in hospitals and outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) of this section has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) of this section and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

(2) Department of Veterans Affairs

The Secretary of Veterans Affairs, acting through the Under Secretary for Health, shall, to the maximum feasible extent consistent with their responsibilities under title 38, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this paragraph, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

(July 1, 1944, ch. 373, title V, § 542, formerly Pub. L. 91–616, title II, § 201, Dec. 31, 1970, 84 Stat. 1849, as amended Pub. L. 96–180, § 6(a), (b)(1), (2)(B), Jan. 2, 1980, 93 Stat. 1302, 1303; Pub. L. 97–35, title IX, §§ 961, 966(d), (e), Aug. 13, 1981, 95 Stat. 592, 595; renumbered § 521 of act July 1, 1944, and amended Pub. L. 98–24, § 2(b)(13), Apr. 26, 1983, 97 Stat. 181; Pub. L. 98–509, title III, § 301(c)(2), Oct. 19, 1984, 98 Stat. 2364; Pub. L. 99–570, title VI, § 6002(b)(1), Oct. 27, 1986, 100 Stat. 3207–158; renumbered § 542, Pub. L. 100–77, title VI, § 611(2), July 22, 1987, 101 Stat. 516; Pub. L. 102–321, title I, § 131, July 10, 1992, 106 Stat. 368; Pub. L. 103–446, title XII, § 1203(a)(2), Nov. 2, 1994, 108 Stat. 4689.)

CODIFICATION

Section was formerly classified to section 4561 of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–446 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1992—Pub. L. 102–321 amended section generally, substituting provisions relating to admission of substance abusers to private and public hospitals and outpatient facilities for provisions relating to programs for government and other employees.

1986—Subsec. (a). Pub. L. 99–570, § 6002(b)(1), redesignated subsec. (b) as (a), struck out ''similar'' after ''fostering and encouraging'' in par. (1), and struck out former subsec. (a) which read as follows: ''The Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, and in accordance with the provisions of subpart F of part III of title 5, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this chapter. Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.''

Subsecs. (b) to (d). Pub. L. 99–570, § 6002(b)(1)(C), redesignated subsecs. (c) and (d) as (b) and (c), respectively. Former subsec. (b) redesignated (a).

1984—Pub. L. 98–509 amended directory language of Pub. L. 98–24, § 2(b)(13). See 1983 Amendment note below.

1983—Pub. L. 98–24, § 2(b)(13), as amended by Pub. L. 98–509, renumbered section 4561 of this title as this section.

Subsec. (b)(4). Pub. L. 98–24, § 2(b)(13)(B)(i), substituted ''section 290ee–1 of this title'' for ''section 1180(b) of title 21''.

Subsec. (d). Pub. L. 98–24, § 2(b)(13)(B)(ii), substituted ''this section'' for ''this subchapter'', meaning subchapter II (§ 4561 et seq.) of chapter 60 of this title.

1981—Subsec. (b). Pub. L. 97–35, §§ 961, 966(d), made changes in nomenclature, and substituted provisions relating to responsible State administrative agencies, for provisions relating to single State agencies designated pursuant to section 4573 of this title.

1980—Pub. L. 96–180, § 6(b)(2)(A), amended section catchline.

Subsec. (a). Pub. L. 96–180, § 6(a), substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and inserted provisions that require compliance with provisions of subpart F of part III of title 5 and encourage agencies and departments to extend the programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics.

Subsec. (b). Pub. L. 96–180, § 6(b)(1), designated existing provisions as par. (1), made the Secretary responsible for encouragement of programs and services, required the programs and services to be designed for application to families of employees and to employees who have family members who are alcoholics, and added pars. (2) to (4).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290aa of this title.

§ 290dd–2. Confidentiality of records

(a) Requirement

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) Permitted disclosure

(1) Consent

The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) Method for disclosure

Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Use of records in criminal proceedings

Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) Application

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when such individual ceases to be a patient.

(e) Nonapplicability

The prohibitions of this section do not apply to any interchange of records—

(1) within the Uniformed Services or within those components of the Department of Veterans Affairs furnishing health care to veterans; or

(2) between such components and the Uniformed Services.

The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.

(f) Penalties

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined in accordance with title 18.

(g) Regulations

Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. Such regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) Application to Department of Veterans Affairs

The Secretary of Veterans Affairs, acting through the Under Secretary for Health, shall, to the maximum feasible extent consistent with their responsibilities under title 38, prescribe regulations making applicable the regulations prescribed by the Secretary of Health and Human Services under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this subsection, the Secretary of Veterans Affairs shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

(July 1, 1944, ch. 373, title V, § 543, formerly Pub. L. 91–616, title III, § 321, Dec. 31, 1970, 84 Stat. 1852, as amended Pub. L. 93–282, title I, § 121(a), May 14, 1974, 88 Stat. 130; Pub. L. 94–371, § 11(a), (b), July 26, 1976, 90 Stat. 1041; Pub. L. 94–581, title I, § 111(c)(1), Oct. 21, 1976, 90 Stat. 2852; renumbered § 522 of act July 1, 1944, and amended Pub. L. 98–24, § 2(b)(13), Apr. 26, 1983, 97 Stat. 181; renumbered § 543, Pub. L. 100–77, title VI, § 611(2), July 22, 1987, 101 Stat. 516; Pub. L. 102–321, title I, § 131, July 10, 1992, 106 Stat. 368; Pub. L.

102–405, title III, § 302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 105–392, title IV, § 402(c), Nov. 13, 1998, 112 Stat. 3588.)

CODIFICATION

Section was formerly classified to section 4581 of this title prior to renumbering by Pub. L. 98–24.

AMENDMENTS

1998—Subsec. (e)(1), (2). Pub. L. 105–392 substituted ''Uniformed Services'' for ''Armed Forces''.

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in subsec. (h).

Pub. L. 102–321 amended section generally, substituting provisions relating to confidentiality of records for provisions relating to admission of alcohol abusers and alcoholics to general hospitals and outpatient facilities.

1983—Pub. L. 98–24, § 2(b)(13), renumbered section 4581 of this title as this section.

Subsec. (a). Pub. L. 98–24, § 2(b)(13)(C), made a technical amendment to reference to section 300s–3 of this title.

1976—Subsec. (a). Pub. L. 94–371, § 11(a), inserted '', or outpatient facility (as defined in section 300s–3(6) of this title)'' after ''hospital''.

Subsec. (b)(1). Pub. L. 94–371, § 11(b), inserted ''and outpatient facilities'' after ''hospitals'', and ''or outpatient facility'' after ''hospital'' wherever appearing, and substituted ''shall issue regulations not later than December 31, 1976'' for ''is authorized to make regulations''.

Subsec. (b)(2). Pub. L. 94–581 provided that subsec. (b)(2), which directed the Administrator of Veteran's Affairs, through the Chief Medical Director, to prescribe regulations making applicable the regulations prescribed by the Secretary under subsec. (b)(1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under title 38 to veterans suffering from alcohol abuse or alcoholism and to consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribed, was superseded by section 4131 [now 7331] et seq. of Title 38, Veterans' Benefits.

1974—Subsec. (a). Pub. L. 93–282, in revising text, prohibited discrimination because of alcohol abuse, substituted provisions respecting eligibility for admission and treatment based on suffering from medical conditions for former provision based on medical need and ineligibility, because of discrimination, for support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency for former requirement for treatment by a general hospital which received Federal funds, and deleted prohibition against receiving Federal financial assistance for violation of section and for termination of Federal assistance on failure to comply, now incorporated in regulation authorization of subsec. (b) of this section.

Subsec. (b). Pub. L. 93–282 substituted provisions respecting issuance of regulations by the Secretary concerning enforcement procedures and suspension or revocation of Federal support and by the Administrator concerning applicable regulations for veterans, and for coordination of the respective regulations for former provisions respecting judicial review.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of Title 38, Veterans' Benefits.

REPORT OF ADMINISTRATOR OF VETERANS' AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER

Section 121(b) of Pub. L. 93–282, which directed Administrator of Veterans' Affairs to submit to appropriate committees of House of Representatives and Senate a full report (1) on regulations (including guidelines, policies, and procedures thereunder) he had prescribed pursuant to section 321(b)(2) of Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [former subsec. (b)(2) of this section], (2) explaining bases for any inconsistency between such regulations and regulations of Secretary under section 321(b)(1) of such Act [subsec. (b)(1) of this section], (3) on extent, substance, and results of his consultations with Secretary respecting prescribing and implementation of Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determined were necessary and desirable, with Administrator to submit report not later than sixty days after effective date of regulations prescribed by Secretary under such section 321(b)(1) [subsec. (b)(1) of this section], and to publish such report in Federal Register, was characterized by section 111(c)(5) of Pub. L. 94–581 as having been superseded by section 4134 [now 7334] of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290aa of this title.

§§ 290dd–3 to 290ee–3. Omitted

CODIFICATION

Sections 290dd–3 to 290ee–3 were omitted in the general revision of this part by Pub. L. 102–321.

Section 290dd–3, act July 1, 1944, ch. 373, title V, § 544, formerly Pub. L. 91–616, title III, § 333, Dec. 31, 1970, 84 Stat. 1853, as amended Pub. L. 93–282, title I, § 122(a), May 14, 1974, 88 Stat. 131; Pub. L. 94–581, title I, § 111(c)(4), Oct. 21, 1976, 90 Stat. 2852; renumbered § 523 of act July 1, 1944, Apr. 26, 1983, Pub. L. 98–24, § 2(b)(13), 97 Stat. 181; Aug. 27, 1986, Pub. L. 99–401, title I, § 106(a), 100 Stat. 907; renumbered § 544, July 22, 1987, Pub. L. 100–77, title VI, § 611(2), 101 Stat. 516; June 13, 1991, Pub. L. 102–54, § 13(q)(1)(A)(ii), 105 Stat. 278, related to confidentiality of patient records for alcohol abuse and alcoholism programs. See section 290dd–2 of this title.

Section 290ee, act July 1, 1944, ch. 373, title V, § 545, formerly Pub. L. 92–255, title V, § 502, as added Pub. L. 94–237, § 12(b)(1), Mar. 19, 1976, 90 Stat. 247, and amended Pub. L. 95–461, § 5, Oct. 14, 1978, 92 Stat. 1269; Pub. L. 96–181, § 11, Jan. 2, 1980, 93 Stat. 1315; renumbered § 524 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(15), 97 Stat. 181; renumbered § 545, July 22, 1987, Pub. L. 100–77, title VI, § 611(2), 101 Stat. 516; Nov. 4, 1988, Pub. L. 100–607, title VIII, § 813(3), 102 Stat. 3170; Nov. 7, 1988, Pub. L. 100–628, title VI, § 613(3), 102 Stat. 3243; Aug. 16, 1989, Pub. L. 101–93, § 5(t)(1), 103 Stat. 615, related to technical assistance to State and local agencies by National Institute on Drug Abuse.

Section 290ee–1, act July 1, 1944, ch. 373, title V, § 546, formerly Pub. L. 92–255, title IV, § 413, Mar. 21, 1972, 86 Stat. 84, as amended Pub. L. 96–181, § 8(a), (b)(1), Jan. 2, 1980, 93 Stat. 1313, 1314; Pub. L. 97–35, title IX, § 973(e), Aug. 13, 1981, 95 Stat. 598; renumbered § 525 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(16)(A), 97 Stat. 182; Oct. 27, 1986, Pub. L. 99–570, title VI, § 6002(b)(2), 100 Stat. 3207–159; renumbered § 546, July 22, 1987, Pub. L. 100–77, title VI, § 611(2), 101 Stat. 516; Nov. 4, 1988, Pub. L. 100–607, title VIII, § 813(4), 102 Stat. 3171; Nov. 7, 1988, Pub. L. 100–628, title VI, § 613(4), 102 Stat. 3243; Aug. 16, 1989, Pub. L. 101–93, § 5(t)(1), 103

Stat. 615, related to drug abuse among government and other employees.

Section 290ee–2, act July 1, 1944, ch. 373, title V, § 547, formerly Pub. L. 92–255, title IV, § 407, Mar. 21, 1972, 86 Stat. 78, as amended Pub. L. 94–237, § 6(a), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94–581, title I, § 111(c)(2), Oct. 21, 1976, 90 Stat. 2852; renumbered § 526 of act July 1, 1944, Apr. 26, 1983. Pub. L. 98–24, § 2(b)(16)(B), 97 Stat. 182; renumbered § 547, July 22, 1987, Pub. L. 100–77, title VI, § 611(2), 101 Stat. 516, related to admission of drug abusers to private and public hospitals.

Section 290ee–3, act July 1, 1944, ch. 373, title V, § 548, formerly Pub. L. 92–255, title IV, § 408, Mar. 21, 1972, 86 Stat. 79, as amended Pub. L. 93–282, title III, § 303(a), (b), May 14, 1974, 88 Stat. 137, 138; Pub. L. 94–237, § 4(c)(5)(A), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94–581, title I, § 111(c)(3), Oct. 21, 1976, 90 Stat. 2852; Pub. L. 97–35, title IX, § 973(d), Aug. 13, 1981, 95 Stat. 598; renumbered § 527 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98–24, § 2(b)(16)(B), 97 Stat. 182; Aug. 27, 1986, Pub. L. 99–401, title I, § 106(b), 100 Stat. 907; renumbered § 548, July 22, 1987, Pub. L. 100–77, title VI, § 611(2), 101 Stat. 516; June 13, 1991, Pub. L. 102–54, § 13(q)(1)(A)(iii), (B)(ii), 105 Stat. 278, related to confidentiality of patient records for drug abuse programs. See section 290dd–2 of this title.

PART E—CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES

§ 290ff. Comprehensive community mental health services for children with serious emotional disturbances

(a) Grants to certain public entities

(1) In general

The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public entities for the purpose of providing comprehensive community mental health services to children with a serious emotional disturbance.

(2) "Public entity" defined

For purposes of this part, the term ''public entity'' means any State, any political subdivision of a State, and any Indian tribe or tribal organization (as defined in section 450b(b) and section 450b(c)[1] of title 25).

(b) Considerations in making grants

(1) Requirement of status as grantee under part B of subchapter XVII

The Secretary may make a grant under subsection (a) of this section to a public entity only if—

(A) in the case of a public entity that is a State, the State is a grantee under section 300x of this title;

(B) in the case of a public entity that is a political subdivision of a State, the State in which the political subdivision is located is such a grantee; and

(C) in the case of a public entity that is an Indian tribe or tribal organization, the State in which the tribe or tribal organization is located is such a grantee.

(2) Requirement of status as medicaid provider

(A) Subject to subparagraph (B), the Secretary may make a grant under subsection (a) of this section only if, in the case of any service under such subsection that is covered in the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(i) the public entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the public entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under subsection (a) of this section, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

(3) Certain considerations

In making grants under subsection (a) of this section, the Secretary shall—

(A) equitably allocate such assistance among the principal geographic regions of the United States;

(B) consider the extent to which the public entity involved has a need for the grant; and

(C) in the case of any public entity that is a political subdivision of a State or that is an Indian tribe or tribal organization—

(i) shall consider any comments regarding the application of the entity for such a grant that are received by the Secretary from the State in which the entity is located; and

(ii) shall give special consideration to the entity if the State agrees to provide a portion of the non-Federal contributions required in subsection (c) of this section regarding such a grant.

(c) Matching funds

(1) In general

A funding agreement for a grant under subsection (a) of this section is that the public entity involved will, with respect to the costs to be incurred by the entity in carrying out the purpose described in such subsection, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the entity receives payments from a grant under such subsection, is not less than $1 for each $3 of Federal funds provided in the grant;

[1] See References in Text note below.

(B) for any second or third such fiscal year, is not less than $1 for each $3 of Federal funds provided in the grant;

(C) for any fourth such fiscal year, is not less than $1 for each $1 of Federal funds provided in the grant; and

(D) for any fifth such fiscal year, is not less than $2 for each $1 of Federal funds provided in the grant.

(2) Determination of amount contributed

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

(B) In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the public entity involved toward the purpose described in subsection (a) of this section for the 2-year period preceding the first fiscal year for which the entity receives a grant under such section.

(July 1, 1944, ch. 373, title V, § 561, as added Pub. L. 102–321, title I, § 119, July 10, 1992, 106 Stat. 349; amended Pub. L. 103–43, title XX, § 2017(1), June 10, 1993, 107 Stat. 218.)

REFERENCES IN TEXT

Subsections (b) and (c) of section 450b of title 25, referred to in subsec. (a)(2), do not contain definitions of the terms ''Indian tribe'' and ''tribal organization''. However, such terms are defined elsewhere in section 450b of Title 25, Indians.

The Social Security Act, referred to in subsec. (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 290ff, act July 1, 1944, ch. 373, title V, § 561, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2081(a), 102 Stat. 4216, which related to action by National Institute on Drug Abuse and States concerning military facilities, was renumbered section 513 of act July 1, 1944, by Pub. L. 102–321 and transferred to section 290bb–6 of this title.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–43, § 2017(1)(A), substituted ''this part'' for ''this subpart''.

Subsec. (b)(1)(B), (C). Pub. L. 103–43, § 2017(1)(B), substituted ''is such a grantee'' for ''is receiving such payments''.

EFFECTIVE DATE

Part effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290ff–1, 290ff–2, 290ff–3, 290ff–4 of this title.

§ 290ff–1. Requirements with respect to carrying out purpose of grants

(a) Systems of comprehensive care

(1) In general

A funding agreement for a grant under section 290ff(a) of this title is that, with respect to children with a serious emotional disturbance, the public entity involved will carry out the purpose described in such section only through establishing and operating 1 or more systems of care for making each of the mental health services specified in subsection (c) of this section available to each child provided access to the system. In providing for such a system, the public entity may make grants to, and enter into contracts with, public and nonprofit private entities.

(2) Structure of system

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under paragraph (1) will—

(A) be established in a community selected by the public entity involved;

(B) consist of such public agencies and nonprofit private entities in the community as are necessary to ensure that each of the services specified in subsection (c) of this section is available to each child provided access to the system;

(C) be established pursuant to agreements that the public entity enters into with the agencies and entities described in subparagraph (B);

(D) coordinate the provision of the services of the system; and

(E) establish an office whose functions are to serve as the location through which children are provided access to the system, to coordinate the provision of services of the system, and to provide information to the public regarding the system.

(3) Collaboration of local public entities

A funding agreement for a grant under section 290ff(a) of this title is that, for purposes of the establishment and operation of a system of care under paragraph (1), the public entity involved will seek collaboration among all public agencies that provide human services in the community in which the system is established, including but not limited to those providing mental health services, educational services, child welfare services, or juvenile justice services.

(b) Limitation on age of children provided access to system

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under subsection (a) of this section will not provide an individual with access to the system if the individual is more than 21 years of age.

(c) Required mental health services of system

A funding agreement for a grant under section 290ff(a) of this title is that mental health services provided by a system of care under subsection (a) of this section will include, with respect to a serious emotional disturbance in a child—

(1) diagnostic and evaluation services;

(2) outpatient services provided in a clinic, office, school or other appropriate location, including individual, group and family counseling services, professional consultation, and review and management of medications;

(3) emergency services, available 24-hours a day, 7 days a week;

(4) intensive home-based services for children and their families when the child is at imminent risk of out-of-home placement;

(5) intensive day-treatment services;

(6) respite care;

(7) therapeutic foster care services, and services in therapeutic foster family homes or individual therapeutic residential homes, and groups homes caring for not more than 10 children; and

(8) assisting the child in making the transition from the services received as a child to the services to be received as an adult.

(d) Required arrangements regarding other appropriate services

(1) In general

A funding agreement for a grant under section 290ff(a) of this title is that—

(A) a system of care under subsection (a) of this section will enter into a memorandum of understanding with each of the providers specified in paragraph (2) in order to facilitate the availability of the services of the provider involved to each child provided access to the system; and

(B) the grant under such section 290ff(a) of this title, and the non-Federal contributions made with respect to the grant, will not be expended to pay the costs of providing such non-mental health services to any individual.

(2) Specification of non-mental health services

The providers referred to in paragraph (1) are providers of medical services other than mental health services, providers of educational services, providers of vocational counseling and vocational rehabilitation services, and providers of protection and advocacy services with respect to mental health.

(3) Facilitation of services of certain programs

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under subsection (a) of this section will, for purposes of paragraph (1), enter into a memorandum of understanding regarding facilitation of—

(A) services available pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], including services regarding early periodic screening, diagnosis, and treatment;

(B) services available under parts B [20 U.S.C. 1411 et seq.] and H[1] of the Individuals with Disabilities Education Act; and

(C) services available under other appropriate programs, as identified by the Secretary.

[1] See References in Text note below.

(e) General provisions regarding services of system

(1) Case management services

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under subsection (a) of this section will provide for the case management of each child provided access to the system in order to ensure that—

(A) the services provided through the system to the child are coordinated and that the need of each such child for the services is periodically reassessed;

(B) information is provided to the family of the child on the extent of progress being made toward the objectives established for the child under the plan of services implemented for the child pursuant to section 290ff–2 of this title; and

(C) the system provides assistance with respect to—

(i) establishing the eligibility of the child, and the family of the child, for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, educational services, social services, or other services; and

(ii) seeking to ensure that the child receives appropriate services available under such programs.

(2) Other provisions

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under subsection (a) of this section, in providing the services of the system, will—

(A) provide the services of the system in the cultural context that is most appropriate for the child and family involved;

(B) ensure that individuals providing such services to the child can effectively communicate with the child and family in the most direct manner;

(C) provide the services without discriminating against the child or the family of the child on the basis of race, religion, national origin, sex, disability, or age;

(D) seek to ensure that each child provided access to the system of care remains in the least restrictive, most normative environment that is clinically appropriate; and

(E) provide outreach services to inform individuals, as appropriate, of the services available from the system, including identifying children with a serious emotional disturbance who are in the early stages of such disturbance.

(3) Rule of construction

An agreement made under paragraph (2) may not be construed—

(A) with respect to subparagraph (C) of such paragraph—

(i) to prohibit a system of care under subsection (a) of this section from requiring that, in housing provided by the grantee for purposes of residential treatment services authorized under subsection (c) of this section, males and females be segregated to the extent appropriate in the treatment of the children involved; or

(ii) to prohibit the system of care from complying with the agreement made under subsection (b) of this section; or

(B) with respect to subparagraph (D) of such paragraph, to authorize the system of care to expend the grant under section 290ff(a) of this title (or the non-Federal contributions made with respect to the grant) to provide legal services or any service with respect to which expenditures regarding the grant are prohibited under subsection (d)(1)(B) of this section.

(f) Restrictions on use of grant

A funding agreement for a grant under section 290ff(a) of this title is that the grant, and the non-Federal contributions made with respect to the grant, will not be expended—

(1) to purchase or improve real property (including the construction or renovation of facilities);

(2) to provide for room and board in residential programs serving 10 or fewer children;

(3) to provide for room and board or other services or expenditures associated with care of children in residential treatment centers serving more than 10 children or in inpatient hospital settings, except intensive home-based services and other services provided on an ambulatory or outpatient basis; or

(4) to provide for the training of any individual, except training authorized in section 290ff–3(a)(2) of this title and training provided through any appropriate course in continuing education whose duration does not exceed 2 days.

(July 1, 1944, ch. 373, title V, § 562, as added Pub. L. 102–321, title I, § 119, July 10, 1992, 106 Stat. 351.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(3)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of Title 20, Education. Part H of the Act was classified generally to subchapter VIII (§ 1471 et seq.) of chapter 33 of Title 20 prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290ff–2, 290ff–3, 290ff–4 of this title.

§ 290ff–2. Individualized plan for services

(a) In general

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under section 290ff–1(a) of this title will develop and carry out an individualized plan of services for each child provided access to the system, and that the plan will be developed and carried out with the participation of the family of the child and, unless clinically inappropriate, with the participation of the child.

(b) Multidisciplinary team

A funding agreement for a grant under section 290ff(a) of this title is that the plan required in subsection (a) of this section will be developed, and reviewed and as appropriate revised not less than once each year, by a multidisciplinary team of appropriately qualified individuals who provide services through the system, including as appropriate mental health services, other health services, educational services, social services, and vocational counseling and rehabilitation;[1]

(c) Coordination with services under Individuals with Disabilities Education Act

A funding agreement for a grant under section 290ff(a) of this title is that, with respect to a plan under subsection (a) of this section for a child, the multidisciplinary team required in subsection (b) of this section will—

(1) in developing, carrying out, reviewing, and revising the plan consider any individualized education program in effect for the child pursuant to part B of the Individuals with Disabilities Education Act [42 U.S.C. 1411 et seq.];

(2) ensure that the plan is consistent with such individualized education program and provides for coordinating services under the plan with services under such program; and

(3) ensure that the memorandum of understanding entered into under section 290ff–1(d)(3)(B) of this title regarding such Act [20 U.S.C. 1400 et seq.] includes provisions regarding compliance with this subsection.

(d) Contents of plan

A funding agreement for a grant under section 290ff(a) of this title is that the plan required in subsection (a) of this section for a child will—

(1) identify and state the needs of the child for the services available pursuant to section 290ff–1 of this title through the system;

(2) provide for each of such services that is appropriate to the circumstances of the child, including, except in the case of children who are less than 14 years of age, the provision of appropriate vocational counseling and rehabilitation, and transition services (as defined in section 602(a)(19)[2] of the Individuals with Disabilities Education Act);

(3) establish objectives to be achieved regarding the needs of the child and the methodology for achieving the objectives; and

(4) designate an individual to be responsible for providing the case management required in section 290ff–1(e)(1) of this title or certify that case management services will be provided to the child as part of the individualized education program of the child under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

[1] So in original. The semicolon probably should be a period.

[2] See References in Text note below.

(July 1, 1944, ch. 373, title V, § 563, as added Pub. L. 102–321, title I, § 119, July 10, 1992, 106 Stat. 354.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (c)(1), (3) and (d)(2), (4), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. Section 602 of the Act was classified to section 1401 of Title 20, and was omitted in the general amendment of subchapter I of chapter 33 of Title 20 by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 which is classified to section 1401 of Title 20 and which contains provisions defining ''transition services''. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290ff–1, 290ff–3 of this title.

§ 290ff–3. Additional provisions

(a) Optional services

In addition to services described in subsection (c) of section 290ff–1 of this title, a system of care under subsection (a) of such section may, in expending a grant under section 290ff(a) of this title, provide for—

(1) preliminary assessments to determine whether a child should be provided access to the system;

(2) training in—

(A) the administration of the system;

(B) the provision of intensive home-based services under paragraph (4) of section 290ff–1(c) of this title, intensive day treatment under paragraph (5) of such section, and foster care or group homes under paragraph (7) of such section; and

(C) the development of individualized plans for purposes of section 290ff–2 of this title;

(3) recreational activities for children provided access to the system; and

(4) such other services as may be appropriate in providing for the comprehensive needs with respect to mental health of children with a serious emotional disturbance.

(b) Comprehensive plan

The Secretary may make a grant under section 290ff(a) of this title only if, with respect to the jurisdiction of the public entity involved, the entity has submitted to the Secretary, and has had approved by the Secretary, a plan for the development of a jurisdiction-wide system of care for community-based services for children with a serious emotional disturbance that specifies the progress the public entity has made in developing the jurisdiction-wide system, the extent of cooperation across agencies serving children in the establishment of the system, the Federal and non-Federal resources currently committed to the establishment of the system, and the current gaps in community services and the manner in which the grant under section 290ff(a) of this title will be expended to address such gaps and establish local systems of care.

(c) Limitation on imposition of fees for services

A funding agreement for a grant under section 290ff(a) of this title is that, if a charge is imposed for the provision of services under the grant, such charge—

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the family of the child involved; and

(3) will not be imposed on any child whose family has income and resources of equal to or less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(d) Relationship to items and services under other programs

A funding agreement for a grant under section 290ff(a) of this title is that the grant, and the non-Federal contributions made with respect to the grant, will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(2) by an entity that provides health services on a prepaid basis.

(e) Limitation on administrative expenses

A funding agreement for a grant under section 290ff(a) of this title is that not more than 2 percent of the grant will be expended for administrative expenses incurred with respect to the grant by the public entity involved.

(f) Reports to Secretary

A funding agreement for a grant under section 290ff(a) of this title is that the public entity involved will annually submit to the Secretary a report on the activities of the entity under the grant that includes a description of the number of children provided access to systems of care operated pursuant to the grant, the demographic characteristics of the children, the types and costs of services provided pursuant to the grant, the availability and use of third-party reimbursements, estimates of the unmet need for such services in the jurisdiction of the entity, and the manner in which the grant has been expended toward the establishment of a jurisdiction-wide system of care for children with a serious emotional disturbance, and such other information as the Secretary may require with respect to the grant.

(g) Description of intended uses of grant

The Secretary may make a grant under section 290ff(a) of this title only if—

(1) the public entity involved submits to the Secretary a description of the purposes for which the entity intends to expend the grant;

(2) the description identifies the populations, areas, and localities in the jurisdiction of the

entity with a need for services under this section; and

(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprofit entities.

(h) Requirement of application

The Secretary may make a grant under section 290ff(a) of this title only if an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (g) of this section, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(July 1, 1944, ch. 373, title V, § 564, as added Pub. L. 102–321, title I, § 119, July 10, 1992, 106 Stat. 355.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290ff–1 of this title.

§ 290ff–4. General provisions

(a) Duration of support

The period during which payments are made to a public entity from a grant under section 290ff(a) of this title may not exceed 5 fiscal years.

(b) Technical assistance

(1) In general

The Secretary shall, upon the request of a public entity receiving a grant under section 290ff(a) of this title—

(A) provide technical assistance to the entity regarding the process of submitting to the Secretary applications for grants under section 290ff(a) of this title; and

(B) provide to the entity training and technical assistance with respect to the planning, development, and operation of systems of care pursuant to section 290ff–1 of this title.

(2) Authority for grants and contracts

The Secretary may provide technical assistance under subsection (a) of this section directly or through grants to, or contracts with, public and nonprofit private entities.

(c) Evaluations and reports by Secretary

(1) In general

The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 290ff(a) of this title. The evaluations shall assess the effectiveness of the systems of care operated pursuant to such section, including longitudinal studies of outcomes of services provided by such systems, other studies regarding such outcomes, the effect of activities under this part on the utilization of hospital and other institutional settings, the barriers to and achievements resulting from interagency collaboration in providing community-based services to children with a serious emotional disturbance, and assessments by parents of the effectiveness of the systems of care.

(2) Report to Congress

The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under subsection (c) of this section, and annually thereafter, submit to the Congress a report summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this section as the Secretary determines to be appropriate.

(d) Definitions

For purposes of this part:

(1) The term ''child'' means an individual not more than 21 years of age.

(2) The term ''family'', with respect to a child provided access to a system of care under section 290ff–1(a) of this title, means—

(A) the legal guardian of the child; and

(B) as appropriate regarding mental health services for the child, the parents of the child (biological or adoptive, as the case may be) and any foster parents of the child.

(3) The term ''funding agreement'', with respect to a grant under section 290ff(a) of this title to a public entity, means that the Secretary may make such a grant only if the public entity makes the agreement involved.

(4) The term ''serious emotional disturbance'' includes, with respect to a child, any child who has a serious emotional disorder, a serious behavioral disorder, or a serious mental disorder.

(e) Rule of construction

Nothing in this part shall be construed as limiting the rights of a child with a serious emotional disturbance under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(f) Funding

(1) Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) Limitation regarding technical assistance

Not more than 10 percent of the amounts appropriated under paragraph (1) for a fiscal year may be expended for carrying out subsection (b) of this section.

(July 1, 1944, ch. 373, title V, § 565, as added Pub. L. 102–321, title I, § 119, July 10, 1992, 106 Stat. 356; amended Pub. L. 103–43, title XX, § 2017(2), June 10, 1993, 107 Stat. 218.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (e), is title VI of Pub. L. 91–230, Apr.

13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

1993—Subsec. (c)(1), (d), (f)(1). Pub. L. 103–43, § 2017(2)(A), (B), (C)(i), substituted ''this part'' for ''this subpart''.

Subsec. (f)(2). Pub. L. 103–43, § 2017(2)(C)(ii), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than $3,000,000 for the purpose of carrying out subsection (b) of this section.''

EFFECTIVE DATE

Section effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

PART F—MODEL COMPREHENSIVE PROGRAM FOR TREATMENT OF SUBSTANCE ABUSE

§ 290gg. Demonstration program in national capital area

(a) In general

The Secretary, in collaboration with the Director of the Treatment Center, shall make a demonstration grant for the establishment, within the national capital area, of a model program for providing comprehensive treatment services for substance abuse.

(b) Purposes

The Secretary may not make a grant under subsection (a) of this section unless, with respect to the comprehensive treatment services to be offered by the program under such subsection, the applicant for the grant agrees—

(1) to ensure, to the extent practicable, that the program has the capacity to provide the services to all individuals who seek and would benefit from the services;

(2) as appropriate, to provide education on obtaining employment and other matters with respect to assisting the individuals in preventing any relapse into substance abuse, including education on the appropriate involvement of parents and others in preventing such a relapse;

(3) to provide services in locations accessible to substance abusers and, to the extent practicable, to provide services through mobile facilities;

(4) to give priority to providing services to individuals who are intravenous drug abusers, to pregnant women, to homeless individuals, and to residents of publicly-assisted housing;

(5) with respect to women with dependent children, to provide child care to such women seeking treatment services for substance abuse;

(6) to conduct outreach activities to inform individuals of the availability of the services of the program;

(7) to provide case management services, including services to determine eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

(8) to ensure the establishment of one or more offices to oversee the coordination of the activities of the program, to ensure that treatment is available to those seeking it, to ensure that the program is administered efficiently, and to ensure that the public is informed that the offices are the locations at which individuals may make inquiries concerning the program, including the location of available treatment services within the national capital area; and

(9) to develop and utilize standards for certifying the knowledge and training of individuals, and the quality of programs, to provide treatment services for substance abuse.

(c) Certain requirements

(1) Regarding eligibility for grant

(A) The Secretary may not make the grant under subsection (a) of this section unless the applicant involved is an organization of the general-purpose local governments within the national capital area, or another public or nonprofit private entity, and the applicant submits to the Secretary assurances satisfactory to the Secretary that, with respect to the communities in which services will be offered, the local governments of the communities will participate in the program.

(B) The Secretary may not make the grant under subsection (a) of this section unless—

(i) an application for the grant is submitted to the Secretary;

(ii) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(iii) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(2) Authority for cooperative agreements

The grantee under subsection (a) of this section may provide the services required by such subsection directly or through arrangements with public and nonprofit private entities.

(d) Requirement of non-Federal contributions

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount not less than $1 for each $2 of Federal funds provided under the grant.

(2) Determination of amount contributed

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

(e) Evaluations

(1) By Secretary

The Secretary shall independently evaluate the effectiveness of the program carried out under subsection (a) of this section and determine its suitability as a model for the United States, particularly regarding the provision of high quality, patient-oriented, coordinated and accessible drug treatment services across jurisdictional lines. The Secretary shall consider the extent to which the program has improved patient retention, accessibility of services, staff retention and quality, reduced patient relapse, and provided a full range of drug treatment and related health and human services. The Secretary shall evaluate the extent to which the program has effectively utilized innovative methods for overcoming the resistance of the residents of communities to the establishment of treatment facilities within the communities.

(2) By grantee

The Secretary may require the grantee under subsection (a) of this section to evaluate any aspect of the program carried out under such subsection, and such evaluation shall, to the extent appropriate, be coordinated with the independent evaluation required in paragraph (1).

(3) Limitation

Funds made available under subsection (h) of this section may not be utilized to conduct the independent evaluation required in paragraph (1).

(f) Reports

(1) Initial criteria

The Secretary shall make a determination of the appropriate criteria for carrying out the program required in subsection (a) of this section, including the anticipated need for, and range of, services under the program in the communities involved and the anticipated costs of the program. Not later than 90 days after July 10, 1992, the Secretary shall submit to the Congress a report describing the findings made as a result of the determination.

(2) Annual reports

Not later than 2 years after the date on which the grant is made under subsection (a) of this section, and annually thereafter, the Secretary shall submit to the Congress a report describing the extent to which the program carried out under such subsection has been effective in carrying out the purposes of the program.

(g) "National capital area" defined

For purposes of this section, the term ''national capital area'' means the metropolitan Washington area, including the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia, the counties of Arlington and Fairfax in such State (and the political subdivisions located in such counties), and the counties of Montgomery and Prince George's in the State of Maryland (and the political subdivisions located in such counties).

(h) Obligation of funds

Of the amounts appropriated for each of the fiscal years 1993 and 1994 for the programs of the Department of Health and Human Services, the Secretary shall make available $10,000,000 for carrying out this section. Of the amounts appropriated for fiscal year 1995 for the programs of such Department, the Secretary shall make available $5,000,000 for carrying out this section.

(July 1, 1944, ch. 373, title V, § 571, as added Pub. L. 102–321, title III, § 301, July 10, 1992, 106 Stat. 417.)

EFFECTIVE DATE

Section effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, see section 801(b), (d)(1) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SUBCHAPTER IV—CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300q–2, 300s–6, 1395x, 2005b, 2005d of this title; title 40 App. sections 202, 214.

§ 291. Congressional declaration of purpose

The purpose of this subchapter is—

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

(July 1, 1944, ch. 373, title VI, § 600, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 447.)

PRIOR PROVISIONS

A prior section 291, act July 1, 1944, ch. 373, title VI, § 601, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 6, 63 Stat. 900; July 12, 1954, ch. 471, § 4(a), 68 Stat. 464, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

Provisions similar to those comprising this section were contained in former section 291*o*, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, prior to the general amendment of this subchapter by Pub. L. 88–443.

EFFECTIVE DATE

Section 3(b) of Pub. L. 88–443, as amended by Pub. L. 91–296, title I, § 120, June 30, 1970, 84 Stat. 343, provided that: ''The amendment made by subsection (a) [enacting this section and sections 291a to 291j, 291k to 291m,

291n, and 291*o* of this title] shall become effective upon the date of enactment of this Act [Aug. 18, 1964], except that—

"(1) all applications approved by the Surgeon General under title VI of the Public Health Service Act [this subchapter] prior to such date, and allotments of sums appropriated prior to such date, shall be governed by the provisions of such title VI in effect prior to such date;

"(2) allotment percentages promulgated by the Surgeon General under such title VI during 1962 shall continue to be effective for purposes of such title as amended by this Act for the fiscal year ending June 30, 1965;

"(3) the terms of members of the Federal Hospital Council who are serving on such Council prior to such date shall expire on the date they would have expired had this Act not been enacted;

"(4) the provisions of the fourth sentence of section 636(a) of the Public Health Service Act [former section 291n of this title], as in effect prior to the enactment of this Act, shall apply in lieu of the fourth sentence of section 624(a) of the Public Health Service Act [section 291n(a) of this title], as amended by this Act, in the case of any project for construction of a facility or for acquisition of equipment with respect to which a grant for any part thereof or for planning such construction or equipment was made prior to the enactment of this Act;

"(5) no application with respect to a project for modernization of any facility in any State may be approved by the Surgeon General, for purposes of receiving funds from an allotment under section 602(a)(2) of the Public Health Service Act, as amended by this Act [section 291b(a)(2) of this title], before July 1, 1965, or before such State has had a State plan approved by the Surgeon General as meeting the requirements of section 604(a)(4)(E) [section 291d(a)(4)(E) of this title] as well as the other requirements of section 604 of such Act as so amended [section 291d of this title];

"(6) the provisions of clause (b) of section 609 of the Public Health Service Act [section 291i of this title], as amended by this Act, shall apply with respect to any project whether it was approved, and whether the event specified in such clause occurred, before, on, or after the date of enactment of this Act [June 30, 1970], except that it shall not apply in the case of any project with respect to which recovery under title VI of such Act [this subchapter] has been made prior to the enactment of this paragraph."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291a of this title.

PART A—GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 291j–1, 300s of this title.

§ 291a. Authorization of appropriations

In order to assist the States in carrying out the purposes of section 291 of this title, there are authorized to be appropriated—

(a) for the fiscal year ending June 30, 1974—

(1) $20,800,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) $70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $150,000,000 for the fiscal year ending June 30, 1965, $160,000,000 for the fiscal year ending June 30, 1966, $170,000,000 for the fiscal year ending June 30, 1967, $180,000,000 each for the next two fiscal years, $195,000,000 for the fiscal year ending June 30, 1970, $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, $157,500,000 for the fiscal year ending June 30, 1973, and $41,400,000 for the fiscal year ending June 30, 1974; and

(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), $65,000,000 for the fiscal year ending June 30, 1971, $80,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, and $50,000,000 for the fiscal year ending June 30, 1974.

(July 1, 1944, ch. 373, title VI, § 601, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 448; amended Pub. L. 90–574, title IV, § 402(a), Oct. 15, 1968, 82 Stat. 1011; Pub. L. 91–296, title I, §§ 101(a), 102(a), 116(a), June 30, 1970, 84 Stat. 337, 341; Pub. L. 93–45, title I, § 108(a), June 18, 1973, 87 Stat. 92.)

PRIOR PROVISIONS

A prior section 291a, act July 1, 1944, ch. 373, title VI, § 611, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, authorized appropriations for surveys and planning, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291d, act July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 897; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(a), 72 Stat. 616, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291p, act July 1, 1944, ch. 373, title VI, § 646, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291s, act July 1, 1944, ch. 373, title VI, § 651, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462; amended Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(b), 72 Stat. 616; Oct. 5, 1961, Pub. L. 87–395, § 3(a), 75 Stat. 825, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–45, § 108(a)(1), substituted introductory text reading "fiscal year ending June 30, 1974" for "fiscal year ending June 30, 1965, and each of the next eight fiscal years" and in cl. (1) "$20,800,000" for "$85,000,000".

Subsec. (b). Pub. L. 93–45, § 108(a)(2), authorized appropriations of $41,400,000 for fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 93–45, § 108(a)(3), authorized appropriations of $50,000,000 for fiscal year ending June 30, 1974.

1970—Par. (a). Pub. L. 91–296, §§ 101(a)(1), (2), 116(a), substituted "outpatient facilities" for "diagnostic or treatment centers" in enumeration of facilities eligible for construction grants, extended through fiscal year ending June 30, 1973, authority to appropriate funds for construction grants, increased from $70,000,000 to $85,000,000 annual authority to make grants for public or other nonprofit facilities for long-term care, from $20,000,000 to $70,000,000 authority for public or other nonprofit outpatient facilities, and from $10,000,000 to

$15,000,000 authority for public or other nonprofit rehabilitation facilities.

Par. (b). Pub. L. 91–296, §§101(a)(3), 102(a)(1), struck out provisions authorizing grants for modernization of facilities and inserted provisions authorizing appropriation of $147,500,000 for fiscal year ending June 30, 1971, $152,500,000 for fiscal year ending June 30, 1972, and $157,500,000 for fiscal year ending June 30, 1973, for grants for construction of public or other nonprofit hospitals and public health centers

Par. (c). Pub. L. 91–296, §102(a)(2), added par. (c).

1968—Par. (a). Pub. L. 90–574, §402(a)(1), substituted ''next five'' for ''next four''.

Par. (b). Pub. L. 90–574, §402(a)(2), authorized appropriation of $195,000,000 for fiscal year ending June 30, 1970.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 101(b) of Pub. L. 91–296 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect with respect to appropriations made under such section 601 [this section] for fiscal years beginning after June 30, 1970.''

Section 102(a) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to appropriations made under this section for fiscal years beginning after June 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291b, 291d, 291g, 291*o* of this title.

§ 291b. State allotments

(a) Computation for individual States; formulas for both new construction and modernization

(1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 291a(a) of this title, and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 291a(b) of this title, as the product of—

(A) the population of such State, and

(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all of the States.

(2) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated for such year under section 291a(c) of this title, on the basis of the population, the financial need, and the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 291a of this title, of the respective States.

(b) Minimum allotments

(1) The allotment to any State under subsection (a) of this section for any fiscal year which is less than—

(A) $50,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $100,000 for any other State, in the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities,

(B) $100,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit outpatient facilities,

(C) $200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 291a of this title, or

(D) $200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

(2) An allotment of the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

(c) Allotment percentages; definitions; determination

For the purposes of this part—

(1) The ''allotment percentage'' for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 75 per centum.

(2) The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

(3) The population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce.

(4) The term ''United States'' means (but only for purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

(d) Availability of allotments in subsequent years

(1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to such State for such purposes for such next two fiscal years.

(2) Any sum allotted to the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(e) Transfer of allotments

(1) Upon the request of any State that a specified portion of any allotment of such State under subsection (a) of this section for any fiscal year be added to any other allotment or allotments of such State under such subsection for such year, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that the aggregate of the portions so transferred from an allotment for a fiscal year pursuant to this paragraph may not exceed the amount specified with respect to such allotment in clause (A), (B), (C), or (D), as the case may be, of subsection (b)(1) of this section which is applicable to such State.

(2) In addition to the transfer of portions of allotments under paragraph (1), upon the request of any State that a specified portion of any allotment of such State under subsection (a) of this section, other than an allotment for grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification to the Secretary by the State agency in such State to the effect that—

(A) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion, or

(B) in the case of a request to transfer a portion of an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, use of such portion as requested by such State agency will better carry out the purposes of this subchapter,

the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(3) In addition to the transfer of portions of allotments under paragraph (1) or (2), upon the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) of this section be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 291a of this title, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(4) After adjustment of allotments of any State, as provided in paragraph (1), (2), or (3) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

(f) Request by State to transfer portion of allotment

In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this subchapter, such portion of such State's allotment shall be added to the corresponding allotment of the other State, to be used for the purpose referred to above.

(July 1, 1944, ch. 373, title VI, § 602, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 448; amended Pub. L. 90–574, title IV, § 402(b), Oct. 15, 1968, 82 Stat. 1011; Pub. L. 91–296, title I, §§ 103(a), (b), 104, 116(a), 119(a)–(c), 122, June 30, 1970, 84 Stat. 338, 341, 343, 344.)

PRIOR PROVISIONS

A prior section 291b, act July 1, 1944, ch. 373, title VI, § 612, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to a State application for funds, its requirements and its approval, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1941, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291g, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291i(a) to (d), act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat.

1041; amended June 19, 1948, ch. 544, 62 Stat. 531; Aug. 1, 1956, ch. 852, § 19(a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 86–70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 29(d), 74 Stat. 419; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(2), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291n–1, act July 1, 1944, ch. 373, title VI, § 637, formerly § 654(c), as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, renumbered and amended Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 349, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291r, act July 1, 1944, ch. 373, title VI, § 648, as added July 12, 1954, ch. 471, § 2, 68 Stat. 462, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291t, act July 1, 1944, ch. 373, title VI, § 652, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462; amended Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87–395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291v(b), act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–296, § 103(a), substituted "sums appropriated for such year" for "new hospital portion of the sums appropriated for such year" and struck out provision setting out a formula for determining new hospital portion of sums appropriated pursuant to section 291a(b) of this title.

Subsec. (a)(2). Pub. L. 91–296, § 103(a), substituted "Secretary" for "Surgeon General", and substituted reference to sums appropriated for such year under section 291a(c) of this title for reference to remainder of sums appropriated pursuant to section 291a(b) of this title (which portion was to be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title).

Subsec. (b)(1)(A). Pub. L. 91–296, §§ 103(b)(1), 119(a)(1), substituted "$50,000" and "$100,000" for "$25,000" and "$50,000", respectively, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(B). Pub. L. 91–296, §§ 103(b)(2), 116(a), 119(a)(1), substituted "$100,000" and "$200,000" for "$50,000" and "$100,000", respectively, substituted "outpatient facilities" for "diagnostic or treatment centers", and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(C). Pub. L. 91–296, §§ 103(b)(3), 119(a)(1), substituted "$200,000" and "$300,000" for "$100,000" and "$200,000", respectively, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(D). Pub. L. 91–296, § 103(b)(4), added subpar. (D).

Subsecs. (b)(2), (c)(1). Pub. L. 91–296, § 119(a)(2), (b), inserted reference to Trust Territory of the Pacific Islands.

Subsec. (d)(1). Pub. L. 91–296, §§ 119(c), 122, inserted reference to Trust Territory of the Pacific Islands and substituted two years for one year as the time span following a year in which allotted sums remaining unobligated at the end thereof during which such unobligated funds remain available.

Subsec. (d)(2). Pub. L. 91–296, § 119(c), inserted references to Trust Territory of the Pacific Islands.

Subsec. (e). Pub. L. 91–296, § 104, authorized any State to make transfers of any amount up to the minimum amount allotted to any state for a particular category and authorized all amounts above such minimums to be transferred from one category of assistance to another without restriction on the amounts with the exception that no funds could be transferred from rehabilitation facilities category or to new hospital construction category and that all transfers be justified on the basis that either there are no approvable applications in the category from which funds are transferred or, in case of transfers from new hospital construction category, the purposes of the program would be better served by the transfer, and authorized transfers to new hospital construction from modernization category if need is greater.

1968—Subsec. (a)(1). Pub. L. 90–574, § 402(b)(1), inserted provision for two-thirds of the sums appropriated in the case of the fifth fiscal year thereafter.

Subsec. (e)(2)(E). Pub. L. 90–574, § 402(b)(2), added subpar. (E).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 103(a) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 103(b) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to allotments from appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 104 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to allotments made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 119(e) of Pub. L. 91–296 provided that: "The amendments made by this section [amending this section and section 291*o* of this title] shall apply with respect to allotments (and grants therefrom) under part A of title VI of the Public Health Service Act [this part] for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of such title [part B of this subchapter] made after June 30, 1970."

Section 122 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to allotments made from appropriations under section 291a of this title for fiscal years beginning after June 30, 1970.

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 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.

AVAILABILITY OF FUNDS FOR OBLIGATION FROM ALLOTMENT FOR ADMINISTRATION OF PLAN

Pub. L. 93–641, § 5(b), Jan. 4, 1975, 88 Stat. 2274, provided that any State having in the fiscal year ending June 30, 1975 or the next fiscal year funds available for obligation from its allotments under section 291a et seq. of this title, may in such fiscal year use for the proper and efficient administration during such year of its State plan an amount of such funds not exceeding 4 percentum of such funds or $100,000, whichever is less.

ALLOTMENT STUDY; REPORT TO CONGRESS

Section 103(c) of Pub. L. 91–296 directed Secretary to study effects of the formula specified in subsec. (a)(1) of this section for allotment among the States for construction of health facilities, with results of such study

together with recommendations for change to be reported to Congress on May 15, 1972.

APPROVAL OF APPLICATION FOR MODERNIZATION PRIOR TO JULY 1, 1965, OR BEFORE APPROVAL OF A STATE PLAN

Section 3(b)(5) of Pub. L. 88–443, providing that no application for modernization of any facility may be approved for purposes of receiving funds before the approval of a State plan, as well as other requirements, is set out as an Effective Date note under section 291 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291*o* of this title.

§ 291c. General regulations

The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health and Human Services shall by general regulations prescribe—

(a) Priority of projects; determination

the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1) in the case of projects for the construction of hospitals, to facilities serving areas with relatively small financial resources and, at the option of the State, rural communities;

(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas;

(4) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(6) to facilities which will provide training in health or allied health professions; and

(7) to facilities which will provide to a significant extent, for the treatment of alcoholism;

(b) Standards of construction and equipment

general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

(c) Criteria for determining needs for beds, hospitals and other facilities; plans for distribution of beds and facilities

criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

(d) Criteria for determining need for modernization

criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

(e) State plan requirements; assurances necessary for approval of application

that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

(July 1, 1944, ch. 373, title VI, § 603, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 451; amended Pub. L. 88–581, § 3(b), Sept. 4, 1964, 78 Stat. 919; Pub. L. 91–296, title I, § 110, June 30, 1970, 84 Stat. 339; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

PRIOR PROVISIONS

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 613, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to allotments to States, the determination of their amount, and the disposition of unexpended funds, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291(a), (b) and (d) of this title.

Provisions similar to those comprising this section were contained in a prior section 291e, act July 1, 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–296 struck out from cl. (1) provisions requiring that States give special consideration for projects for hospitals serving rural areas but inserted provisions making such preference optional with each State and added cls. (4) to (7).

1964—Subsec. (a)(4). Pub. L. 88–581 struck out cl. (4) relating to hospital facilities which ''will include new or expanded facilities for nurse training''.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 110 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to applications approved under this subchapter after June 30, 1970.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(b) of Pub. L. 88–581 provided that the amendments made by such section 3(b) [amending this

section and sections 291*o* and 293c of this title] are effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965.

TRANSFER OF FUNCTIONS

''Secretary of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291d, 291e, 291i, 291j–3 of this title.

§ 291d. State plans

(a) Submission; requirements

Any State desiring to participate in this part may submit a State plan. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) of this subsection will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include (A) representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and representatives particularly concerned with education or training of health professions personnel, and (B) an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 291c of this title and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C) the outpatient facilities needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such facilities throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State; and

(E) effective January 1, 1966, the extent to which existing facilities referred to in section 291a(a) or (b) of this title in the State are in need of modernization;

(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) of this subsection and regulations prescribed under section 291c of this title and providing for construction or modernization of the hospital or long-term care facilities, public health centers, outpatient facilities, and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4) of this subsection;

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 291c of this title, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11) provide that the Comptroller General of the United States or his duly authorized rep-

resentatives shall have access for the purpose of audit and examination to the records specified in paragraph (10) of this subsection;

(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary; and

(13) Effective July 1, 1971, provide that before any project for construction or modernization of any general hospital is approved by the State agency there will be reasonable assurance of adequate provision for extended care services (as determined in accordance with regulations) to patients of such hospital when such services are medically appropriate for them, with such services being provided in facilities which (A) are structurally part of, physically connected with, or in immediate proximity to, such hospital, and (B) either (i) are under the supervision of the professional staff of such hospital or (ii) have organized medical staffs and have in effect transfer agreements with such hospital; except that the Secretary may, at the request of the State agency, waive compliance with clause (A) or (B), or both such clauses, as the case may be, in the case of any project if the State agency has determined that compliance with such clause or clauses in such case would be inadvisable.

(b) Approval by Surgeon General; hearing after disapproval

The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a) of this section, the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.

(July 1, 1944, ch. 373, title VI, § 604, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 452; amended Pub. L. 91–296, title I, §§ 115, 116(b), (c), 123, June 30, 1970, 84 Stat. 341, 342, 344.)

PRIOR PROVISIONS

A prior section 291d, act July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 898; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(a), 72 Stat. 616, authorized appropriations for construction of hospitals and related facilities, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291a of this title.

Provisions similar to those comprising this section were contained in a prior section 291f(a), (b), act July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91–296, § 115, inserted requirement that State advisory councils include representatives particularly concerned with education or training of health professions personnel.

Subsec. (a)(4)(C). Pub. L. 91–296, § 116(b), substituted ''outpatient facilities'' for ''diagnostic or treatment centers'' and ''such facilities'' for ''such centers''.

Subsec. (a)(5). Pub. L. 91–296, § 116(c), substituted ''outpatient facilities'' for ''diagnostic or treatment centers''.

Subsec. (a)(13). Pub. L. 91–296, § 123, added par. (13).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 115 of Pub. L. 91–296 provided that the amendment made by that section is effective July 1, 1970.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health and Human Services under subsec. (a)(8) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to Office of Personnel Management, see section 4728(a)(3)(C) of this title.

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.

FUNDS FOR MODERNIZATION PROJECTS; CONDITIONS TO BE MET BEFORE APPROVAL

Section 3(b)(5) of Pub. L. 88–443 provided that no application with respect to a modernization project may be approved for purposes of receiving funds from an allotment under section 291(a)(2) of this title before July 1, 1965, or before a State plan has been approved, as well as certain other requirements. See Effective Date note under section 291 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291e, 291g, 291i, 291j–3, 291j–9, 291*l*, 291*o*, 1320a–1, 4728 of this title; title 12 sections 1715w, 1715–7.

§ 291e. Projects for construction or modernization

(a) Application; contents

For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor, in accordance with regulations prescribed under section 291c of this title;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those pre-

vailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.]; and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of title 40; and

(6) a certification by the State agency of the Federal share for the project.

(b) Approval by Surgeon General; requisites; additional approval by Secretary of Health and Human Services

The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appropriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 291c of this title; (3) that the application is in conformity with the State plan approved under section 291d of this title and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 291c(e) of this title, and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency, opportunity has been provided, prior to such approval and recommendation, for consideration of the project by the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 246(b) of this title covering the area in which such project is to be located or, if there is no such agency or organization, by the State agency administering or supervising the administration of the State plan approved under section 246(a) of this title, and the application is for a project which is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 291c(a) of this title. Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health and Human Services.

(c) Opportunity for hearing required prior to disapproval

No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

(d) Amendments subject to same approval as original applications

Amendment of any approved application shall be subject to approval in the same manner as an original application.

(e) Outpatient facilities; requirements of applicants

Notwithstanding any other provision of this subchapter, no application for an outpatient facility shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 291*o* of this title) or which provides reasonable assurance that the services of a general hospital will be available to patients of such facility who are in need of hospital care.

(July 1, 1944, ch. 373, title VI, § 605, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 453; amended Pub. L. 91–296, title I, §§ 111(a), 116(e), June 30, 1970, 84 Stat. 340, 342; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (a)(5), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to section 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 291e, act July 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, authorized Surgeon General to prescribe general regulations, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291c of this title.

A prior section 291h(a), (c), act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 8, 63 Stat. 901, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

A prior section 291v(d), act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (b)(4). Pub. L. 91–296, § 111(a), inserted provisions requiring that the appropriate area wide health planning agency be given an opportunity to consider the project for which an application is made before approval is given.

Subsec. (e). Pub. L. 91–296, § 116(e), substituted ''an outpatient facility'' for ''a diagnostic or treatment center'' and inserted provisions extending coverage to include corporations and associations which, although not owning or operating hospitals offer services of a general hospital to patients in need of hospital care.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 111(a) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to applications approved under this subchapter after June 30, 1970.

Amendment by section 116(e) of Pub. L. 91–296 applicable with respect to applications approved under this subchapter after June 30, 1970, see section 116(g) of Pub. L. 91–296, set out as a note under section 291*o* of this title.

TRANSFER OF FUNCTIONS

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

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.

APPLICATIONS APPROVED PRIOR TO AUG. 18, 1964

Section 3(b)(1) of Pub. L. 88–443, providing that applications approved, and allotments appropriated prior to Aug. 18, 1964, shall be governed by this subchapter as in effect prior to such date, is set out as an Effective Date note under section 291 of this title.

FUNDS FOR MODERNIZATION PROJECTS; CONDITIONS TO BE MET BEFORE APPROVAL

Section 3(b)(5) of Pub. L. 88–443 provided that no application with respect to a modernization project may be approved for purposes of receiving funds from an allotment under section 291(a)(2) of this title before July 1, 1965, or before a State plan has been approved, as well as certain other requirements. See Effective Date note set out under section 291 of this title.

CROSS REFERENCES

Additional payments in cases of amended applications, see section 291f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291f, 291g, 291h, 291i, 291j–3 of this title.

§ 291f. Payments for construction or modernization

(a) Certification of work by Surgeon General; conditions affecting payments

Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 291g of this title, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) Additional payments in cases of amended applications

In case an amendment to an approved application is approved as provided in section 291e of this title or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) Administration expenses; use of portion of allotments to defray; manner of payment

(1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 4 per centum of the total of the allotments of such State for a year, or $100,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

(2) Any amount paid under paragraph (1) of this subsection to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1970.

(July 1, 1944, ch. 373, title VI, § 606, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 454; amended Pub. L. 91–296, title I, § 112, June 30, 1970, 84 Stat. 340.)

PRIOR PROVISIONS

A prior section 291f, act July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 19, 1948, ch. 554, 62 Stat. 536; Oct. 25, 1949, ch. 722, § 3(a), 63 Stat. 899, related to State plans, their submission, and their requirements, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291d of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in former section 291h(b), acts July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 3(b), 63 Stat. 899, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (c)(1). Pub. L. 91–296, § 112(1), substituted "4 per centum" for "2 per centum" and "$100,000 for $50,000".

Subsec. (c)(2). Pub. L. 91–296, § 112(2), substituted "June 30, 1970" for "June 30, 1964".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 112 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to expenditures under a State plan approved under this subchapter which are made for administration of such plan during any fiscal year beginning after June 30, 1970.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291i, 3338 of this title.

§ 291g. Withholding of payments; noncompliance with requirements

Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 291d(a)(1) of this title, finds—

(a) that the State agency is not complying substantially with the provisions required by section 291d of this title to be included in its State plan; or

(b) that any assurance required to be given in an application filed under section 291e of this title is not being or cannot be carried out; or

(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 291e of this title; or

(d) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Surgeon General may forthwith notify the State agency that—

(e) no further payments will be made to the State under this part, or

(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 291a of this title, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section,

as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

(July 1, 1944, ch. 373, title VI, § 607, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 455.)

PRIOR PROVISIONS

A prior section 291g, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587, authorized allotments to States for construction, specified their amount, and provided for availability for unexpended funds, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291b of this title.

Provisions similar to those comprising this section were contained in former section 291j(a), acts July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466, prior to the general amendment of this subchapter by Pub. L. 88–443.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291f, 291h of this title.

§ 291h. Judicial review

(a) Refusal to approve application; procedure; jurisdiction of court of appeals

If the Surgeon General refuses to approve any application for a project submitted under section 291e of this title or section 291j of this title, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 291g of this title such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

(b) Conclusiveness of Surgeon General's findings; remand; new or modified findings

The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Review by Supreme Court; stay of Surgeon General's action

The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action.

(July 1, 1944, ch. 373, title VI, § 608, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 456.)

PRIOR PROVISIONS

A prior section 291h, act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, §§ 3(b–d), 8, 63 Stat. 899, 901; July 12, 1954, ch. 471, § 4(b), 68 Stat. 464, related to

projects for construction, the application required and its contents and approval by the Surgeon General, and provided for a hearing prior to disapproval of the application, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291e of this title.

Provisions similar to those comprising this section were contained in former section 291j(b), act July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 28, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466; Aug. 28, 1958, Pub. L. 85–791, § 27, 72 Stat. 950, prior to the general amendment of this subchapter by Pub. L. 88–443.

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.

§ 291i. Recovery of expenditures under certain conditions

(a) Persons liable

If any facility with respect to which funds have been paid under section 291f of this title shall, at any time within 20 years after the completion of construction or modernization—

(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 291e of this title, or (B) which is not approved as a transferee by the State agency designated pursuant to section 291d of this title, or its successor, or

(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c) of this section.

(b) Notice to Secretary

The transferor of a facility which is sold or transferred as described in subsection (a)(1) of this section, or the owner of a facility the use of which is changed as described in subsection (a)(2) of this section, shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

(c) Amount of recovery; interest; interest period

(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) of this section is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved 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 construction or modernization of such project or projects.

(2)(A) After the expiration of—

(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section, in the case of a facility which is sold or transferred or the use of which changes after July 18, 1984, or

(ii) thirty days after July 18, 1984, or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section, in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984.[1]

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly ninety-day Treasury bill auction rate.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section,

(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b) of this section, upon the expiration of 180 days after the receipt of such notice, or

(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b) of this section, on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

(d) Waiver

(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) of this section with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

(A) has established an irrevocable trust—

(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (2) of section 291c(e) of this title or the amount, determined under subsection (c) of this section, that the United States is entitled to recover, and

(ii) which will only be used by the entity to provide the care required by clause (2) of section 291c(e) of this title; and

(B) will meet the obligation of the facility under clause (1) of section 291c(e) of this title.

(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) of this section with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good

[1] So in original. The period probably should be a comma.

cause for waiving such rights with respect to such facility.

(e) Lien

The right of recovery of the United States under subsection (a) of this section shall not constitute a lien on any facility with respect to which funds have been paid under section 291f of this title.

(July 1, 1944, ch. 373, title VI, § 609, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 456; amended Pub. L. 91–296, title I § 116(d), June 30, 1970, 84 Stat. 342; Pub. L. 98–369, div. B, title III, § 2381(a), July 18, 1984, 98 Stat. 1112.)

PRIOR PROVISIONS

A prior section 291i, act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 19, 1948, ch. 544, 62 Stat. 531; Oct. 25, 1949, ch. 722, § 9, 63 Stat. 901; July 12, 1954, ch. 471, § 4(c)–(f), 68 Stat. 465, 466; Aug. 1, 1956, ch. 852, § 19(a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 86–70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 29(d), 74 Stat. 419; Oct. 5, 1961, Pub. L. 87–395, § 5, 75 Stat. 826; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(2), 76 Stat. 587, related to allotment percentages, and contained various definitions, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291b of this title.

Provisions similar to those comprising this section were contained in section 291h(e) of this title, act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 3(c), 63 Stat. 899, 901; July 12, 1954, ch. 471, § 4(b), 68 Stat. 464, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1984—Pub. L. 98–369 amended section generally. Prior to amendment, section read as follows: ''If any facility with respect to which funds have been paid under section 291f of this title shall, at any time within twenty years after the completion of construction—

''(a) be sold or transferred to any person, agency, or organization (1) which is not qualified to file an application under section 291e of this title, or (2) which is not approved as a transferee by the State agency designated pursuant to section 291d of this title, or its successor, or

''(b) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) 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 construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment.''

1970—Cl. (b). Pub. L. 91–296 substituted ''outpatient facility'' for ''diagnostic or treatment center''.

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.

REGULATIONS AND PERSONNEL

Section 2381(c) of Pub. L. 98–369 provided that: ''Not later than the expiration of the one-hundred-and-eighty-day period beginning on the date of the enactment of this section [July 18, 1984], the Secretary shall have in effect regulations and personnel to place in effect the amendments made by this section [amending sections 291i and 300s–1a of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j of this title.

§ 291j. Loans

(a) Authorization; conditions

In order further to assist the States in carrying out the purposes of this subchapter, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

(b) Approval; payments to applicants

Except as provided in this section, an application for a loan with respect to any project under this part shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

(c) Terms

(1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be agreed upon by the applicant and the Surgeon General.

(2) The Surgeon General may enter into agreements modifying any of the terms and condi-

tions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 291i[1] of this title occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

(d) Funds; miscellaneous receipts

Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts.

(July 1, 1944, ch. 373, title VI, § 610, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 457.)

REFERENCES IN TEXT

Section 291i of this title, referred to in subsec. (c)(3), was amended generally by Pub. L. 98–369, div. B, title III, § 2381(a), July 18, 1984, 98 Stat. 1112, and, as so amended, the provisions contained in former cls. (a) and (b) of section 291i are covered by section 291i(a)(1) and (2).

PRIOR PROVISIONS

A prior section 291j, act July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466; Aug. 28, 1958, Pub. L. 85–791, § 27, 72 Stat. 950, related to withholding of certification for noncompliance with requirements, appeal, conclusiveness of findings, the jurisdiction of the courts of appeals and to review by the Supreme Court, prior to the general amendment of this subchapter by Pub. L. 88–443. See sections 291g and 291h of this title.

Provisions similar to those comprising this section were contained in sections 291w to 291z of this title, prior to the general amendment of this subchapter by Pub. L. 88–443.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291h of this title.

PART B—LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITALS AND OTHER MEDICAL FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300s of this title; title 12 section 1717.

§ 291j–1. Loan guarantees and loans

(a) Authority of Secretary

(1) In order to assist nonprofit private agencies to carry out needed projects for the modernization or construction of nonprofit private hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, guarantee to non-Federal lenders making loans to such agencies for such projects, payment of principal of and interest on loans, made by such lenders, which are approved under this part.

(2) In order to assist public agencies to carry out needed projects for the modernization or construction of public health centers, and public hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, make loans to such agencies which shall be sold and guaranteed in accordance with section 291j–7 of this title.

(b) Cost limitations

(1) No loan guarantee under this part with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant or loan under part A of this subchapter with respect to such project, exceeds 90 per centum of the cost of such project.

(2) No loan to a public agency under this part shall be made in an amount which, when added to the amount of any grant or loan under part A of this subchapter with respect to such project, exceeds 90 per centum of the cost of such project.

(c) Administrative assistance

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

(July 1, 1944, ch. 373, title VI, § 621, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 344; amended Pub. L. 93–45, title I, § 108(b)(1), June 18, 1973, 87 Stat. 93.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–45 extended termination date of guarantee and loan making period in pars. (1) and (2) from June 30, 1973, to June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j–2 of this title.

§ 291j–2. Allocation among States

(a) Allotment regulations

For each fiscal year, the total amount of principal of loans to nonprofit private agencies which may be guaranteed or loans to public agencies which may be directly made under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of each State's relative population, financial need, need for construction of the facilities referred to in section 291j–1(a) of this title, and need for modernization of such facilities.

(b) Reallotment

Any amount allotted under subsection (a) of this section to a State for a fiscal year ending

[1] See References in Text note below.

before July 1, 1973, and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for each of such next two fiscal years; except that, with the consent of any such State, any such amount remaining unobligated at the end of the first of such next fiscal year may be reallotted (on such basis as the Secretary deems equitable and consistent with the purposes of this subchapter) to other States which have need therefor. Any amounts so reallotted to a State shall be available for the purposes for which made until the close of the second such next two fiscal years and shall be in addition to the amount allotted and available to such State for the same period.

(c) Time of availability of amounts for subsequent allotment

Any amount allotted or reallotted to a State under this section for a fiscal year shall not, until the expiration of the period during which it is available for obligation, be considered as available for allotment for a subsequent fiscal year.

(d) Modernization or construction commenced on or after January 1, 1968

The allotments of any State under subsection (a) of this section for the fiscal year ending June 30, 1971, and the succeeding fiscal year shall also be available to guarantee loans with respect to any project, for modernization or construction of a nonprofit private hospital or other health facility referred to in section 291j–1(a)(1) of this title, if the modernization or construction of such facility was not commenced earlier than January 1, 1968, and if the State certifies and the Secretary finds that without such guaranteed loan such facility could not be completed and begin to operate or could not continue to operate, but with such guaranteed loan would be able to do so: *Provided*, That this subsection shall not apply to more than two projects in any one State.

(July 1, 1944, ch. 373, title VI, § 622, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 345.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j–3 of this title.

§ 291j–3. Applications and conditions

(a) Contents of applications

For each project for which a guarantee of a loan to a nonprofit private agency or a direct loan to a public agency is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 291d of this title, an application by such private nonprofit agency or by such public agency. If two or more private nonprofit agencies, or two or more public agencies, join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by the third sentence of section 291e(a) of this title (other than clause (6) thereof) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan for which a guarantee is sought under this part, or the amount of the direct loan sought under this part, as the case may be.

(b) Conditions for approval

The Secretary may approve such application only if—

(1) there remains sufficient balance in the allotment determined for such State pursuant to section 291j–2 of this title to cover the amount of the loan for which a guarantee is sought, or the amount of the direct loan sought (as the case may be), in such application,

(2) he makes each of the findings which are required by clauses (1) through (4) of section 291e(b) of this title for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 291c(a) of this title; such finding shall be made without regard to the provisions of clauses (1) and (3) of such section),

(3) he finds that there is compliance with section 291e(e) of this title,

(4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

(5) he also determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) Hearing

No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of approved applications

Amendment of an approved application shall be subject to approval in the same manner as an original application.

(e) Recovery rights; terms and conditions

(1) In the case of any loan to a nonprofit private agency, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any guarantee of such loan under this part, unless the Secretary for good cause waives its right of recovery, and,

upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans to nonprofit private agencies under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved, and, to the extent permitted by subsection (f) of this section, any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(f) Incontestable guarantee

Any guarantee of a loan to a nonprofit private agency made by the Secretary pursuant to this part shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(July 1, 1944, ch. 373, title VI, § 623, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 346.)

§ 291j–4. Payment of interest on guaranteed loans

(a) Subject to the provisions of subsection (b) of this section, in the case of a guarantee of any loan to a nonprofit private agency under this part with respect to a hospital or other medical facility, the Secretary shall pay, to the holder of such loan and for and on behalf of such hospital or other medical facility amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan, to a nonprofit private agency, which is guaranteed under this part shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(b) Contracts to make the payments provided for in this section shall not carry an aggregate amount greater than such amount as may be provided in appropriations Acts.

(July 1, 1944, ch. 373, title VI, § 624, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 347.)

§ 291j–5. Limitation on amounts of loans guaranteed or directly made

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this part may not exceed the lesser of—

(1) such limitations as may be specified in appropriations Acts, or

(2) in the case of loans covered by allotments for the fiscal year ending June 30, 1971, $500,000,000; for the fiscal year ending June 30, 1972, $1,000,000,000; and for each of the fiscal years ending June 30, 1973, and June 30, 1974, $1,500,000,000.

(July 1, 1944, ch. 373, title VI, § 625, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 347; amended Pub. L. 93–45, title I, § 108(b)(2), June 18, 1973, 87 Stat. 93.)

AMENDMENTS

1973—Pub. L. 93–45 provided for a limitation of $1,500,000,000 on amount of loans outstanding in the case of loans covered by allotments for fiscal year ending June 30, 1974.

§ 291j–6. Loan guarantee and loan fund

(a)(1) There is hereby established in the Treasury a loan guarantee and loan fund (hereinafter in this section referred to as the ''fund'') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, (i) to enable him to discharge his responsibilities under guarantees issued by him under this part, (ii) for payment of interest on the loans to nonprofit agencies which are guaranteed, (iii) for direct loans to public agencies which are sold and guaranteed, (iv) for payment of interest with respect to such loans, and (v) for repurchase by him of direct loans to public agencies which have been sold and guaranteed. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital required for the fund. To the extent authorized from time to time in appropriation Acts, there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets.

(2) Of the moneys in the fund, there shall be available to the Secretary for the purpose of making of direct loans to public agencies only such sums as shall have been appropriated for such purpose pursuant to section 291j–7 of this title or sums received by the Secretary from the sale of such loans (in accordance with such section) and authorized in appropriations Acts to be used for such purpose.

(b) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this part—

(i) to make payments of interest on loans to nonprofit private agencies which he has guaranteed under this part;

(ii) to otherwise comply with guarantees under this part of loans to nonprofit private agencies;

(iii) to make payments of interest subsidies with respect to loans to public agencies which he has made, sold, and guaranteed under this part;

(iv) in the event of default by public agencies to make payments of principal and interest on loans which the Secretary has made, sold, and guaranteed, under this part, to make such payments to the purchaser of such loan;

(v) to repurchase loans to public agencies which have been sold and guaranteed under this part,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the

approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(July 1, 1944, ch. 373, title VI, § 626, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 347.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''that Act, as amended'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291j–7, 300q–2 of this title.

§ 291j–7. Loans to public facilities

(a) Interest rates; security; equitable geographical distribution

(1) Any loan made by the Secretary to a public agency under this part for the modernization or construction of a public hospital or other health facility shall require such public agency to pay interest thereon at a rate comparable to the current rate of interest prevailing with respect to loans, to nonprofit private agencies, which are guaranteed under this part, for the modernization or construction of similar facilities in the same or similar areas, minus 3 per centum per annum.

(2)(A) No loan to a public agency shall be made under this part unless—

(i) the Secretary is reasonably satisfied that such agency will be able to make payments of principal and interest thereon when due, and

(ii) such agency provides the Secretary with reasonable assurances that there will be available to such agency such additional funds as may be necessary to complete the project with respect to which such loan is requested.

(B) Any loan to a public agency shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provision for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) In making loans to public agencies under this part, the Secretary shall give due regard to achieving an equitable geographical distribution of such loans.

(b) Sale

(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans referred to in subsection (a)(1) of this section either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of title 12.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loan as of the time of sale.

(c) Agreements

(1) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(A) to guarantee to such purchaser (and any successor in interest to such purchaser) payment of the principal and interest payable under such loan, and

(B) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary, after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(2) Any such agreement—

(A) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the public agency to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such agency under such loan;

(B) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(C) shall provide that, in the event of any default by the public agency to which such loan was made in payment of principal and interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(D) shall provide that, in the event such loan is closed out as provided in subparagraph (C), or in the event of any other loss incurred by

the Secretary by reason of the failure of such public agency to make payments of principal and interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such public agency.

(d) Right of recovery; waiver

The Secretary may, for good cause, waive any right of recovery which he has against a public agency by reason of the failure of such agency to make payments of principal and interest on a loan made to such agency under this part.

(e) Interest and interest subsidies as gross income under Internal Revenue Code

After any loan to a public agency under this part has been sold and guaranteed, interest paid on such loan and any interest subsidy paid by the Secretary with respect to such loan which is received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(f) Sales proceeds; deposit and use

Amounts received by the Secretary as proceeds from the sale of loans under this section shall be deposited in the loan fund established by section 291j–6 of this title, and shall be available to the Secretary for the making of further loans under this part in accordance with the provisions of subsection (a)(2) of such section.

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary, for deposit in the loan fund established by section 291j–6 of this title, $30,000,000 to provide initial capital for the making of direct loans by the Secretary to public agencies for the modernization or construction of facilities referred to in subsection (a)(1) of this section.

(July 1, 1944, ch. 373, title VI, § 627, as added Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 349; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Subsec. (e). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

COMMITMENTS FOR DIRECT LOANS TO PUBLIC AGENCIES

Pub. L. 91–667, title II, § 200, Jan. 11, 1971, 84 Stat. 2007, provided: ''That the Secretary is authorized to issue commitments for direct loans to public agencies in accordance with section 627 of the Public Health Service Act [this section] which shall constitute contractual obligations of the United States, the total of such outstanding commitments not to exceed $30,000,000 at any given time; to sell obligations received pursuant to such commitments as provided in section 627, and the proceeds of any such sale shall be used to make a direct loan pursuant to the outstanding commitment under which the obligations were received.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291j–1, 291j–6 of this title.

PART C—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS

§ 291j–8. Authorization of appropriations

In order to assist in the provision of adequate emergency room service in various communities of the Nation for treatment of accident victims and handling of other medical emergencies through special project grants for the construction or modernization of emergency rooms of general hospitals, there are authorized to be appropriated $20,000,000 each for the fiscal year ending June 30, 1971, and the next two fiscal years.

(July 1, 1944, ch. 373, title VI, § 631, as added Pub. L. 91–296, title III, § 301, June 30, 1970, 84 Stat. 351.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j–9 of this title.

§ 291j–9. Eligibility for grants

Funds appropriated pursuant to section 291j–8 of this title shall be available for grants by the Secretary for not to exceed 50 per centum of the cost of construction or modernization of emergency rooms of public or nonprofit general hospitals, including provision or replacement of medical transportation facilities. Such grants shall be made by the Secretary only after consultation with the State agency designated in accordance with section 291d(a)(1) of this title. In order to be eligible for a grant under this part, the project, and the applicant therefor, must meet such criteria as may be prescribed by regulations. Such regulations shall be so designed as to provide aid only with respect to projects for which adequate assistance is not readily available from other Federal, State, local, or other sources, and to assist in providing modern, efficient, and effective emergency room service needed to care for victims of highway, industrial, agricultural, or other accidents and to handle other medical emergencies, and to assist in providing such service in geographical areas which have special need therefor.

(July 1, 1944, ch. 373, title VI, § 632, as added Pub. L. 91–296, title III, § 301, June 30, 1970, 84 Stat. 351.)

§ 291j–10. Payments

Grants under this part shall be paid in advance or by way of reimbursement, in such installments and on such conditions, as in the judgment of the Secretary will best carry out the purposes of this part.

(July 1, 1944, ch. 373, title VI, § 633, as added Pub. L. 91–296, title III, § 301, June 30, 1970, 84 Stat. 351.)

PART D—GENERAL PROVISIONS

§ 291k. Federal Hospital Council

(a) Membership; qualifications

In administering this subchapter, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health and Human Services. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the

operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to represent the consumers of the services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

(b) Term of membership

Each appointed member shall hold office for a term of four years, except that 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. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after August 18, 1964) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(c) Meetings; annual or by call of Surgeon General

The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(d) Advisory or technical committees

The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

(July 1, 1944, ch. 373, title VI, § 641, formerly § 621, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 458, renumbered § 641, Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 344; amended Pub. L. 91–515, title VI, § 601(b)(2), Oct. 30, 1970, 84 Stat. 1311; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in subsec. (b) of a prior section 291k, act July 1, 1944, ch. 373, title VI, § 633, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 24, 1948, ch. 621, § 6(b), 62 Stat. 602; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91–515 struck out subsec. (e) which related to payment of compensation and travel expenses of appointed Council members and members of advisory or technical committees while serving on Council business.

TRANSFER OF FUNCTIONS

"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.

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.

TERMS OF FEDERAL HOSPITAL COUNCIL MEMBERS

Section 3(b)(3) of Pub. L. 88–443 providing that the terms of members serving on the Council prior to Aug. 18, 1964, shall expire on the date they would have expired had Pub. L. 88–443 not been enacted, is set out as an Effective Date note under section 291 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.

§ 291*l*. Conference of State agencies

Whenever in his opinion the purposes of this subchapter would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 291d of this title, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request.

(July 1, 1944, ch. 373, title VI, § 642, formerly § 622, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 458, and renumbered § 642, Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 344.)

PRIOR PROVISIONS

A prior section 291*l*, act July 1, 1944, ch. 373, title VI, § 634, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, contained provisions similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

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.

§ 291m. State control of operations

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter.

(July 1, 1944, ch. 373, title VI, § 643, formerly § 623, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 458, and renumbered § 643, Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 344.)

PRIOR PROVISIONS

A prior section 291m, act July 1, 1944, ch. 373, title VI, § 635, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended July 12, 1954, ch. 471, § 4(h), 68 Stat. 467, contained provisions similar to this section, prior to the general amendment of this subchapter by Pub. L. 88–443.

§ 291m–1. Loans for certain hospital experimentation projects

(a) Other public or private sources unavailable for alleviation of hardship due to increased construction costs

In order to alleviate hardship on any recipient of a grant under section 291n[1] of this title (as in effect immediately before August 18, 1964) for a project for the construction of an experimental or demonstration facility having as its specific purpose the application of novel means for the reduction of hospital costs with respect to which there has been a substantial increase in the cost of such construction (over the estimated cost of such project on the basis of which such grant was made) through no fault of such recipient, the Secretary is authorized to make a loan to such recipient not exceeding 66⅔ per centum of such increased costs, as determined by the Secretary, if the Secretary determines that such recipient is unable to obtain such an amount for such purpose from other public or private sources.

(b) Application; form; information

Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Interest; repayment period

Each such loan shall bear interest at the rate of 2½ per centum per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) Authorization of appropriation

There are hereby authorized to be appropriated $3,500,000 to carry out the provisions of this section.

(July 1, 1944, ch. 373, title VI, § 643A, formerly § 623A, as added Pub. L. 90–174, § 11, Dec. 5, 1967, 81 Stat. 541, and renumbered § 643A, Pub. L. 91–296, title II, § 201, June 30, 1970, 84 Stat. 344.)

REFERENCES IN TEXT

Section 291n of this title, referred to in subsec. (a), was repealed by Pub. L. 90–174, § 3(b)(1), Dec. 5, 1967, 81 Stat. 535.

§ 291n. Repealed. Pub. L. 90–174, § 3(b)(1), Dec. 5, 1967, 81 Stat. 535

Section, act July 1, 1944, ch. 373, title VI, § 644, formerly § 624, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 459, and renumbered § 644, June 30, 1970, Pub. L. 91–296, title II, § 201, 84 Stat. 344, provided for research, experiments and demonstrations in utilization of medical facilities, authorization, grants-in-aid, amounts, payment, conditions, authorization of appropriations, and right of recovery of United States Government. See section 242b of this title.

Provisions similar to those comprising this section were contained in a prior section 291n, act July 1, 1944, ch. 373, title VI, § 636, as added Oct. 25, 1949, ch. 722, § 5, 63 Stat. 900; amended Oct. 6, 1961, Pub. L. 87–395, § 4, 75 Stat. 825, prior to the general amendment of this subchapter by Pub. L. 88–443.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to appropriations for fiscal year ending after June 30, 1967, see section 3(b) of Pub. L. 90–174, set out as an Effective Date of 1967 Amendment note under section 246 of this title.

§ 291n–1. Omitted

CODIFICATION

Section, act July 1, 1944, ch. 373, title VI, § 637, formerly § 654(c), as added July 12, 1954, ch. 471, § 3, 68 Stat. 463; renumbered § 637 and amended Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 349, related to transfers of allotments between States, prior to the general amendment of this subchapter by Pub. L. 88–443, Aug. 18, 1964, 78 Stat. 447. See section 291b of this title.

§ 291*o*. Definitions

For the purposes of this subchapter—

(a) The term ''State'' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(b)(1) The term ''Federal share'' with respect to any project means the proportion of the cost of such project to be paid by the Federal Government under this subchapter.

(2) With respect to any project in any State for which a grant is made from an allotment from an appropriation under section 291a of this title, the Federal share shall be the amount determined by the State agency designated in accordance with section 291d of this title, but not more than 66⅔ per centum or the State's allotment percentage, whichever is the lower, except that, if the State's allotment percentage is lower than 50 per centum, such allotment percentage shall be deemed to be 50 per centum for purposes of this paragraph.

(3) Prior to the approval of the first project in a State during any fiscal year the State agency designated in accordance with section 291d of this title shall give the Secretary written notification of the maximum Federal share established pursuant to paragraph (2) of this subsection for projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for projects in such State approved during such fiscal year shall not be changed after such approval.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Federal share shall, at the option of the State agency, be equal to the per centum provided under such paragraphs plus an incentive per centum (which when combined with the per centum provided under such paragraphs shall not exceed 90 per centum) specified by the State agency in the case of (A) projects that will provide services primarily for persons in an area determined by the Secretary to be a rural or urban poverty area, and (B) projects that offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of free-standing outpatient facilities.

(c) The term ''hospital'' includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for

[1] See References in Text note below.

home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(d) The term ''public health center'' means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(e) The term ''nonprofit'' as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term ''outpatient facility'' means a facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(3) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(g) The term ''rehabilitation facility'' means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(1) medical evaluation and services, and

(2) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which—

(3) the major portion of the required evaluation and services is furnished within the facility; and

(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(h) The term ''facility for long-term care'' means a facility (including an extended care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(i) The term ''construction'' includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities) and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(j) The term ''cost'' as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 291b(a)(2) of this title, does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

(k) The term ''modernization'' includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(*l*) The term ''title'', when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years' undisturbed use and possession for the purposes of construction and operation of the project.

(July 1, 1944, ch. 373, title VI, § 645, formerly § 625, as added Pub. L. 88–443, § 3(a), Aug. 18, 1964, 78 Stat. 460; amended Pub. L. 88–581, § 3(b), Sept. 4, 1964, 78 Stat. 919; renumbered § 645 and amended Pub. L. 91–296, title I, §§ 113, 114(a), 116(f), 117, 118, 119(d), title II, § 201, June 30, 1970, 84 Stat. 340, 341, 342, 343, 344.)

PRIOR PROVISIONS

A prior section 291*o*, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to a declaration of purpose with respect to diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities, and nursing homes, prior to the general amendment of this subchapter by Pub. L. 88–443. See section 291 of this title.

Provisions similar to those comprising this section were contained in section 291i(d) to (*o*), act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended June 19, 1948, ch. 544, § 1(b), 62 Stat. 531; Oct. 25, 1949, ch. 722, § 9, 63 Stat. 901; July 12, 1954, ch. 471, § 4(c) to (f), 68 Stat. 465, 466; Aug. 1, 1956, ch. 852, § 19(b), 70 Stat. 911; June 25, 1959, Pub. L. 86–70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 29(d), 74 Stat. 419; Oct. 5, 1961, Pub. L. 87–395, § 5, 75 Stat. 826; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(2), 76 Stat. 587, prior to the general amendment of this subchapter by Pub. L. 88–443.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–296, § 119(d), inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b). Pub. L. 91–296, § 113, provided that Federal share of any project be in such amount, not in excess of two-thirds, as the State agency determined and au-

thorized a higher Federal share of up to 90 per centum, in case of rural or urban poverty projects, and facilities which might reduce health costs through shared services, interfacility cooperation, and free-standing ambulatory care centers.

Subsec. (c). Pub. L. 91–296, § 114(a), inserted references to extended care facilities, facilities related to programs for home health services, and self-care units operated in connection with hospitals and education or training facilities for health professions personnel operated as an integral part of a hospital.

Subsec. (f). Pub. L. 91–296, § 116(f), substituted ''outpatient facility'' for ''diagnostic or treatment center'', inserted ''(located in or apart from a hospital)'' after ''means at facility'', inserted ''(including ambulatory inpatients)'' after ''ambulatory patients'', and added par. (3).

Subsec. (h). Pub. L. 91–296, § 117, inserted ''(including an extended care facility)'' after ''means a facility''.

Subsec. (i). Pub. L. 91–296, § 118, inserted reference to equipment of any buildings in cases in which such equipment will help to provide a service not previously provided in the community.

1964—Subsec. (c). Pub. L. 88–581 substituted ''nurses' home facilities'' for ''nurses' home and training facilities''.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 113 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to projects approved under this subchapter after June 30, 1970.

Section 114(a) of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to applications approved under this subchapter after June 30, 1970.

Section 116(g) of Pub. L. 91–296 provided that: ''The amendments made by subsection (e) [amending this section] and paragraphs (2) and (3) of subsection (f) of this section [amending section 291e of this title] shall apply with respect to applications approved under title VI of such Act [this subchapter] after June 30, 1970.''

Section 117 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to applications approved under this subchapter after June 30, 1970.

Section 118 of Pub. L. 91–296 provided that the amendment made by that section is effective with respect to projects approved under this subchapter after June 30, 1970.

Amendment by section 119(d) of Pub. L. 91–296 applicable with respect to allotments and grants therefrom under part A of this subchapter for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of this subchapter made after June 30, 1970, see section 119(e) of Pub. L. 91–296, set out as a note under section 291b of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–581 effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965, see section 3(b) of Pub. L. 88–581, set out as a note under section 291c of this title.

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291e of this title; title 29 section 731.

§ 291*o*–1. Financial statements

In the case of any facility for which a grant, loan, or loan guarantee has been made under this subchapter, the applicant for such grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

(July 1, 1944, ch. 373, title VI, § 646, as added Pub. L. 91–296, title I, § 121, June 30, 1970, 84 Stat. 343.)

PRIOR PROVISIONS

Sections 291p to 291z were omitted in the general amendment of this subchapter by Pub. L. 88–443, Aug. 18, 1964, 78 Stat. 447.

Section 291p, act July 1, 1944, ch. 373, title VI, § 646, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to appropriations to States for carrying out purposes of section 291*o*(a) of this title.

Section 291q, act July 1, 1944, ch. 373, title VI, § 647, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to State application for funds for carrying out purposes of section 291*o*(a) of this title.

Section 291r, act July 1, 1944, ch. 373, title VI, § 648, as added July 12, 1954, ch. 471, § 2, 68 Stat. 462, related to allotments to States of appropriations made pursuant to section 291p of this title.

Section 291s, act July 1, 1944, ch. 373, title VI, § 651, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462; amended Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(b), 72 Stat. 616; Oct. 5, 1961, Pub. L. 87–395, § 3(a), 75 Stat. 825, related to appropriations for assistance to States in carrying out purposes of section 291*o*(b) of this title.

Section 291t, act July 1, 1944, ch. 373, title VI, 652, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462; amended Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87–395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587, related to allotments to States of sums appropriated under section 291s of this title.

Section 291u, act July 1, 1944, ch. 373, title VI, § 653, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, related to revision of regulations and State plans to cover benefits of sections 291s to 291v of this title.

Section 291v, act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463; amended Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 349, related to applications and payments for projects under sections 291s to 291v of this title.

Section 291w, act July 1, 1944, ch. 373, title VI, § 661, as added Aug. 1, 1958, Pub. L. 85–589, 72 Stat. 489; amended Oct. 5, 1961, Pub. L. 87–395, § 6, 75 Stat. 826, related to an authorization of Surgeon General to make loans for construction.

Section 291x, act July 1, 1944, ch. 373, title VI, § 662, as added Aug. 1, 1958, Pub. L. 85–589, 72 Stat. 489, related to approval of construction loans by Surgeon General.

Section 291y, act July 1, 1944, ch. 373, title VI, § 663, as added Aug. 1, 1958, Pub. L. 85–589, 72 Stat. 489, related

to terms of the loans with respect to sections 291w to 291z of this title.

Section 291z, act July 1, 1944, ch. 373, title VI, § 664, as added Aug. 1, 1958, Pub. L. 85–589, 72 Stat. 490, related to allotment of funds for loans under this subchapter.

SUBCHAPTER V—HEALTH PROFESSIONS EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 300*l*–2, 12604 of this title; title 8 section 1613; title 12 section 1715z–7; title 38 section 8201.

PART A—STUDENT LOANS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 10 section 16302.

SUBPART I—INSURED HEALTH EDUCATION ASSISTANCE LOANS TO GRADUATE STUDENTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in title 20 section 1078–3.

§ 292. Statement of purpose

The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in (and certain former students of) eligible institutions (as defined in section 292*o* of this title).

(July 1, 1944, ch. 373, title VII, § 701, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.)

PRIOR PROVISIONS

A prior section 292, act July 1, 1944, ch. 373, title VII, § 700, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 201(b), 90 Stat. 2246, set forth limitations on use of appropriations, prior to repeal by Pub. L. 97–35, title XXVII, § 2715, Aug. 13, 1981, 95 Stat. 913.

Another prior section 292, act July 1, 1944, ch. 373, title VII, § 701, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717; amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164, stated Congressional findings and declaration of policy respecting grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 701 of act July 1, 1944, was classified to section 292a of this title prior to the general revision of this subchapter by Pub. L. 102–408.

EFFECTIVE DATE

Section 103 of Pub. L. 102–408 provided that: ''The amendment made by section 102 [enacting this subchapter] takes effect on the date of the enactment of this Act [Oct. 13, 1992], except that section 708 of the Public Health Service Act [section 292g of this title], as added by section 102 of this Act, takes effect January 1, 1993. Until such date, section 732(c) of the Public Health Service Act [former section 294e(c) of this title], as in effect on the day before the date of the enactment of this Act, continues in effect in lieu of such section 708.''

STUDY ON EFFECTIVENESS OF HEALTH PROFESSIONS PROGRAMS

Section 309 of Pub. L. 102–408 provided that:

''(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the programs carried out under titles VII and VIII of the Public Health Service Act [this subchapter and subchapter VI of this chapter] (as amended by this Act) for the purpose of determining the effectiveness of such programs in—

''(1) increasing the number of primary care providers (physicians, physician assistants, nurse midwives, nurse practitioners and general dentists), nurses and allied health personnel;

''(2) improving the geographic distribution of health professionals in medically underserved and rural areas; and

''(3) recruiting and retaining as students in health professions schools individuals who are members of a minority group.

''(b) CERTAIN REQUIREMENTS.—The study conducted under subsection (a) shall determine—

''(1) whether funding under title VII of the Public Health Service Act [this subchapter] has increased the number of primary care practitioners (family medicine, general internal medicine, general pediatrics, general dentistry, and physician assistants) in medically underserved communities (as defined in section 799 of such Act [section 295p of this title]);

''(2) whether or not funding under such title VII has increased the number of allied health professionals in medically underserved or rural communities;

''(3) whether or not funding under title VIII of such Act [subchapter VI of this chapter] has increased the number of nurses in medically underserved or rural communities;

''(4) whether or not the various mechanisms under such titles VII and VIII (such as scholarships, fellowships, traineeships, loan repayment programs, project grants, and education centers) have been effective in producing health care professionals who work or practice in medically underserved and rural communities and the relative impact or effectiveness of each mechanism;

''(5) the duration of service in medically underserved communities (as defined in section 799 of such Act) of health professionals whose training was funded by such titles or who received financial incentives under such titles to practice in such communities;

''(6) the geographic distribution of former trainees under such titles who are practicing in medically underserved communities (as so defined);

''(7) with respect to the programs of such titles whose purpose is improving the health of individuals who are members of minority groups, whether such programs have had a significant impact on the number of such individuals entering the health professions; and

''(8) such other factors as may be relevant to the reauthorization of such title VII or VIII.

''(c) REPORT.—Not later than January 1, 1994, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report describing the findings made as a result of the study and making such recommendations regarding the programs carried out under titles VII and VIII of the Public Health Service Act as the Comptroller General determines to be appropriate.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295*o*–1 of this title.

§ 292a. Scope and duration of loan insurance program

(a) In general

The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 292*o* of this title) to borrowers covered by Federal loan insurance under this subpart shall not exceed $350,000,000 for fiscal year 1993, $375,000,000 for fiscal year 1994, and $425,000,000 for fiscal year 1995. If the total amount of new loans made and installments paid pursuant to lines of credit in any fiscal year is less than the ceiling established for such

year, the difference between the loans made and installments paid and the ceiling shall be carried over to the next fiscal year and added to the ceiling applicable to that fiscal year, and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 292d(a)(1)(B) of this title to pay interest on such prior loans; but no insurance may be granted for any loan made or installment paid after September 30, 1998. The total principal amount of Federal loan insurance available under this subsection shall be granted by the Secretary without regard to any apportionment for the purpose of chapter 15 of title 31 and without regard to any similar limitation.

(b) Certain limitations and priorities

(1) Limitations regarding lenders, States, or areas

The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a) of this section, Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(2) Priority for certain lenders

In providing certificates of insurance under section 292e of this title through comprehensive contracts, the Secretary shall give priority to eligible lenders that agree—

(A) to make loans to students at interest rates below the rates prevailing, during the period involved, for loans covered by Federal loan insurance pursuant to this subpart; or

(B) to make such loans under terms that are otherwise favorable to the student relative to the terms under which eligible lenders are generally making such loans during such period.

(c) Authority of Student Loan Marketing Association

(1) In general

Subject to paragraph (2), the Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.], is authorized to make advances on the security of, purchase, service, sell, consolidate, or otherwise deal in loans which are insured by the Secretary under this subpart, except that if any loan made under this subpart is included in a consolidated loan pursuant to the authority of the Association under part B of title IV of the Higher Education Act of 1965, the interest rate on such consolidated loan shall be set at the weighted average interest rate of all such loans offered for consolidation and the resultant per centum shall be rounded downward to the nearest one-eighth of 1 per centum, except that the interest rate shall be no less than the applicable interest rate of the guaranteed student loan program established under part B of title IV of the Higher Education Act of 1965. In the case of such a consolidated loan, the borrower shall be responsible for any interest which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of any provision of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.].

(2) Applicability of certain Federal regulations

With respect to Federal regulations for lenders, this subpart may not be construed to preclude the applicability of such regulations to the Student Loan Marketing Association or to any other entity in the business of purchasing student loans, including such regulations with respect to applications, contracts, and due diligence.

(July 1, 1944, ch. 373, title VII, § 702, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. Part B of title IV of the Act is classified generally to part B (§ 1071 et seq.) of subchapter IV of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 292a, act July 1, 1944, ch. 373, title VII, § 701, formerly § 724, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 169; amended Oct. 22, 1965, Pub. L. 89–290, § 2(b), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89–709, § 2(c), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, § 105(c), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(c)(1)–(4), (f)(2)(B), 85 Stat. 431, 432, 435; renumbered § 701 and amended Oct. 12, 1976, Pub. L. 94–484, title II, § 201(c), (e), 90 Stat. 2247; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2716, 95 Stat. 913; Oct. 22, 1985, Pub. L. 99–129, title II, §§ 201(a), (b), 202, 203, 204(a), (b), 99 Stat. 525–527; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 620(a), 623, 628(1), 629(b)(1), (2), 102 Stat. 3141, 3142, 3145, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*l*), 103 Stat. 613, defined terms for purposes of this subchapter, prior to the general revision of this subchapter by Pub. L. 102–408. See sections 292*o* and 295p of this title.

Another prior section 292a, act July 1, 1944, ch. 373, title VII, § 702, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717; amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164, defined ''Council'', ''construction'', ''cost of construction'', ''nonprofit institution'', and ''sciences related to health'' as applicable to grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 702 of act July 1, 1944, was classified to section 292b of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 285n–2, 285*o*–2, 292e, 300u–5, 300w–9 of this title; title 20 section 1132i–1.

§ 292b. Limitations on individual insured loans and on loan insurance

(a) In general

The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $20,000 in the case of a student enrolled in a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, or podiatric medicine, and $12,500 in the case of a student enrolled in a school of pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or behavioral and mental health practice, including clinical psychology. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, or podiatric medicine, and $50,000 in the case of a borrower who is or was a student enrolled in a school of pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(b) Extent of insurance liability

The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 292f or 292m of this title.

(July 1, 1944, ch. 373, title VII, § 703, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1995; amended Pub. L. 105–392, title I, § 141(c)(1), Nov. 13, 1998, 112 Stat. 3579.)

PRIOR PROVISIONS

A prior section 292b, act July 1, 1944, ch. 373, title VII, § 702, formerly § 725, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 169; amended Sept. 4, 1964, Pub. L. 88–581, § 3(c), 78 Stat. 919; Nov. 2, 1966, Pub. L. 89–709, § 2(d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 3(a), 80 Stat. 1230; Dec. 5, 1967, Pub. L. 90–174, § 12(c), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92–157, title I, § 108(a), 85 Stat. 460; renumbered § 702 and amended Oct. 12, 1976, Pub. L. 94–484, title II, §§ 201(c), 202(a)(1), (2), (b), 90 Stat. 2247, 2248; Oct. 22, 1985, Pub. L. 99–129, title II, § 205(a), 99 Stat. 527; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 620(b), 628(2), 102 Stat. 3141, 3145, related to National Advisory Council on Education for Health Professions, prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 292b, act July 1, 1944, ch. 373, title VII, § 703, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717; amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164; Aug. 16, 1968, Pub. L. 90–490, title IV, § 403, 82 Stat. 789; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(a)(1), (b)(2), 84 Stat. 1310, 1311; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), 85 Stat. 437, related to National Advisory Council on Health Research Facilities, providing for its establishment, composition, selection of members; its functions; and use of its services in administration of grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 703 of act July 1, 1994, was classified to section 292c of this title prior to repeal by Pub. L. 99–129.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392 substituted "or behavioral and mental health practice, including clinical psychology" for "or clinical psychology" in first sentence.

§ 292c. Sources of funds

Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(July 1, 1944, ch. 373, title VII, § 704, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1996.)

PRIOR PROVISIONS

A prior section 292c, act July 1, 1944, ch. 373, title VII, § 703, formerly § 799, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 206, 84 Stat. 1354; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 109, 85 Stat. 461; renumbered § 703 and amended Oct. 12, 1976, Pub. L. 94–484, title II, §§ 201(c), 203, 90 Stat. 2247, 2248; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2717, 95 Stat. 914, related to advance funding for grants and contracts, prior to repeal by Pub. L. 99–129, title II, § 220(a), Oct. 22, 1985, 99 Stat. 543.

Another prior section 292c, act July 1, 1944, ch. 373, title VII, § 704, as added July 30, 1956, 779, § 2, 70 Stat. 718; amended Aug. 27, 1958, Pub. L. 85–777, § 1(a), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87–395, § 8(a), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87–838, § 4(a), 76 Stat. 1074; Aug. 9, 1965, Pub. L. 89–115, § 2(a), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90–490, title IV, § 401(a), 82 Stat. 789, related to authorization of appropriations and availability of funds for grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 704 of act July 1, 1944, was classified to section 292d of this title prior to the general revision of this subchapter by Pub. L. 102–408.

§ 292d. Eligibility of borrowers and terms of insured loans

(a) In general

A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

(1) made to—

(A) a student who—

(i)(I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

(ii) is or will be a full-time student at the eligible institution;

(iii) has agreed that all funds received under such loan shall be used solely for tuition, other reasonable educational expenses, including fees, books, and laboratory expenses, and reasonable living expenses, incurred by such students;

(iv) if required under section 453 of title 50, Appendix, to present himself for and

submit to registration under such section, has presented himself and submitted to registration under such section; and

(v) in the case of a pharmacy student, has satisfactorily completed three years of training; or

(B) an individual who—

(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid;

(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and

(iv) if required under section 453 of title 50, Appendix, to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section;

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 25 years beginning not earlier than 9 months nor later than 12 months after the date of—

(i) the date on which—

(I) the borrower ceases to be a participant in an accredited internship or residency program of not more than four years in duration;

(II) the borrower completes the fourth year of an accredited internship or residency program of more than four years in duration; or

(III) the borrower, if not a participant in a program described in subclause (I) or (II), ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution; or

(ii) the date on which a borrower who is a graduate of an eligible institution ceases to be a participant in a fellowship training program not in excess of two years or a participant in a full-time educational activity not in excess of two years, which—

(I) is directly related to the health profession for which the borrower prepared at an eligible institution, as determined by the Secretary; and

(II) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in a program described in subclause (I) or (II) of clause (i) or prior to the completion of the borrower's participation in such program,

except as provided in subparagraph (C), except that the period of the loan may not exceed 33 years from the date of execution of the note or written agreement evidencing it, and except that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the costs of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

(C) provides that periodic installments of principal and interest need not be paid, but interest shall accrue, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 1002(a) of title 20); (ii) not in excess of four years during which the borrower is a participant in an accredited internship or residency program (including any period in such a program described in subclause (I) or subclause (II) of subparagraph (B)(i)); (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States; (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.]; (v) not in excess of three years during which the borrower is a member of the National Health Service Corps; (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.]; (vii) not in excess of 3 years, for a borrower who has completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine, preventive medicine, or general pediatrics and who is practicing primary care; (viii) not in excess of 1 year, for borrowers who are graduates of schools of chiropractic; (ix) any period not in excess of two years which is described in subparagraph (B)(ii); (x) not in excess of three years, during which the borrower is providing health care services to Indians through an Indian health program (as defined in section 1616a(a)(2)(A) of title 25;[1] and (xi) in addition to all other deferments for which the borrower is eligible under clauses (i) through (x), any period during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (xi) shall not be included in determining the 25-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b) of this section) on a national, regional, or other appropriate basis, which interest shall be compounded not more frequently than annually and payable in installments over the

[1] So in original. Probably should be preceded by a closing parenthesis.

period of the loan except as provided in subparagraph (C), except that the note or other written agreement may provide that payment of any interest may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal for the purposes of calculating a repayment schedule;

(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;

(F) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G) provides that the check for the proceeds of the loan shall be made payable jointly to the borrower and the eligible institution in which the borrower is enrolled; and

(H) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan; and

(3) subject to the consent of the student and subject to applicable law, the eligible lender has obtained from the student appropriate demographic information regarding the student, including racial or ethnic background.

(b) Limitation on rate of interest

The rate of interest prescribed and defined by the Secretary for the purpose of subsection (a)(2)(D) of this section may not exceed the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 3 percentage points, rounded to the next higher one-eighth of 1 percent.

(c) Minimum annual payment by borrower

The total of the payments by a borrower during any year or any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal, except as provided in subsection (a)(2)(C) of this section, unless the borrower, in the written agreement described in subsection (a)(2) of this section, agrees to make payments during any year or any repayment period in a lesser amount.

(d) Applicability of certain laws on rate or amount of interest

No provision of any law of the United States (other than subsections (a)(2)(D) and (b) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

(e) Determination regarding forbearance

Any period of time granted to a borrower under this subpart in the form of forbearance on the loan shall not be included in the 25-year total loan repayment period under subsection (a)(2)(C) of this section.

(f) Loan repayment schedule

Lenders and holders under this subpart shall offer borrowers graduated loan repayment schedules that, during the first 5 years of loan repayment, are based on the borrower's debt-to-income ratio.

(g) Rule of construction regarding determination of need of students

With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for students with special circumstances as the school determines appropriate.

(h) Definitions

For purposes of this section:

(1) The term ''active duty'' has the meaning given such term in section 101(18) of title 37, except that such term does not include active duty for training.

(2) The term ''Persian Gulf conflict'' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(July 1, 1944, ch. 373, title VII, §705, as added Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1996; amended Pub. L. 103–43, title XX, §2014(a)(1), June 10, 1993, 107 Stat. 215; Pub. L. 105–244, title I, §102(a)(13)(A), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 105–392, title I, §141(a)(1), (2), Nov. 13, 1998, 112 Stat. 3578.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(2)(C), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(C), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4951 of this title and Tables.

PRIOR PROVISIONS

A prior section 292d, act July 1, 1944, ch. 373, title VII, §704, formerly §799A, as added Nov. 2, 1970, Pub. L. 91–519, title II, §207, 84 Stat. 1355; amended Nov. 18, 1971, Pub. L. 92–157, title I, §110(2), 85 Stat. 461; July 12, 1974, Pub. L. 93–348, title I, §105, 88 Stat. 347; renumbered §704, Oct. 12, 1976, Pub. L. 94–484, title II, §201(c), 90 Stat. 2247; Nov. 4, 1988, Pub. L. 100–607, title VI, §§620(c), 628(3), 629(b)(2), 102 Stat. 3141, 3145, 3146, prohibited discrimination on the basis of sex, prior to the general revision of this subchapter by Pub. L. 102–408. See section 295m of this title.

Another prior section 292d, act July 1, 1944, ch. 373, title VII, §705, as added July 30, 1956, ch. 779, §2, 70 Stat.

718; amended Aug. 27, 1958, Pub. L. 85–777, § 1(b), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87–395, § 8(b), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87–838, § 4(b), 76 Stat. 1074; Sept. 24, 1963, Pub. L. 88–129, §§ 2(a), 3(a), 77 Stat. 164, 173; Aug. 9, 1965, Pub. L. 89–115, § 2(b), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90–490, title IV, § 401(b), 82 Stat. 789; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(1), (2)(A), 85 Stat. 437, related to applications for grants for construction of health research facilities, providing for time of filing, eligibility, recommendation and approval and requirement of findings, conditional approval, and matters considered, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 705 of act July 1, 1944, was classified to section 292e of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (a)(2)(C). Pub. L. 105–392 added cl. (x), redesignated former cl. (x) as (xi) and substituted ''(x)'' for ''(ix)'', and substituted ''(xi)'' for ''(x)'' in concluding provisions.

Pub. L. 105–244 substituted ''section 1002(a)'' for ''section 1088(a)'' in cl. (i).

1993—Subsec. (a)(2)(H), (I). Pub. L. 103–43 redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: ''notwithstanding the provisions of the Fair Debt Collection Practices Act, authorizes an institution or postgraduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, including providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans; and''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–392, title I, § 141(a)(3), Nov. 13, 1998, 112 Stat. 3578, provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to services provided on or after the first day of the third month that begins after the date of the enactment of this Act [Nov. 13, 1998].''

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238n, 292a, 292e, 292n, 292*o* of this title.

§ 292e. Certificate of loan insurance; effective date of insurance

(a) In general

(1) Authority for issuance of certificate

If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effective date of insurance

Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance is made to a student described in section 292d(a)(1) of this title. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to section 292g of this title.

(3) Certain agreements for lenders

An application submitted pursuant to subsection (a)(1) of this section shall contain—

(A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to section 292g of this title; and

(B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Authority regarding comprehensive insurance coverage

(1) In general

In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 292a of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) Lines of credit beyond cutoff date

If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a borrower a line of credit

extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 292a of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

(c) Assignment of insurance rights

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned by such lender, subject to regulation by the Secretary, only to—

(1) another eligible lender (including a public entity in the business of purchasing student loans); or

(2) the Student Loan Marketing Association.

(d) Effect of refinancing or consolidation of obligations

The consolidation of the obligations of two or more federally insured loans obtained by a borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness or the refinancing of a single loan shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(e) Rule of construction regarding consolidation of debts and refinancing

Nothing in this section shall be construed to preclude the lender and the borrower, by mutual agreement, from consolidating all of the borrower's loans insured under this subpart into a single instrument (or, if the borrower obtained only 1 loan insured under this subpart, refinancing the loan 1 time) under the terms applicable to an insured loan made at the same time as the consolidation. The lender or loan holder should provide full information to the borrower concerning the advantages and disadvantages of loan consolidation or refinancing. Nothing in this section shall be construed to preclude the consolidation of the borrower's loans insured under this subpart under section 1078–3 of title 20. Any loans insured pursuant to this subpart that are consolidated under section 1078–3 of title 20 shall not be eligible for special allowance payments under section 1087–1 of title 20.

(July 1, 1944, ch. 373, title VII, § 706, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2000; amended Pub. L. 105–392, title I, § 145, Nov. 13, 1998, 112 Stat. 3581.)

PRIOR PROVISIONS

A prior section 292e, act July 1, 1944, ch. 373, title VII, § 705, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 204, 90 Stat. 2248; amended Nov. 9, 1978, Pub. L. 95–623, § 11(f), 92 Stat. 3456; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2718, 95 Stat. 914, related to establishment and maintenance of records and annual financial reports and audits, prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 292e, act July 1, 1944, ch. 373, title VII, § 706, as added July 30, 1956, 779, § 2, 70 Stat. 719; amended Oct. 5, 1961, Pub. L. 87–395, § 8(c), (d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164; Aug. 16, 1968, Pub. L. 90–490, title IV, § 402, 82 Stat. 789; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), (B), 85 Stat. 437, limited amount of grant available for construction of health research facilities, including provisions relating to its maximum, reservation of amount, manner of payment, and exclusion of amounts granted by certain other funds, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 706 of act July 1, 1944, was classified to section 292f of this title prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 706 of act July 1, 1944, was classified to section 230 of this title prior to repeal by act Apr. 27, 1956, ch. 211, § 5(e), 70 Stat. 117.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–392, § 145(1), in heading, substituted ''refinancing or consolidation'' for ''consolidation'' and, in first sentence, substituted ''indebtedness or the refinancing of a single loan'' for ''indebtedness''.

Subsec. (e). Pub. L. 105–392, § 145(2), in heading, substituted ''debts and refinancing'' for ''debts'', in first sentence, substituted ''all of the borrower's loans insured under this subpart into a single instrument (or, if the borrower obtained only 1 loan insured under this subpart, refinancing the loan 1 time)'' for ''all of the borrower's debts into a single instrument'', and in second sentence, substituted ''consolidation or refinancing'' for ''consolidation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292a, 292f, 300t–12 of this title.

§ 292f. Default of borrower

(a) Conditions for payment to beneficiary

(1) In general

Upon default by the borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, subject to subsection (h) of this section, commencement and prosecution of an action) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined, except that, if the insurance beneficiary including any servicer of the loan is not designated for ''exceptional performance'', as set forth in paragraph (2), the Secretary shall pay to the beneficiary a sum equal to 98 percent of the amount of the loss sustained by the insured upon that loan.

(2) Exceptional performance

(A) Authority

Where the Secretary determines that an eligible lender, holder, or servicer has a com-

pliance performance rating that equals or exceeds 97 percent, the Secretary shall designate that eligible lender, holder, or servicer, as the case may be, for exceptional performance.

(B) Compliance performance rating

For purposes of subparagraph (A), a compliance performance rating is determined with respect to compliance with due diligence in the disbursement, servicing, and collection of loans under this subpart for each year for which the determination is made. Such rating shall be equal to the percentage of all due diligence requirements applicable to each loan, on average, as established by the Secretary, with respect to loans serviced during the period by the eligible lender, holder, or servicer.

(C) Annual audits for lenders, holders, and servicers

Each eligible lender, holder, or servicer desiring a designation under subparagraph (A) shall have an annual financial and compliance audit conducted with respect to the loan portfolio of such eligible lender, holder, or servicer, by a qualified independent organization from a list of qualified organizations identified by the Secretary and in accordance with standards established by the Secretary. The standards shall measure the lender's, holder's, or servicer's compliance with due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender, holder, or servicer for the purpose of this section. Each eligible lender, holder, or servicer shall submit the audit required by this section to the Secretary.

(D) Secretary's determinations

The Secretary shall make the determination under subparagraph (A) based upon the audits submitted under this paragraph and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government.

(E) Quarterly compliance audit

To maintain its status as an exceptional performer, the lender, holder, or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional performer is established through a financial and compliance audit, as described in subparagraph (C)), and submit the results of such audit to the Secretary. The compliance audit shall review compliance with due diligence requirements for the period beginning on the day after the ending date of the previous audit, in accordance with standards determined by the Secretary.

(F) Revocation authority

The Secretary shall revoke the designation of a lender, holder, or servicer under subparagraph (A) if any quarterly audit required under subparagraph (E) is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender, holder, or servicer has failed to meet the standards for designation as an exceptional performer under subparagraph (A). A lender, holder, or servicer receiving a compliance audit not meeting the standard for designation as an exceptional performer may reapply for designation under subparagraph (A) at any time.

(G) Documentation

Nothing in this section shall restrict or limit the authority of the Secretary to require the submission of claims documentation evidencing servicing performed on loans, except that the Secretary may not require exceptional performers to submit greater documentation than that required for lenders, holders, and servicers not designated under subparagraph (A).

(H) Cost of audits

Each eligible lender, holder, or servicer shall pay for all the costs associated with the audits required under this section.

(I) Additional revocation authority

Notwithstanding any other provision of this section, a designation under subparagraph (A) may be revoked at any time by the Secretary if the Secretary determines that the eligible lender, holder, or servicer has failed to maintain an overall level of compliance consistent with the audit submitted by the eligible lender, holder, or servicer under this paragraph or if the Secretary asserts that the lender, holder, or servicer may have engaged in fraud in securing designation under subparagraph (A) or is failing to service loans in accordance with program requirements.

(J) Noncompliance

A lender, holder, or servicer designated under subparagraph (A) that fails to service loans or otherwise comply with applicable program regulations shall be considered in violation of the Federal False Claims Act.

(b) Subrogation

Upon payment by the Secretary of the amount of the loss pursuant to subsection (a) of this section, the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary determines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence.

(c) Forbearance

Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbear-

ance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

(d) Reasonable care and diligence regarding loans

Nothing in this section or in this subpart shall be construed to excuse the eligible lender or holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 292e(a)(3) of this title, or to pay the required Federal loan insurance premiums, he shall disqualify that lender from obtaining further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence, exercise substantial effort, or comply with such requirements, as the case may be.

(e) Definitions

For purposes of this section:

(1) The term ''insurance beneficiary'' means the insured or its authorized assignee in accordance with section 292e(c) of this title.

(2) The term ''amount of the loss'' means, with respect to a loan, unpaid balance of the principal amount and interest on such loan, less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved.

(3) The term ''default'' includes only such defaults as have existed for 120 days.

(4) The term ''servicer'' means any agency acting on behalf of the insurance beneficiary.

(f) Reductions in Federal reimbursements or payments for defaulting borrowers

The Secretary shall, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans. Procedures for reduction of payments under the medicare program are provided under section 1395ccc of this title. Notwithstanding such section 1395ccc of this title, any funds recovered under this subsection shall be deposited in the insurance fund established under section 292i of this title.

(g) Conditions for discharge of debt in bankruptcy

Notwithstanding any other provision of Federal or State law, a debt that is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under any chapter of title 11, only if such discharge is granted—

(1) after the expiration of the seven-year period beginning on the first date when repayment of such loan is required, exclusive of any period after such date in which the obligation to pay installments on the loan is suspended;

(2) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and

(3) upon the condition that the Secretary shall not have waived the Secretary's rights to apply subsection (f) of this section to the borrower and the discharged debt.

(h) Requirement regarding actions for default

(1) In general

With respect to the default by a borrower on any loan covered by Federal loan insurance under this subpart, the Secretary shall, under subsection (a) of this section, require an eligible lender or holder to commence and prosecute an action for such default unless—

(A) in the determination of the Secretary—

(i) the eligible lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful with respect to such efforts, or

(ii) prosecution of such an action would be fruitless because of the financial or other circumstances of the borrower;

(B) for such loans made before November 4, 1988, the loan involved was made in an amount of less than $5,000; or

(C) for such loans made after November 4, 1988, the loan involved was made in an amount of less than $2,500.

(2) Relationship to claim for payment

With respect to an eligible lender or holder that has commenced an action pursuant to subsection (a) of this section, the Secretary shall make the payment required in such subsection, or deny the claim for such payment, not later than 60 days after the date on which the Secretary determines that the lender or holder has made reasonable efforts to secure a judgment and collect on the judgment entered into pursuant to this subsection.

(3) State court judgments

With respect to any State court judgment that is obtained by a lender or holder against a borrower for default on a loan insured under this subpart and that is subrogated to the United States under subsection (b) of this section, any United States attorney may register such judgment with the Federal courts for enforcement.

(i) Inapplicability of Federal and State statute of limitations on actions for loan collection

Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by the Secretary, the Attorney General, or other administrative head of another Federal agency, as the case may be, for the repayment of the amount due from a borrower on a loan made under this subpart that has been assigned to the Secretary under subsection (b) of this section.

(j) School collection assistance

An institution or postgraduate training program attended by a borrower may assist in the

collection of any loan of that borrower made under this subpart which becomes delinquent, including providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans, contacting the borrower in order to encourage repayment, and withholding services in accordance with regulations issued by the Secretary under section 292n(a)(7) of this title. The institution or postgraduate training program shall not be subject to section 1692g of title 15 for purposes of carrying out activities authorized by this section.

(July 1, 1944, ch. 373, title VII, § 707, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2002; amended Pub. L. 103–43, title XX, § 2014(a)(2), June 10, 1993, 107 Stat. 215; Pub. L. 105–392, title I, §§ 142(a), (b), 144(a), Nov. 13, 1998, 112 Stat. 3579, 3581.)

REFERENCES IN TEXT

The Federal False Claims Act, referred to in subsec. (a)(2)(J), probably means the False Claims Act which was the popular name for sections 231, 232, 233, and 235 of former Title 31, Money and Finance. Sections 231, 232, 233, and 235 were repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1084, and reenacted by the first section thereof as sections 3729 to 3731 of Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 292f, act July 1, 1944, ch. 373, title VII, § 706, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 204, 90 Stat. 2249, authorized contracts under this subchapter without regard to certain provisions, prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 292f, act July 1, 1944, ch. 373, title VII, § 707, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720; amended Oct. 5, 1961, Pub. L. 87–395, § 8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), 85 Stat. 437, provided for recapture of payments relating to grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 707 of act July 1, 1944, was classified to section 292g of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 142(a), designated existing provisions as par. (1), inserted heading, substituted "determined, except that, if the insurance beneficiary including any servicer of the loan is not designated for 'exceptional performance', as set forth in paragraph (2), the Secretary shall pay to the beneficiary a sum equal to 98 percent of the amount of the loss sustained by the insured upon that loan." for "determined.", struck out at end "Not later than one year after October 13, 1992, the Secretary shall establish performance standards for lenders and holders of loans under this subpart, including fees to be imposed for failing to meet such standards.", and added par. (2).

Subsec. (e)(4). Pub. L. 105–392, § 142(b), added par. (4).

Subsec. (g). Pub. L. 105–392, § 144(a), substituted "Notwithstanding any other provision of Federal or State law, a debt that is a loan insured" for "A debt which is a loan insured" in introductory provisions.

1993—Subsec. (g)(1). Pub. L. 103–43, § 2014(a)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "after the expiration of the five-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 292d(a)(2) of this title, when repayment of such loan is required;".

Subsec. (j). Pub. L. 103–43, § 2014(a)(2)(B), added subsec. (j).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–392, title I, § 142(c), Nov. 13, 1998, 112 Stat. 3581, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to loans submitted to the Secretary for payment on or after the first day of the sixth month that begins after the date of enactment of this Act [Nov. 13, 1998]."

Pub. L. 105–392, title I, § 144(b), Nov. 13, 1998, 112 Stat. 3581, provided that: "The amendment made by subsection (a) [amending this section] shall apply to any loan insured under the authority of subpart I of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) that is listed or scheduled by the debtor in a case under title XI, United States Code [Title 11, Bankruptcy], filed—

"(1) on or after the date of enactment of this Act [Nov. 13, 1998]; or

"(2) prior to such date of enactment in which a discharge has not been granted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292b, 292*o* of this title.

§ 292g. Risk-based premiums

(a) Authority

With respect to a loan made under this subpart on or after January 1, 1993, the Secretary, in accordance with subsection (b) of this section, shall assess a risk-based premium on an eligible borrower and, if required under this section, an eligible institution that is based on the default rate of the eligible institution involved (as defined in section 292*o* of this title).

(b) Assessment of premium

Except as provided in subsection (d)(2) of this section, the risk-based premium to be assessed under subsection (a) of this section shall be as follows:

(1) Low-risk rate

With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

(2) Medium-risk rate

(A) In general

With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 10 percent—

(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

(B) Default management plan

An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-term and long-term proce-

dures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

(3) High-risk rate

(A) In general

With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 10 percent but not to exceed 20 percent—

(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

(B) Default management plan

An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval a plan that meets the requirements of paragraph (2)(B).

(4) Ineligibility

An individual shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate in excess of 20 percent.

(c) Reduction of risk-based premium

Lenders shall reduce by 50 percent the risk-based premium to eligible borrowers if a credit worthy parent or other responsible party co-signs the loan note.

(d) Administrative waivers

(1) Hearing

The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to making such institution ineligible for participation in the program under this subpart.

(2) Exceptions

In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of paragraphs (2) through (4) of subsection (b) of this section if the Secretary determines that the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient.

(3) Transition for certain institutions

During the 3-year period beginning on October 13, 1992—

(A) subsection (b)(4) of this section shall not apply with respect to any eligible institution that is a Historically Black College or University; and

(B) any such institution that has a default rate in excess of 20 percent, and any eligible borrower seeking a loan for attendance at the institution, shall be subject to subsection (b)(3) of this section to the same extent and in the same manner as eligible institutions and borrowers described in such subsection.

(e) Payoff to reduce risk category

An institution may pay off the outstanding principal and interest owed by the borrowers of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.

(July 1, 1944, ch. 373, title VII, § 708, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2004.)

PRIOR PROVISIONS

A prior section 292g, act July 1, 1944, ch. 373, title VII, § 707, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 205, 90 Stat. 2249; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(r), 91 Stat. 395, related to delegation of authority by the Secretary, prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 292g, act July 1, 1944, ch. 373, title VII, § 708, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720; amended Oct. 5, 1961, Pub. L. 87–395, § 8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164, prohibited Federal interference with administration of institutions where grants were made for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 708 of act July 1, 1944, was classified to section 292h of this title prior to the general revision of this subchapter by Pub. L. 102–408.

EFFECTIVE DATE

Section effective Jan. 1, 1993, and until such date, former section 294e(c) of this title, as in effect on the day before Oct. 13, 1992, to continue in effect in lieu of this section, see section 103 of Pub. L. 102–408, set out as a note under section 292 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292e of this title.

§ 292h. Office for Health Education Assistance Loan Default Reduction

(a) Establishment

The Secretary shall establish, within the Division of Student Assistance of the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loan Default Reduction (in this section referred to as the ''Office'').

(b) Purpose and functions

It shall be the purpose of the Office to achieve a reduction in the number and amounts of defaults on loans guaranteed under this subpart. In carrying out such purpose the Office shall—

(1) conduct analytical and evaluative studies concerning loans and loan defaults;

(2) carry out activities designed to reduce loan defaults;

(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

(4) coordinate with other Federal entities that are involved with student loan programs, including—

(A) with respect to the Department of Education, in the development of a single student loan application form, a single student loan deferment form, a single disability

form, and a central student loan database; and

(B) with respect to the Department of Justice, in the recovery of payments from health professionals who have defaulted on loans guaranteed under this subpart; and

(5) provide technical assistance to borrowers, lenders, holders, and institutions concerning deferments and collection activities.

(c) Additional duties

In conjunction with the report submitted under subsection (b) of this section, the Office shall—

(1) compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart; and

(2) send the report and notices of default with respect to these borrowers to relevant Federal agencies and to schools, school associations, professional and specialty associations, State licensing boards, hospitals with which such borrowers may be associated, and any other relevant organizations.

(d) Allocation of funds for Office

In the case of amounts reserved under section 292i(a)(2)(B) of this title for obligation under this subsection, the Secretary may obligate the amounts for the purpose of administering the Office, including 7 full-time equivalent employment positions for such Office. With respect to such purpose, amounts made available under the preceding sentence are in addition to amounts made available to the Health Resources and Services Administration for program management for the fiscal year involved. With respect to such employment positions, the positions are in addition to the number of full-time equivalent employment positions that otherwise is authorized for the Department of Health and Human Services for the fiscal year involved.

(July 1, 1944, ch. 373, title VII, § 709, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2006; amended Pub. L. 105–392, title I, § 141(b), Nov. 13, 1998, 112 Stat. 3579.)

PRIOR PROVISIONS

A prior section 292h, act July 1, 1944, ch. 373, title VII, § 708, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 206, 90 Stat. 2250; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(a), 91 Stat. 389; Nov. 9, 1978, Pub. L. 95–623, § 12(a), 92 Stat. 3457; Dec. 11, 1980, Pub. L. 96–511, § 4(c), 94 Stat. 2826; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2719, 95 Stat. 914; Oct. 22, 1985, Pub. L. 99–129, title II, § 220(b), 99 Stat. 543; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 616(c)(1), 626, 102 Stat. 3139, 3144; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(a), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101–93, § 5(m), 103 Stat. 613, related to health professions data, prior to the general revision of this subchapter by Pub. L. 102–408. See section 295k of this title.

Another prior section 292h, act July 1, 1944, ch. 373, title VII, § 709, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720; amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(C), 85 Stat. 437, provided for issuance of general, administrative, and other regulations for implementation of grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 709 of act July 1, 1944, was classified to section 292i of this title prior to repeal by Pub. L. 97–35, title XXVII, § 2720(a), Aug. 13, 1981, 95 Stat. 915.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–392 inserted ''and'' at end of par. (4)(B), substituted a period for ''; and'' at end of par. (5), and struck out par. (6) which read as follows: ''prepare and submit a report not later than March 31, 1993, and annually, thereafter, to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives concerning—

''(A) the default rates for each—

''(i) institution described in section 292*o*(1) of this title that is participating in the loan programs under this subpart;

''(ii) lender participating in the loan program under this subpart; and

''(iii) loan holder under this subpart;

''(B) the total amounts recovered pursuant to section 292f(b) of this title during the preceding fiscal year; and

''(C) a plan for improving the extent of such recoveries during the current fiscal year.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292i of this title.

§ 292i. Insurance account

(a) In general

(1) Establishment

There is hereby established a student loan insurance account (in this section referred to as the ''Account'') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the collection and default of loans insured under this subpart by the Secretary.

(2) Funding

(A) Except as provided in subparagraph (B), all amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from the operations of the Secretary in connection with this section, shall be deposited in the Account.

(B) With respect to amounts described in subparagraph (A) that are received by the Secretary for fiscal year 1993 and subsequent fiscal years, the Secretary may, before depositing such amounts in the Account, reserve from the amounts each such fiscal year not more than $1,000,000 for obligation under section 292h(d) of this title.

(3) Expenditures

All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the Account.

(b) Contingent authority for issuance of notes or other obligations

If at any time the moneys in the Account are insufficient to make payments in connection with the collection or default of any loan insured by the Secretary under this subpart, the Secretary of the Treasury may lend the Account such amounts as may be necessary to make the payments involved, subject to the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.].

(July 1, 1944, ch. 373, title VII, § 710, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106

Stat. 2007; amended Pub. L. 105–392, title I, § 143, Nov. 13, 1998, 112 Stat. 3581.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 292i, act July 1, 1944, ch. 373, title VII, § 709, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 207, 90 Stat. 2252; amended Nov. 9, 1978, Pub. L. 95–623, § 12(b), 92 Stat. 3457, related to shared schedule residency training positions, prior to repeal by Pub. L. 97–35, title XXVII, § 2720(a), Aug. 13, 1981, 95 Stat. 915.

Another prior section 292i, act July 1, 1944, ch. 373, title VII, § 710, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720; amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), 85 Stat. 437, related to preparation and submission of annual reports to the Congress through the President, including its contents, as to grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 710 of act July 1, 1944, was classified to section 292k of this title prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 710 of act July 1, 1944, was renumbered section 709 by Pub. L. 97–35 and was classified to section 292j of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (a)(2)(B). Pub. L. 105–392 substituted ''fiscal year 1993 and subsequent fiscal years'' for ''any of the fiscal years 1993 through 1996''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292f, 292h, 292m of this title; title 20 section 1078–3.

§ 292j. Powers and responsibilities of Secretary

(a) In general

In the performance of, and with respect to, the functions, powers, and duties vested in the Secretary by this subpart, the Secretary is authorized as follows:

(1) To prescribe such regulations as may be necessary to carry out the purposes of this subpart.

(2) To sue and be sued in any district court of the United States. Such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the control of the Secretary. Nothing herein shall be constructed to except litigation arising out of activities under this subpart from the application of sections 517 and 547 of title 28.

(3) To include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payments of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved. Any term, condition, and covenant made pursuant to this paragraph or any other provisions of this subpart may be modified by the Secretary if the Secretary determines that modification is necessary to protect the financial interest of the United States.

(4) Subject to the specific limitations in the subpart, to consent to the modification of any note or other instrument evidencing a loan which has been insured by him under this subpart (including modifications with respect to the rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision).

(5) To enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or[1] redemption.

(b) Annual budget; accounts

The Secretary shall, with respect to the financial operations arising by reason of this subpart—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain with respect to insurance under this subpart an integral set of accounts.

(July 1, 1944, ch. 373, title VII, § 711, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2007.)

CODIFICATION

In subsec. (b)(1), ''chapter 91 of title 31'' was substituted for ''the Government Corporation Control Act'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 292j, act July 1, 1944, ch. 373, title VII, § 709, formerly § 710, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 208, 90 Stat. 2252; renumbered § 709 and amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, §§ 2720(b), 2721, 95 Stat. 915; Oct. 22, 1985, Pub. L. 99–129, title II, § 206, 99 Stat. 527, related to payment under grants, prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 292j, act July 1, 1944, ch. 373, title VII, § 711, as added Sept. 24, 1963, Pub. L. 88–129, § 3(b), 77 Stat. 173; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(k)(2)(A), 85 Stat. 437, provided for technical assistance in connection with grants for construction of health research facilities, prior to repeal by Pub. L. 94–484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

§ 292k. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Administrator of the National Credit Union Administration, have power to make insured loans to eligible students in accordance

[1] So in original. Probably should be ''of''.

with the provisions of this subpart relating to Federal insured loans.

(July 1, 1944, ch. 373, title VII, § 712, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2008.)

PRIOR PROVISIONS

A prior section 292k, act July 1, 1944, ch. 373, title VII, § 710, formerly § 711, as added Oct. 12, 1976, Pub. L. 94–484, title II, § 209, 90 Stat. 2253; renumbered § 710 and amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, §§ 2720(b), 2722, 95 Stat. 915, related to differential tuition and fees, prior to the general revision of this subchapter by Pub. L. 102–408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 254*l* of this title.

§ 292*l*. Determination of eligible students

For purposes of determining eligible students under this part, in the case of a public school in a State that offers an accelerated, integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four-year school of medicine which provides the remaining training leading to a degree of doctor of medicine, whenever in this part a provision refers to a student at a school of medicine, such reference shall include only a student enrolled in any of the last four years of such accelerated, integrated program of study.

(July 1, 1944, ch. 373, title VII, § 713, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2008.)

§ 292m. Repayment by Secretary of loans of deceased or disabled borrowers

If a borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the account established under section 292i of this title.

(July 1, 1944, ch. 373, title VII, § 714, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2008.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292b of this title.

§ 292n. Additional requirements for institutions and lenders

(a) In general

Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained from a borrower who has received a loan insured under this subpart;

(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart;

(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart;

(4) the collection of information from the borrower, lender, or eligible institution to assure compliance with the provisions of section 292d of this title;

(5) the assessing of tuition or fees to borrowers in amounts that are the same or less than the amount of tuition and fees assessed to nonborrowers;

(6) the submission, by the institution or the lender to the Office of Health Education Assistance Loan Default Reduction, of information concerning each loan made under this subpart, including the date when each such loan was originated, the date when each such loan is sold, the identity of the loan holder and information concerning a change in the borrower's status;

(7) the withholding of services, including academic transcripts, financial aid transcripts, and alumni services, by an institution from a borrower upon the default of such borrower of a loan under this subpart, except in case of a borrower who has filed for bankruptcy; and

(8) the offering, by the lender to the borrower, of a variety of repayment options, including fixed-rate, graduated repayment with negative amortization permitted, and income dependent payments for a limited period followed by level monthly payments.

(b) Recording by institution of information on students

The Secretary shall require an eligible institution to record, and make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.

(c) Workshop for student borrowers

Each participating eligible institution must have, at the beginning of each academic year, a workshop concerning the provisions of this subpart that all student borrowers shall be required to attend.

(July 1, 1944, ch. 373, title VII, § 715, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2009.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292f of this title.

§ 292*o*. Definitions

For purposes of this subpart:

(1) The term ''eligible institution'' means, with respect to a fiscal year, a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, allied health, or

chiropractic, or a graduate program in health administration or behavioral and mental health practice, including clinical psychology.

(2) The term ''eligible lender'' means an eligible institution that became a lender under this subpart prior to September 15, 1992, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, a pension fund approved by the Secretary for this purpose, or a nonprofit private entity designated by the State, regulated by the State, and approved by the Secretary.

(3) The term ''line of credit'' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(4) The term ''school of allied health'' means a program in a school of allied health (as defined in section 295p of this title) which leads to a masters' degree or a doctoral degree.

(5)(A) The term ''default rate'', in the case of an eligible entity, means the percentage constituted by the ratio of—

(i) the principal amount of loans insured under this subpart—

(I) that are made with respect to the entity and that enter repayment status after April 7, 1987; and

(II) for which amounts have been paid under section 292f(a) of this title to insurance beneficiaries, exclusive of any loan for which amounts have been so paid as a result of the death or total and permanent disability of the borrower; exclusive of any loan for which the borrower begins payments to the Secretary on the loan pursuant to section 292f(b) of this title and maintains payments for 12 consecutive months in accordance with the agreement involved (with the loan subsequently being included or excluded, as the case may be, as amounts paid under section 292f(a) of this title according to whether further defaults occur and whether with respect to the default involved compliance with such requirement regarding 12 consecutive months occurs); and exclusive of any loan on which payments may not be recovered by reason of the obligation under the loan being discharged in bankruptcy under title 11; to

(ii) the total principal amount of loans insured under this subpart that are made with respect to the entity and that enter repayment status after April 7, 1987.

(B) For purposes of subparagraph (A), a loan insured under this subpart shall be considered to have entered repayment status if the applicable period described in subparagraph (B) of section 292d(a)(2) of this title regarding the loan has expired (without regard to whether any period described in subparagraph (C) of such section is applicable regarding the loan).

(C) For purposes of subparagraph (A), the term ''eligible entity'' means an eligible institution, an eligible lender, or a holder, as the case may be.

(D) For purposes of subparagraph (A), a loan is made with respect to an eligible entity if—

(i) in the case of an eligible institution, the loan was made to students of the institution;

(ii) in the case of an eligible lender, the loan was made by the lender; and

(iii) in the case of a holder, the loan was purchased by the holder.

(July 1, 1944, ch. 373, title VII, § 719, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2009; amended Pub. L. 105–392, title I, § 141(c)(2), Nov. 13, 1998, 112 Stat. 3579.)

AMENDMENTS

1998—Par. (1). Pub. L. 105–392 substituted ''or behavioral and mental health practice, including clinical psychology'' for ''or clinical psychology''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292, 292a, 292g of this title.

§ 292p. Authorization of appropriations

(a) In general

For fiscal year 1993 and subsequent fiscal years, there are authorized to be appropriated such sums as may be necessary for the adequacy of the student loan insurance account under this subpart and for the purpose of administering this subpart.

(b) Availability of sums

Sums appropriated under subsection (a) of this section shall remain available until expended.

(July 1, 1944, ch. 373, title VII, § 720, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2011.)

PRIOR PROVISIONS

A prior section 720 of act July 1, 1944, was classified to section 293 of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SUBPART II—FEDERALLY-SUPPORTED STUDENT LOAN FUNDS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in title 20 section 1078–3.

§ 292q. Agreements for operation of school loan funds

(a) Fund agreements

The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or other nonprofit school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine.

(b) Requirements

Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund of—

(A) the Federal capital contributions to the fund;

(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution;

(C) collections of principal and interest on loans made from the fund;

(D) collections pursuant to section 292r(j) of this title; and

(E) any other earnings of the fund;

(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of pharmacy or an equivalent degree, doctor of podiatric medicine or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 292r of this title under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and

(6) contain such other provisions as are necessary to protect the financial interests of the United States.

(c) Failure of school to collect loans

(1) In general

Any standard established by the Secretary by regulation for the collection by schools of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine of loans made pursuant to loan agreements under this subpart shall provide that the failure of any such school to collect such loans shall be measured in accordance with this subsection. This subsection may not be construed to require such schools to reimburse the student loan fund under this subpart for loans that became uncollectible prior to August 1985 or to penalize such schools with respect to such loans.

(2) Extent of failure

The measurement of a school's failure to collect loans made under this subpart shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of such school bears to the matured loans of such school.

(3) Definitions

For purposes of this subsection:

(A) The term ''default'' means the failure of a borrower of a loan made under this subpart to—

(i) make an installment payment when due; or

(ii) comply with any other term of the promissory note for such loan,

except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy or if the school reasonably concludes from written contracts with the borrower that the borrower intends to repay the loan.

(B) The term ''defaulted principal amount outstanding'' means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans—

(i) repayable monthly and in default for at least 120 days; and

(ii) repayable less frequently than monthly and in default for at least 180 days;

(C) The term ''grace period'' means the period of one year beginning on the date on which the borrower ceases to pursue a full-time course of study at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine; and

(D) The term ''matured loans'' means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by such school to students who are—

(i) enrolled in a full-time course of study at such school; or

(ii) in their grace period.

(July 1, 1944, ch. 373, title VII, § 721, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2011.)

PRIOR PROVISIONS

A prior section 721 of act July 1, 1944, was classified to section 293a of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292r, 292s, 292t, 292v, 292x, 292y, 295*o*–1 of this title.

§ 292r. Loan provisions

(a) Amount of loan

(1) In general

Loans from a student loan fund (established under an agreement with a school under section 292q of this title) may not, subject to paragraph (2), exceed for any student for a school year (or its equivalent) the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living costs) for that year at the educational institution attended by the student (as determined by such educational institution).

(2) Third and fourth years of medical school

For purposes of paragraph (1), the amount of the loan may, in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine, be increased to the extent necessary to pay the balances of loans that, from sources other than the student loan fund under section 292q of this title, were made to the individual for attendance at the school. The authority to make such an increase is subject to the school and the student agreeing that such amount (as increased) will be expended to pay such balances.

(b) Terms and conditions

Subject to section 292s of this title, any such loans shall be made on such terms and condi-

tions as the school may determine, but may be made only to a student—

(1) who is in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of pharmacy or an equivalent degree, doctor of podiatric medicine or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree; and

(2) who, if required under section 453 of title 50, Appendix, to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section.

(c) Repayment; exclusions from repayment period

Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the period of not less than 10 years nor more than 25 years, at the discretion of the institution, which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such period—

(1) all periods—

(A) not in excess of three years of active duty performed by the borrower as a member of a uniformed service;

(B) not in excess of three years during which the borrower serves as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.];

(C) during which the borrower participates in advanced professional training, including internships and residencies; and

(D) during which the borrower is pursuing a full-time course of study at such a school; and

(2) a period—

(A) not in excess of two years during which a borrower who is a full-time student in such a school leaves the school, with the intent to return to such school as a full-time student, in order to engage in a full-time educational activity which is directly related to the health profession for which the borrower is preparing, as determined by the Secretary; or

(B) not in excess of two years during which a borrower who is a graduate of such a school is a participant in a fellowship training program or a full-time educational activity which—

(i) is directly related to the health profession for which such borrower prepared at such school, as determined by the Secretary; and

(ii) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in advanced professional training described in paragraph (1)(C) or prior to the completion of such borrower's participation in such training.

(d) Cancellation of liability

The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently, and totally disabled.

(e) Rate of interest

Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 5 percent per year.

(f) Security or endorsement

Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(g) Transferring and assigning loans

No note or other evidence of a loan made under this subpart may be transferred or assigned by the school making the loan except that, if the borrowers transfer to another school participating in the program under this subpart, such note or other evidence of a loan may be transferred to such other school.

(h) Charge with respect to insurance for certain cancellations

Subject to regulations of the Secretary, a school may assess a charge with respect to loans made this subpart[1] to cover the costs of insuring against cancellation of liability under subsection (d) of this section.

(i) Charge with respect to late payments

Subject to regulations of the Secretary, and in accordance with this section, a school shall assess a charge with respect to a loan made under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) of this section, for any failure to file timely and satisfactory evidence of such entitlement. No such charge may be made if the payment of such installment or the filing of such evidence is made within 60 days after the date on which such installment or filing is due. The amount of any such charge may not exceed an amount equal to 6 percent of the amount of such installment. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(j) Authority of schools regarding rate of payment

A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the

[1] So in original. Probably should be "under this subpart".

borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $40 per month.

(k) Authority regarding repayments by Secretary

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete such studies leading to his first professional degree;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatric medicine, within two years following the date upon which he terminated such studies.

(*l*) Collection efforts by Secretary

The Secretary is authorized to attempt to collect any loan which was made under this subpart, which is in default, and which was referred to the Secretary by a school with which the Secretary has an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe (including reimbursement from the school's student loan fund for expenses the Secretary may reasonably incur in attempting collection), but only if the school has complied with such requirements as the Secretary may specify by regulation with respect to the collection of loans under this subpart. A loan so referred shall be treated as a debt subject to section 5514 of title 5. Amounts collected shall be deposited in the school's student loan fund. Whenever the Secretary desires the institution of a civil action regarding any such loan, the Secretary shall refer the matter to the Attorney General for appropriate action.

(m) Elimination of statute of limitation for loan collections

(1) Purpose

It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Prohibition

Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school that has an agreement with the Secretary pursuant to section 292q of this title that is seeking the repayment of the amount due from a borrower on a loan made under this subpart after the default of the borrower on such loan.

(July 1, 1944, ch. 373, title VII, § 722, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2012; amended Pub. L. 103–43, title XX, § 2014(b), June 10, 1993, 107 Stat. 215; Pub. L. 105–392, title I, § 134(a), (b)(1), Nov. 13, 1998, 112 Stat. 3577, 3578.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (c)(1)(B), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

PRIOR PROVISIONS

A prior section 722 of act July 1, 1944, was classified to section 293b of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–392, § 134(a)(1), substituted "the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living costs) for that year at the educational institution attended by the student (as determined by such educational institution)." for "the sum of—

"(A) the cost of tuition for such year at such school, and

"(B) $2,500."

Subsec. (a)(2). Pub. L. 105–392, § 134(a)(2), substituted "the amount of the loan may, in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine, be increased to the extent necessary" for "the amount $2,500 may, in the case of the third or fourth year of a student at school of medicine or osteopathic medicine, be increased to the extent necessary (including such $2,500)".

Subsec. (c). Pub. L. 105–392, § 134(a)(3), in heading, substituted "repayment" for "ten-year" and, in introductory provisions, substituted "period of not less than 10 years nor more than 25 years, at the discretion of the institution, which begins" for "ten-year period which begins" and "such period" for "such ten-year period".

Subsec. (j). Pub. L. 105–392, § 134(a)(4), substituted "$40" for "$15".

Subsec. (m). Pub. L. 105–392, § 134(b)(1), added subsec. (m).

1993—Subsec. (a). Pub. L. 103–43, § 2014(b)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Loans from a student loan fund (established under an agreement with a school under section 292q of this title) may not exceed for any student for each school year (or its equivalent) the sum of—

"(1) the cost of tuition for such year at such school, and

"(2) $2,500."

Subsec. (b)(2), (3). Pub. L. 103–43, § 2014(b)(2), redesignated par. (3) as (2) and struck out former par. (2), which read as follows: "who, if pursuing a full-time course of study at the school leading to a degree of doctor of medicine or doctor of osteopathy, is of exceptional financial need (as defined by regulations of the Secretary); and".

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–392, title I, § 134(b)(2), Nov. 13, 1998, 112 Stat. 3578, provided that: "The amendment made by paragraph (1) [amending this section] shall be effective with respect to actions pending on or after the date of enactment of this Act [Nov. 13, 1998]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292q, 292s, 292v of this title.

§ 292s. Medical schools and primary health care

(a) Requirements for students

(1) In general

Subject to the provisions of this subsection, in the case of student loan funds established under section 292q of this title by schools of medicine or osteopathic medicine, each agreement entered into under such section with such a school shall provide (in addition to the provisions required in subsection (b) of such section) that the school will make a loan from such fund to a student only if the student agrees—

(A) to enter and complete a residency training program in primary health care not later than 4 years after the date on which the student graduates from such school; and

(B) to practice in such care through the date on which the loan is repaid in full.

(2) Inapplicability to certain students

(A) The requirement established in paragraph (1) regarding the student loan fund of a school does not apply to a student if—

(i) the first loan to the student from such fund is made before July 1, 1993; or

(ii) the loan is made from—

(I) a Federal capital contribution under section 292q of this title that is made from amounts appropriated under section 292t(f) of this title (in this section referred to as an ''exempt Federal capital contribution''); or

(II) a school contribution made under section 292q of this title pursuant to such a Federal capital contribution (in this section referred to as an ''exempt school contribution'').

(B) A Federal capital contribution under section 292q of this title may not be construed as being an exempt Federal capital contribution if the contribution was made from amounts appropriated before October 1, 1990. A school contribution under section 292q of this title may not be construed as being an exempt school contribution if the contribution was made pursuant to a Federal capital contribution under such section that was made from amounts appropriated before such date.

(3) Noncompliance by student

Each agreement entered into with a student pursuant to paragraph (1) shall provide that, if the student fails to comply with such agreement, the loan involved will begin to accrue interest at a rate of 18 percent per year beginning on the date of such noncompliance.

(4) Waivers

(A) With respect to the obligation of an individual under an agreement made under paragraph (1) as a student, the Secretary shall provide for the partial or total waiver or suspension of the obligation whenever compliance by the individual is impossible, or would involve extreme hardship to the individual, and if enforcement of the obligation with respect to the individual would be unconscionable.

(B) For purposes of subparagraph (A), the obligation of an individual shall be waived if—

(i) the status of the individual as a student of the school involved is terminated before graduation from the school, whether voluntarily or involuntarily; and

(ii) the individual does not, after such termination, resume attendance at the school or begin attendance at any other school of medicine or osteopathic medicine.

(C) If an individual resumes or begins attendance for purposes of subparagraph (B), the obligation of the individual under the agreement under paragraph (1) shall be considered to have been suspended for the period in which the individual was not in attendance.

(D) This paragraph may not be construed as authorizing the waiver or suspension of the obligation of a student to repay, in accordance with section 292r of this title, loans from student loan funds under section 292q of this title.

(b) Requirements for schools

(1) In general

Subject to the provisions of this subsection, in the case of student loan funds established under section 292q of this title by schools of medicine or osteopathic medicine, each agreement entered into under such section with such a school shall provide (in addition to the provisions required in subsection (b) of such section) that, for the 1-year period ending on June 30, 1997;[1] and for the 1-year period ending on June 30 of each subsequent fiscal year, the school will meet not less than 1 of the conditions described in paragraph (2) with respect to graduates of the school whose date of graduation from the school occurred approximately 4 years before the end of the 1-year period involved.

(2) Description of conditions

With respect to graduates described in paragraph (1) (in this paragraph referred to as ''designated graduates''), the conditions referred to in such paragraph for a school for a 1-year period are as follows:

(A) Not less than 50 percent of designated graduates of the school meet the criterion of either being in a residency training program in primary health care, or being engaged in a practice in such care (having completed such a program).

(B) Not less than 25 percent of the designated graduates of the school meet such criterion, and such percentage is not less than 5 percentage points above the percentage of such graduates meeting such criterion for the preceding 1-year period.

(C) In the case of schools of medicine or osteopathic medicine with student loans funds under section 292q of this title, the school involved is at or above the 75th percentile of such schools whose designated graduates meet such criterion.

(3) Determinations by Secretary

Not later than 90 days after the close of each 1-year period described in paragraph (1), the

[1] So in original. The semicolon probably should be a comma.

Secretary shall make a determination of whether the school involved has for such period complied with such paragraph and shall in writing inform the school of the determination. Such determination shall be made only after consideration of the report submitted to the Secretary by the school under paragraph (6).

(4) Noncompliance by school

(A)(i) Subject to subparagraph (C), each agreement under section 292q of this title with a school of medicine or osteopathic medicine shall provide that, if the school fails to comply with paragraph (1) for a 1-year period under such paragraph, the school—

(I) will pay to the Secretary the amount applicable under subparagraph (B) for the period; and

(II) will pay such amount not later than 90 days after the school is informed under paragraph (3) of the determination of the Secretary regarding such period.

(ii) Any amount that a school is required to pay under clause (i) may be paid from the student loan fund of the school under section 292q of this title.

(B) For purposes of subparagraph (A), the amount applicable for a school, subject to subparagraph (C), is—

(i) for the 1-year period ending June 30, 1997, an amount equal to 10 percent of the income received during such period by the student loan fund of the school under section 292q of this title;

(ii) for the 1-year period ending June 30, 1998, an amount equal to 20 percent of the income received during such period by the student loan fund; and

(iii) for any subsequent 1-year period under paragraph (1), an amount equal to 30 percent of the income received during such period by the student loan fund.

(C) In determining the amount of income that a student loan fund has received for purposes of subparagraph (B), the Secretary shall exclude any income derived from exempt contributions. Payments made to the Secretary under subparagraph (A) may not be made with such contributions or with income derived from such contributions.

(5) Expenditure of payments

(A) Amounts paid to the Secretary under paragraph (4) shall be expended to make Federal capital contributions to student loan funds under section 292q of this title of schools that are in compliance with paragraph (1).

(B) A Federal capital contribution under section 292q of this title may not be construed as being an exempt Federal capital contribution if the contribution is made from payments under subparagraph (A). A school contribution under such section may not be construed as being an exempt school contribution if the contribution is made pursuant to a Federal capital contribution from such payments.

(6) Reports by schools

Each agreement under section 292q of this title with a school of medicine or osteopathic medicine shall provide that the school will submit to the Secretary a report for each 1-year period under paragraph (1) that provides such information as the Secretary determines to be necessary for carrying out this subsection. Each such report shall include statistics concerning the current training or practice status of all graduates of such school whose date of graduation from the school occurred approximately 4 years before the end of the 1-year period involved.

(c) Definitions

For purposes of this section:

(1) The term ''exempt contributions'' means exempt Federal capital contributions and exempt school contributions.

(2) The term ''exempt Federal capital contribution'' means a Federal capital contribution described in subclause (I) of subsection (a)(2)(A)(ii) of this section.

(3) The term ''exempt school contribution'' means a school contribution described in subclause (II) of subsection (a)(2)(A)(ii) of this section.

(4) The term ''income'', with respect to a student fund under section 292q of this title, means payments of principal and interest on any loan made from the fund, and any other earnings of the fund.

(5) The term ''primary health care'' means family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice.

(July 1, 1944, ch. 373, title VII, § 723, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2015; amended Pub. L. 103–43, title XX, § 2014(c), June 10, 1993, 107 Stat. 216; Pub. L. 105–392, title I, § 131, Nov. 13, 1998, 112 Stat. 3574.)

PRIOR PROVISIONS

A prior section 723 of act July 1, 1944, was classified to section 293c of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–392, § 131(b), reenacted heading without change and amended text of par. (3) generally. Prior to amendment, text read as follows: ''Each agreement entered into with a student pursuant to paragraph (1) shall provide that, if the student fails to comply with the agreement—

''(A) the balance due on the loan involved will be immediately recomputed from the date of issuance at an interest rate of 12 percent per year, compounded annually; and

''(B) the recomputed balance will be paid not later than the expiration of the 3-year period beginning on the date on which the student fails to comply with the agreement.''

Subsec. (b)(1). Pub. L. 105–392, § 131(a), substituted ''4 years before'' for ''3 years before''.

Subsecs. (c), (d). Pub. L. 105–392, § 131(c), redesignated subsec. (d) as (c) and struck out heading and text of subsec. (c). Text read as follows: ''The Secretary shall each fiscal year submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report regarding the administration of this section, including the extent of compliance with the requirements of this section, during the preceding fiscal year.''

1993—Subsec. (a)(4). Pub. L. 103–43, § 2014(c)(1), added par. (4).

Subsec. (b)(1). Pub. L. 103–43, § 2014(c)(2)(A), substituted ''1997;'' for ''1994,'' and ''3 years before'' for ''4 years before''.

Subsec. (b)(2)(B). Pub. L. 103–43, § 2014(c)(2)(B), substituted ''25 percent'' for ''15 percent''.

Subsec. (b)(4)(B). Pub. L. 103–43, § 2014(c)(2)(C), substituted ''1997'' for ''1994'' in cl. (i) and ''1998'' for ''1995'' in cl. (ii).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292r, 292t, 292y, 295*o*–1 of this title.

§ 292t. Individuals from disadvantaged backgrounds

(a) Fund agreements regarding certain amounts

With respect to amounts appropriated under subsection (f) of this section, each agreement entered into under section 292q of this title with a school shall provide (in addition to the provisions required in subsection (b) of such section) that—

(1) any Federal capital contribution made to the student loan fund of the school from such amounts, together with the school contribution appropriate under subsection (b)(2)(B) of such section to the amount of the Federal capital contribution, will be utilized only for the purpose of—

(A) making loans to individuals from disadvantaged backgrounds; and

(B) the costs of the collection of the loans and interest on the loans; and

(2) collections of principal and interest on loans made pursuant to paragraph (1), and any other earnings of the student loan fund attributable to amounts that are in the fund pursuant to such paragraph, will be utilized only for the purpose described in such paragraph.

(b) Minimum qualifications for schools

The Secretary may not make a Federal capital contribution for purposes of subsection (a) of this section for a fiscal year unless the health professions school involved—

(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

(2) is carrying out a program for recruiting and retaining minority faculty.

(c) Certain agreements regarding education of students; date certain for compliance

The Secretary may not make a Federal capital contribution for purposes of subsection (a) of this section for a fiscal year unless the health professions school involved agrees—

(1) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

(2) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

(3) with respect to public or nonprofit private secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such individuals into the health professions;

(4) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

(5) to be carrying out each of the activities specified in any of paragraphs (1) through (4) by not later than 1 year after the date on which the first Federal capital contribution is made to the school for purposes of subsection (a) of this section; and

(6) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b) of this section, throughout the period during which the student loan fund established pursuant to section 292q(b) of this title is in operation.

(d) Availability of other amounts

With respect to Federal capital contributions to student loan funds under agreements under section 292q(b) of this title, any such contributions made before October 1, 1990, together with the school contributions appropriate under paragraph (2)(B) of such section to the amount of the Federal capital contributions, may be utilized for the purpose of making loans to individuals from disadvantaged backgrounds, subject to section 292s(a)(2)(B) of this title.

(e) "Disadvantaged" defined

For purposes of this section, the term ''disadvantaged'', with respect to an individual, shall be defined by the Secretary.

(f) Authorization of appropriations

(1) In general

With respect to making Federal capital contributions to student loan funds for purposes of subsection (a) of this section, there is authorized to be appropriated for such contributions $8,000,000 for each of the fiscal years 1998 through 2002.

(2) Special consideration for certain schools

In making Federal capital contributions to student loan funds for purposes of subsection (a) of this section, the Secretary shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

(July 1, 1944, ch. 373, title VII, § 724, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2018; amended Pub. L. 105–392, title I, § 132, Nov. 13, 1998, 112 Stat. 3575.)

REPEAL OF SUBSECTION (f)(1)

Pub. L. 105–392, title I, § 132(b), Nov. 13, 1998, 112 Stat. 3575, provided that, effective Oct. 1, 2002, subsection (f)(1) of this section is repealed.

PRIOR PROVISIONS

A prior section 724 of act July 1, 1944, was classified to section 293d of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (f)(1). Pub. L. 105–392, § 132(a), substituted ''$8,000,000 for each of the fiscal years 1998 through 2002'' for ''$15,000,000 for fiscal year 1993''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–392, title I, § 132(b), Nov. 13, 1998, 112 Stat. 3575, provided that the repeal of subsec. (f)(1) of this section is effective Oct. 1, 2002.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292s of this title.

§ 292u. Administrative provisions

The Secretary may agree to modifications of agreements or loans made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

(July 1, 1944, ch. 373, title VII, § 725, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2019.)

PRIOR PROVISIONS

A prior section 725 of act July 1, 1944, was classified to section 293e of this title prior to the general revision of this subchapter by Pub. L. 102–408.

HEALTH PROFESSIONS EDUCATION FUND; AVAILABILITY OF FUND; DEPOSIT IN FUND OF: INTEREST PAYMENTS OR REPAYMENTS OF PRINCIPAL ON LOANS; TRANSFER OF EXCESS MONEYS TO GENERAL FUND OF THE TREASURY; AUTHORIZATION OF APPROPRIATIONS FOR PAYMENTS UNDER AGREEMENTS

Section 406(b), (c) of Pub. L. 94–484 provided that:

''(b) The health professions education fund created within the Treasury by section 744(d)(1) of the Public Health Service Act (as in effect before the date of enactment of this Act) [former section 294d(d)(1) of this title] shall remain available to the Secretary of Health, Education, and Welfare [now Health and Human Services] for the purpose of meeting his responsibilities respecting participations in obligations acquired under such section. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744 [former section 294d of this title]. If at any time the Secretary determines the moneys in the fund exceed the present and any reasonable prospective future requirements of such fund, such excess may be transferred to the general fund of the Treasury.

''(c) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) [former section 294d(b) of this title] of the Public Health Service Act before September 30, 1977.''

§ 292v. Provision by schools of information to students

(a) In general

With respect to loans made by a school under this subpart after June 30, 1986, each school, in order to carry out the provisions of sections 292q and 292r of this title, shall, at any time such school makes such a loan to a student under this subpart, provide thorough and adequate loan information on loans made under this subpart to the student. The loan information required to be provided to the student by this subsection shall include—

(1) the yearly and cumulative maximum amounts that may be borrowed by the student;

(2) the terms under which repayment of the loan will begin;

(3) the maximum number of years in which the loan must be repaid;

(4) the interest rate that will be paid by the borrower and the minimum amount of the required monthly payment;

(5) the amount of any other fees charged to the borrower by the lender;

(6) any options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

(7) a definition of default on the loan and a specification of the consequences which will result to the borrower if the borrower defaults, including a description of any arrangements which may be made with credit bureau organizations;

(8) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(9) a description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to (A) officers, employees, or agents of the Department of Health and Human Services, (B) officers, employees, or agents of schools with which the Secretary has an agreement under this subpart, or (C) any other person involved in the collection of a loan under this subpart.

(b) Statement regarding loan

Each school shall, immediately prior to the graduation from such school of a student who receives a loan under this subpart after June 30, 1986, provide such student with a statement specifying—

(1) each amount borrowed by the student under this subpart;

(2) the total amount borrowed by the student under this subpart; and

(3) a schedule for the repayment of the amounts borrowed under this subpart, including the number, amount, and frequency of payments to be made.

(July 1, 1944, ch. 373, title VII, § 726, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2020.)

PRIOR PROVISIONS

A prior section 726 of act July 1, 1944, was classified to section 293f of this title prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 726 of act July 1, 1944, was classified to section 293f of this title prior to repeal by Pub. L. 94–484.

§ 292w. Procedures for appeal of termination of agreements

In any case in which the Secretary intends to terminate an agreement with a school under this subpart, the Secretary shall provide the school with a written notice specifying such intention and stating that the school may request a formal hearing with respect to such termination. If the school requests such a hearing within 30 days after the receipt of such notice, the Secretary shall provide such school with a

hearing conducted by an administrative law judge.

(July 1, 1944, ch. 373, title VII, § 727, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2020.)

PRIOR PROVISIONS

A prior section 727 of act July 1, 1944, was classified to section 294 of this title prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 727 of act July 1, 1944, was classified to section 293g of this title prior to renumbering by Pub. L. 94–484.

§ 292x. Distribution of assets from loan funds

(a) Distribution after termination of fund

If a school terminates a loan fund established under an agreement pursuant to section 292q(b) of this title, or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund on the date of termination of the fund as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 292q(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 292q(b)(2)(B) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) Payment of proportionate share to Secretary

If a capital distribution is made under subsection (a) of this section, the school involved shall, after the capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established pursuant to section 292q(b) of this title as was determined by the Secretary under subsection (a) of this section.

(July 1, 1944, ch. 373, title VII, § 728, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2021.)

PRIOR PROVISIONS

A prior section 728 of act July 1, 1944, was classified to section 294a of this title prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 728 of act July 1, 1944, was classified to section 293h of this title prior to renumbering by Pub. L. 94–484.

§ 292y. General provisions

(a) Date certain for applications

The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions.

(b) Contingent reduction in allotments

If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application; or (B) an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

(c) Allotment of excess funds

Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

(d) Payment of installments to schools

Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

(e) Disposition of funds returned to Secretary

(1) Expenditure for Federal capital contributions

Subject to section 292s(b)(5) of this title, any amounts from student loan funds under section 292q of this title that are returned to the Secretary by health professions schools shall be expended to make Federal capital contributions to such funds.

(2) Date certain for contributions

Amounts described in paragraph (1) that are returned to the Secretary shall be obligated before the end of the succeeding fiscal year.

(3) Preference in making contributions

In making Federal capital contributions to student loans funds under section 292q of this title for a fiscal year from amounts described in paragraph (1), the Secretary shall give preference to health professions schools of the same disciplines as the health professions schools returning such amounts for the period during which the amounts expended for such contributions were received by the Secretary. Any such amounts that, prior to being so returned, were available only for the purpose of loans under this subpart to individuals from disadvantaged backgrounds shall be available only for such purpose.

(f) Funding for certain medical schools

(1) Authorization of appropriations

For the purpose of making Federal capital contributions to student loan funds established under section 292q of this title by schools of medicine or osteopathic medicine, there is authorized to be appropriated $10,000,000 for each of the fiscal years 1994 through 1996.

(2) Minimum requirements

(A) Subject to subparagraph (B), the Secretary may make a Federal capital contribu-

tion pursuant to paragraph (1) only if the school of medicine or osteopathic medicine involved meets the conditions described in subparagraph (A) of section 292s(b)(2) of this title or the conditions described in subparagraph (C) of such section.

(B) For purposes of subparagraph (A), the conditions referred to in such subparagraph shall be applied with respect to graduates of the school involved whose date of graduation occurred approximately 3 years before June 30 of the fiscal year preceding the fiscal year for which the Federal capital contribution involved is made.

(July 1, 1944, ch. 373, title VII, § 735, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2021; amended Pub. L. 102–531, title III, § 313(a)(1), Oct. 27, 1992, 106 Stat. 3507; Pub. L. 103–43, title XX, § 2014(d), June 10, 1993, 107 Stat. 217; Pub. L. 105–392, title I, § 134(c), Nov. 13, 1998, 112 Stat. 3578.)

PRIOR PROVISIONS

A prior section 735 of act July 1, 1944, was classified to section 294h of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (e)(2). Pub. L. 105–392 reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''Amounts described in paragraph (1) that are returned to the Secretary before the fourth quarter of a fiscal year shall be obligated before the end of such fiscal year, and may not be obligated before the fourth quarter. For purposes of the preceding sentence, amounts returned to the Secretary during the last quarter of a fiscal year are deemed to have been returned during the first three quarters of the succeeding fiscal year.''

1993—Subsec. (f). Pub. L. 103–43 added subsec. (f).

1992—Subsec. (b). Pub. L. 102–531 inserted designations for cls. (A) and (B) in first sentence.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 313(c) of Pub. L. 102–531 provided that: ''The amendments described in this section [amending this section and sections 293j, 293*l*, 294n, 295j, 295*l*, 295n, 295*o*, 296k, and 298b–7 of this title, repealing section 297j of this title, redesignating subpart IV of part B of subchapter VI of this chapter as subpart III, and amending provisions set out as a note under section 295k of this title] are made, and take effect, immediately after the enactment of the bill, H.R. 3508, of the One Hundred Second Congress [Pub. L. 102–408, approved Oct. 13, 1992].''

PART B—HEALTH PROFESSIONS TRAINING FOR DIVERSITY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 287a–2 of this title.

§ 293. Centers of excellence

(a) In general

The Secretary shall make grants to, and enter into contracts with, designated health professions schools described in subsection (c) of this section, and other public and nonprofit health or educational entities, for the purpose of assisting the schools in supporting programs of excellence in health professions education for under-represented minority individuals.

(b) Required use of funds

The Secretary may not make a grant under subsection (a) of this section unless the designated health professions school involved agrees, subject to subsection (c)(1)(C) of this section, to expend the grant—

(1) to develop a large competitive applicant pool through linkages with institutions of higher education, local school districts, and other community-based entities and establish an education pipeline for health professions careers;

(2) to establish, strengthen, or expand programs to enhance the academic performance of under-represented minority students attending the school;

(3) to improve the capacity of such school to train, recruit, and retain under-represented minority faculty including the payment of such stipends and fellowships as the Secretary may determine appropriate;

(4) to carry out activities to improve the information resources, clinical education, curricula and cultural competence of the graduates of the school, as it relates to minority health issues;

(5) to facilitate faculty and student research on health issues particularly affecting under-represented minority groups, including research on issues relating to the delivery of health care;

(6) to carry out a program to train students of the school in providing health services to a significant number of under-represented minority individuals through training provided to such students at community-based health facilities that—

(A) provide such health services; and

(B) are located at a site remote from the main site of the teaching facilities of the school; and

(7) to provide stipends as the Secretary determines appropriate, in amounts as the Secretary determines appropriate.

(c) Centers of excellence

(1) Designated schools

(A) In general

The designated health professions schools referred to in subsection (a) of this section are such schools that meet each of the conditions specified in subparagraphs (B) and (C), and that—

(i) meet each of the conditions specified in paragraph (2)(A);

(ii) meet each of the conditions specified in paragraph (3);

(iii) meet each of the conditions specified in paragraph (4); or

(iv) meet each of the conditions specified in paragraph (5).

(B) General conditions

The conditions specified in this subparagraph are that a designated health professions school—

(i) has a significant number of under-represented minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

(ii) has been effective in assisting under-represented minority students of the school to complete the program of education and receive the degree involved;

(iii) has been effective in recruiting under-represented minority individuals to enroll in and graduate from the school, including providing scholarships and other financial assistance to such individuals and encouraging under-represented minority students from all levels of the educational pipeline to pursue health professions careers; and

(iv) has made significant recruitment efforts to increase the number of under-represented minority individuals serving in faculty or administrative positions at the school.

(C) Consortium

The condition specified in this subparagraph is that, in accordance with subsection (e)(1) of this section, the designated health profession school involved has with other health profession schools (designated or otherwise) formed a consortium to carry out the purposes described in subsection (b) of this section at the schools of the consortium.

(D) Application of criteria to other programs

In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

(2) Centers of excellence at certain historically black colleges and universities

(A) Conditions

The conditions specified in this subparagraph are that a designated health professions school—

(i) is a school described in section 295p(1) of this title; and

(ii) received a contract under section 295g–8b of this title for fiscal year 1987, as such section was in effect for such fiscal year.

(B) Use of grant

In addition to the purposes described in subsection (b) of this section, a grant under subsection (a) of this section to a designated health professions school meeting the conditions described in subparagraph (A) may be expended—

(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for under-represented minority individuals; and

(ii) to provide improved access to the library and informational resources of the school.

(C) Exception

The requirements of paragraph (1)(C) shall not apply to a historically black college or university that receives funding under paragraphs[1] (2) or (5).

[1] So in original. Probably should be ''paragraph''.

(3) Hispanic centers of excellence

The conditions specified in this paragraph are that—

(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

(B) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that the school will, in carrying out the duties described in subsection (b) of this section, give priority to carrying out the duties with respect to Hispanic individuals; and

(C) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that—

(i) the school will establish an arrangement with 1 or more public or nonprofit community based Hispanic serving organizations, or public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Hispanic individuals, the purposes of which will be to carry out a program—

(I) to identify Hispanic students who are interested in a career in the health profession involved; and

(II) to facilitate the educational preparation of such students to enter the health professions school; and

(ii) the school will make efforts to recruit Hispanic students, including students who have participated in the undergraduate or other matriculation program carried out under arrangements established by the school pursuant to clause (i)(II) and will assist Hispanic students regarding the completion of the educational requirements for a degree from the school.

(4) Native American centers of excellence

Subject to subsection (e) of this section, the conditions specified in this paragraph are that—

(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

(B) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that the school will, in carrying out the duties described in subsection (b) of this section, give priority to carrying out the duties with respect to Native Americans; and

(C) the school agrees, as a condition of receiving a grant under subsection (a) of this section, that—

(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

(I) to identify Native American students, from the institutions of higher education referred to in clause (i), who

are interested in health professions careers; and

(II) to facilitate the educational preparation of such students to enter the designated health professions school; and

(ii) the designated health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to clause (i) and will assist Native American students regarding the completion of the educational requirements for a degree from the designated health professions school.

(5) Other centers of excellence

The conditions specified in this paragraph are—

(A) with respect to other centers of excellence, the conditions described in clauses (i) through (iv) of paragraph (1)(B); and

(B) that the health professions school involved has an enrollment of under-represented minorities above the national average for such enrollments of health professions schools.

(d) Designation as center of excellence

(1) In general

Any designated health professions school receiving a grant under subsection (a) of this section and meeting the conditions described in paragraph (2) or (5) of subsection (c) of this section shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Under-Represented Minority Health Professions Education.

(2) Hispanic centers of excellence

Any designated health professions school receiving a grant under subsection (a) of this section and meeting the conditions described in subsection (c)(3) of this section shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

(3) Native American centers of excellence

Any designated health professions school receiving a grant under subsection (a) of this section and meeting the conditions described in subsection (c)(4) of this section shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education. Any consortium receiving such a grant pursuant to subsection (e) of this section shall, for purposes of this section, be so designated.

(e) Authority regarding Native American centers of excellence

With respect to meeting the conditions specified in subsection (c)(4) of this section, the Secretary may make a grant under subsection (a) of this section to a designated health professions school that does not meet such conditions if—

(1) the school has formed a consortium in accordance with subsection (d)(1) of this section; and

(2) the schools of the consortium collectively meet such conditions, without regard to whether the schools individually meet such conditions.

(f) Duration of grant

The period during which payments are made under a grant under subsection (a) of this section may not exceed 5 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

(g) Definitions

In this section:

(1) Designated health professions school

(A) In general

The term ''health professions school'' means, except as provided in subparagraph (B), a school of medicine, a school of osteopathic medicine, a school of dentistry, a school of pharmacy, or a graduate program in behavioral or mental health.

(B) Exception

The definition established in subparagraph (A) shall not apply to the use of the term ''designated health professions school'' for purposes of subsection (c)(2) of this section.

(2) Program of excellence

The term ''program of excellence'' means any program carried out by a designated health professions school with a grant made under subsection (a) of this section, if the program is for purposes for which the school involved is authorized in subsection (b) or (c) of this section to expend the grant.

(3) Native Americans

The term ''Native Americans'' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

(h) Funding

(1) Authorization of appropriations

For the purpose of making grants under subsection (a) of this section, there are authorized to be appropriated $26,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(2) Allocations

Based on the amount appropriated under paragraph (1) for a fiscal year, one of the following subparagraphs shall apply:

(A) In general

If the amounts appropriated under paragraph (1) for a fiscal year are $24,000,000 or less—

(i) the Secretary shall make available $12,000,000 for grants under subsection (a) of this section to health professions schools that meet the conditions described in subsection (c)(2)(A) of this section; and

(ii) and available after grants are made with funds under clause (i), the Secretary shall make available—

(I) 60 percent of such amount for grants under subsection (a) of this section to health professions schools that meet the conditions described in para-

graph (3) or (4) of subsection (c) of this section (including meeting the conditions under subsection (e) of this section); and

(II) 40 percent of such amount for grants under subsection (a) of this section to health professions schools that meet the conditions described in subsection (c)(5) of this section.

(B) Funding in excess of $24,000,000

If amounts appropriated under paragraph (1) for a fiscal year exceed $24,000,000 but are less than $30,000,000—

(i) 80 percent of such excess amounts shall be made available for grants under subsection (a) of this section to health professions schools that meet the requirements described in paragraph (3) or (4) of subsection (c) of this section (including meeting conditions pursuant to subsection (e) of this section); and

(ii) 20 percent of such excess amount shall be made available for grants under subsection (a) of this section to health professions schools that meet the conditions described in subsection (c)(5) of this section.

(C) Funding in excess of $30,000,000

If amounts appropriated under paragraph (1) for a fiscal year are $30,000,000 or more, the Secretary shall make available—

(i) not less than $12,000,000 for grants under subsection (a) of this section to health professions schools that meet the conditions described in subsection (c)(2)(A) of this section;

(ii) not less than $12,000,000 for grants under subsection (a) of this section to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) of this section (including meeting conditions pursuant to subsection (e) of this section);

(iii) not less than $6,000,000 for grants under subsection (a) of this section to health professions schools that meet the conditions described in subsection (c)(5) of this section; and

(iv) after grants are made with funds under clauses (i) through (iii), any remaining funds for grants under subsection (a) of this section to health professions schools that meet the conditions described in paragraph (2)(A), (3), (4), or (5) of subsection (c) of this section.

(3) No limitation

Nothing in this subsection shall be construed as limiting the centers of excellence referred to in this section to the designated amount, or to preclude such entities from competing for other grants under this section.

(4) Maintenance of effort

(A) In general

With respect to activities for which a grant made under this part are authorized to be expended, the Secretary may not make such a grant to a center of excellence for any fiscal year unless the center agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the center for the fiscal year preceding the fiscal year for which the school receives such a grant.

(B) Use of Federal funds

With respect to any Federal amounts received by a center of excellence and available for carrying out activities for which a grant under this part is authorized to be expended, the Secretary may not make such a grant to the center for any fiscal year unless the center agrees that the center will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

(July 1, 1944, ch. 373, title VII, § 736, as added Pub. L. 105–392, title I, § 101(a), Nov. 13, 1998, 112 Stat. 3525.)

REFERENCES IN TEXT

Section 295g–8b of this title, referred to in subsec. (c)(2)(A)(ii), was omitted in the general amendment of this subchapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.

PRIOR PROVISIONS

A prior section 293, act July 1, 1944, ch. 373, title VII, § 736, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2022, authorized grants to schools of medicine, osteopathic medicine, and dentistry for need-based scholarships, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 293, act July 1, 1944, ch. 373, title VII, § 720, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 164; amended Sept. 4, 1964, Pub. L. 88–581, § 3(a), 78 Stat. 919; Oct. 22, 1965, Pub. L. 89–290, § 3(a), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89–709, § 2(a), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, § 101(a), (b)(1), 82 Stat. 773; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(a), 85 Stat. 431; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(c), title III, § 302, 90 Stat. 2244, 2253; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2723(a), (b), 95 Stat. 915, authorized grants for construction of teaching facilities for medical, dental, and other health personnel, prior to the general revision of this subchapter by Pub. L. 102–408.

A prior section 736 of act July 1, 1944, was classified to section 294i of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SAVINGS PROVISION

Pub. L. 105–392, title I, § 110, Nov. 13, 1998, 112 Stat. 3562, provided that: ''In the case of any authority for making awards of grants or contracts that is terminated by the amendments made by this subtitle [subtitle A (§§ 101–110) of title I of Pub. L. 105–392, see Tables for classification], the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act [Nov. 13, 1998], subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 293a. Scholarships for disadvantaged students

(a) In general

The Secretary may make a grant to an eligible entity (as defined in subsection (d)(1) of this

section) under this section for the awarding of scholarships by schools to any full-time student who is an eligible individual as defined in subsection (d) of this section. Such scholarships may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in the attendance of such school.

(b) Preference in providing scholarships

The Secretary may not make a grant to an entity under subsection (a) of this section unless the health professions and nursing schools involved agree that, in providing scholarships pursuant to the grant, the schools will give preference to students for whom the costs of attending the schools would constitute a severe financial hardship and, notwithstanding other provisions of this section, to former recipients of scholarships under sections 293 and 293d(d)(2)(B) of this title (as such sections existed on the day before November 13, 1998).

(c) Amount of award

In awarding grants to eligible entities that are health professions and nursing schools, the Secretary shall give priority to eligible entities based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities.

(d) Definitions

In this section:

(1) Eligible entities

The term ''eligible entities'' means an entity that—

(A) is a school of medicine, osteopathic medicine, dentistry, nursing (as defined in section 296 of this title), pharmacy, podiatric medicine, optometry, veterinary medicine, public health, chiropractic, or allied health, a school offering a graduate program in behavioral and mental health practice, or an entity providing programs for the training of physician assistants; and

(B) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups.

(2) Eligible individual

The term ''eligible individual'' means an individual who—

(A) is from a disadvantaged background;

(B) has a financial need for a scholarship; and

(C) is enrolled (or accepted for enrollment) at an eligible health professions or nursing school as a full-time student in a program leading to a degree in a health profession or nursing.

(July 1, 1944, ch. 373, title VII, § 737, as added Pub. L. 105–392, title I, § 101(a), Nov. 13, 1998, 112 Stat. 3531.)

PRIOR PROVISIONS

A prior section 293a, act July 1, 1944, ch. 373, title VII, § 737, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2023, authorized grants to health professions schools for provision of scholarships and undergraduate assistance, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 293a, act July 1, 1944, ch. 373, title VII, § 721, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 165; amended Sept. 4, 1964, Pub. L. 88–581, § 3(b), 78 Stat. 919; Oct. 22, 1965, Pub. L. 89–290, §§ 3(b), (c), 5(a), 79 Stat. 1056–1058; Nov. 2, 1966, Pub. L. 89–709, § 2(b), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, §§ 103(a)(3), 105(a), (b), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92–157, title I, §§ 102(e), (f)(1), (2)(A), (g), (h), (j)(2), (3), (7)(A), 108(b)(1), 85 Stat. 434–437, 461; Oct. 12, 1976, Pub. L. 94–484, title III, §§ 301, 303, 308(a), 90 Stat. 2253, 2254, 2256; Aug. 1, 1977, Pub. L. 95–83, title III, § 307(b), 91 Stat. 389; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692; Aug. 13, 1981, Pub. L. 97–35, title XXVII, §§ 2723(c), (d), 2724(a), 95 Stat. 916; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 628(4), 629(b)(2), 102 Stat. 3145, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(1), 103 Stat. 614, related to applications and eligibility for grants for construction of teaching facilities for medical, dental, and other health personnel, prior to the general revision of this subchapter by Pub. L. 102–408.

A prior section 737 of act July 1, 1944, was classified to section 294j of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293d of this title.

§ 293b. Loan repayments and fellowships regarding faculty positions

(a) Loan repayments

(1) Establishment of program

The Secretary shall establish a program of entering into contracts with individuals described in paragraph (2) under which the individuals agree to serve as members of the faculties of schools described in paragraph (3) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

(2) Eligible individuals

The individuals referred to in paragraph (1) are individuals from disadvantaged backgrounds who—

(A) have a degree in medicine, osteopathic medicine, dentistry, nursing, or another health profession;

(B) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, nursing, or other health profession; or

(C) are enrolled as full-time students—

(i) in an accredited (as determined by the Secretary) school described in paragraph (3); and

(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

(3) Eligible health professions schools

The schools described in this paragraph are schools of medicine, nursing (as schools of nursing are defined in section 296 of this title), osteopathic medicine, dentistry, pharmacy, allied health, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in behavioral and mental health.

(4) Requirements regarding faculty positions

The Secretary may not enter into a contract under paragraph (1) unless—

(A) the individual involved has entered into a contract with a school described in paragraph (3) to serve as a member of the faculty of the school for not less than 2 years; and

(B) the contract referred to in subparagraph (A) provides that—

(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year;

(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty; and

(iii) the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under paragraph (1).

(5) Applicability of certain provisions

The provisions of sections 254m, 254p, and 254q–1 of this title shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of subchapter II of this chapter, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

(6) Waiver regarding school contributions

The Secretary may waive the requirement established in paragraph (4)(B) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved.

(b) Fellowships

(1) In general

The Secretary may make grants to and enter into contracts with eligible entities to assist such entities in increasing the number of underrepresented minority individuals who are members of the faculty of such schools.

(2) Applications

To be eligible to receive a grant or contract under this subsection, an entity shall provide an assurance, in the application submitted by the entity, that—

(A) amounts received under such a grant or contract will be used to award a fellowship to an individual only if the individual meets the requirements of paragraphs (3) and (4); and

(B) each fellowship awarded pursuant to the grant or contract will include—

(i) a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member for not to exceed 3 years of training; and

(ii) an allowance for other expenses, such as travel to professional meetings and costs related to specialized training.

(3) Eligibility

To be eligible to receive a grant or contract under paragraph (1), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

(A) identify, recruit and select underrepresented minority individuals who have the potential for teaching, administration, or conducting research at a health professions institution;

(B) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

(C) provide services designed to assist such individuals in their preparation for an academic career, including the provision of counselors; and

(D) provide health services to rural or medically underserved populations.

(4) Requirements

To be eligible to receive a grant or contract under paragraph (1) an applicant shall—

(A) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

(B) provide an assurance that institutional support will be provided for the individual for the second and third years at a level that is equal to the total amount of institutional funds provided in the year in which the grant or contract was awarded;

(C) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

(D) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

(5) Definition

For purposes of this subsection, the term ''underrepresented minority individuals'' means individuals who are members of racial or ethnic minority groups that are underrepresented in the health professions including nursing.

(July 1, 1944, ch. 373, title VII, § 738, as added Pub. L. 105–392, title I, § 101(a), Nov. 13, 1998, 112 Stat. 3532.)

REFERENCES IN TEXT

Subpart III of part D of subchapter II of this chapter, referred to in subsec. (a)(5), is classified to section 254*l* et seq. of this title.

PRIOR PROVISIONS

A prior section 293b, act July 1, 1944, ch. 373, title VII, § 738, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2025, related to loan repayments and fellowships regarding faculty positions, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 293b, act July 1, 1944, ch. 373, title VII, § 722, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 168; amended Aug. 16, 1968, Pub. L. 90–490, title I, §§ 102(a), 104(a), 82 Stat. 773, 774; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(b), (j)(4), (7), 85 Stat. 431, 436, 437; Oct. 12, 1976, Pub. L. 94–484, title III, § 304, 90 Stat. 2255; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2723(e), 95 Stat. 916, related to amounts of grants and grants for multipurpose facilities, prior to the general revision of this subchapter by Pub. L. 102–408.

A prior section 738 of act July 1, 1944, was classified to section 294k of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293d of this title.

§ 293c. Educational assistance in the health professions regarding individuals from disadvantaged backgrounds

(a) In general

(1) Authority for grants

For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatric medicine, public and nonprofit private schools that offer graduate programs in behavioral and mental health, programs for the training of physician assistants, and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

(2) Authorized expenditures

A grant or contract under paragraph (1) may be used by the entity to meet the cost of—

(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession;

(B) facilitating the entry of such individuals into such a school;

(C) providing counseling, mentoring, or other services designed to assist such individuals to complete successfully their education at such a school;

(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education and health research training designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education;

(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program;

(F) paying such scholarships as the Secretary may determine for such individuals for any period of health professions education at a health professions school;

(G) paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses), except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend shall be in an amount determined appropriate by the Secretary (notwithstanding any other provision of law regarding the amount of stipends);

(H) carrying out programs under which such individuals gain experience regarding a career in a field of primary health care through working at facilities of public or private nonprofit community-based providers of primary health services; and

(I) conducting activities to develop a larger and more competitive applicant pool through partnerships with institutions of higher education, school districts, and other community-based entities.

(3) Definition

In this section, the term ''regular course of education of such a school'' as used in subparagraph (D) includes a graduate program in behavioral or mental health.

(b) Requirements for awards

In making awards to eligible entities under subsection (a)(1) of this section, the Secretary shall give preference to approved applications for programs that involve a comprehensive approach by several public or nonprofit private health or educational entities to establish, enhance and expand educational programs that will result in the development of a competitive applicant pool of individuals from disadvantaged backgrounds who desire to pursue health professions careers. In considering awards for such a comprehensive partnership approach, the following shall apply with respect to the entity involved:

(1) The entity shall have a demonstrated commitment to such approach through formal agreements that have common objectives with institutions of higher education, school districts, and other community-based entities.

(2) Such formal agreements shall reflect the coordination of educational activities and support services, increased linkages, and the consolidation of resources within a specific geographic area.

(3) The design of the educational activities involved shall provide for the establishment of a competitive health professions applicant pool of individuals from disadvantaged backgrounds by enhancing the total preparation (academic and social) of such individuals to pursue a health professions career.

(4) The programs or activities under the award shall focus on developing a culturally competent health care workforce that will serve the unserved and underserved populations within the geographic area.

(c) Equitable allocation of financial assistance

The Secretary, to the extent practicable, shall ensure that services and activities under sub-

section (a) of this section are adequately allocated among the various racial and ethnic populations who are from disadvantaged backgrounds.

(d) Matching requirements

The Secretary may require that an entity that applies for a grant or contract under subsection (a) of this section, provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant or contract. As determined by the Secretary, such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

(July 1, 1944, ch. 373, title VII, § 739, as added Pub. L. 105–392, title I, § 101(a), Nov. 13, 1998, 112 Stat. 3534.)

PRIOR PROVISIONS

A prior section 293c, act July 1, 1944, ch. 373, title VII, § 739, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2027, related to centers of excellence in health professions education for minority individuals, prior to the general amendment of this part by Pub. L. 105–392. See section 293 of this title.

Another prior section 293c, act July 1, 1944, ch. 373, title VII, § 723, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 168; amended Aug. 16, 1968, Pub. L. 90–490, title I, § 103(a)(1), (2), 82 Stat. 773; Nov. 18, 1971, Pub. L. 92–157,title I, § 102(c)(5), (f)(2)(C), (j)(1), (5), 85 Stat. 432, 435–437; Oct. 12, 1976, Pub. L. 94–484, title III, § 305, 90 Stat. 2255; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2723(f), 95 Stat. 916; Oct. 22, 1985, Pub. L. 99–129, title II, § 207(a), 99 Stat. 527, related to recovery by United States of grant moneys where facility was no longer owned by a public or nonprofit agency or where it ceased to be used for teaching or training purposes, prior to the general revision of this subchapter by Pub. L. 102–408.

A prior section 739 of act July 1, 1944, was classified to section 294*l* of this title prior to the general revision of this subchapter by Pub. L. 102–408.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293d of this title.

§ 293d. Authorization of appropriation

(a) Scholarships

There are authorized to be appropriated to carry out section 293a of this title, $37,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002. Of the amount appropriated in any fiscal year, the Secretary shall ensure that not less than 16 percent shall be distributed to schools of nursing.

(b) Loan repayments and fellowships

For the purpose of carrying out section 293b of this title, there is authorized to be appropriated $1,100,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(c) Educational assistance in health professions regarding individuals from disadvantaged backgrounds

For the purpose of grants and contracts under section 293c(a)(1) of this title, there is authorized to be appropriated $29,400,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002. The Secretary may use not to exceed 20 percent of the amount appropriated for a fiscal year under this subsection to provide scholarships under section 293c(a)(2)(F) of this title.

(d) Report

Not later than 6 months after November 13, 1998, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the efforts of the Secretary to address the need for a representative mix of individuals from historically minority health professions schools, or from institutions or other entities that historically or by geographic location have a demonstrated record of training or educating underrepresented minorities, within various health professions disciplines, on peer review councils.

(July 1, 1944, ch. 373, title VII, § 740, as added Pub. L. 105–392, title I, § 101(a), Nov. 13, 1998, 112 Stat. 3536.)

PRIOR PROVISIONS

A prior section 293d, act July 1, 1944, ch. 373, title VII, § 740, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2032, related to educational assistance regarding undergraduates, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 293d, act July 1, 1944, ch. 373, title VII, § 724, formerly § 727, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(j)(7)(B), 85 Stat. 437; renumbered § 724 and amended Oct. 12, 1976, Pub. L. 94–484, title III, § 308(c), (d), 90 Stat. 2257, related to promulgation of regulations by Secretary, prior to the general revision of this subchapter by Pub. L. 102–408.

Another prior section 293d, act July 1, 1944, ch. 373, title VII, § 701, formerly § 724, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 169; amended Oct. 22, 1965, Pub. L. 89–290, § 2(b), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89–709, § 2(c), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, § 105(c), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(c)(1)–(4), (f)(2)(B), 85 Stat. 431, 432, 435, which related to definitions, was renumbered § 701 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 292a of this title.

A prior section 740 of act July 1, 1944, was classified to section 294m of this title prior to the general revision of this subchapter by Pub. L. 102–408.

Sections 293e and 293f were omitted in the general revision of this subchapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.

Section 293e, act July 1, 1944, ch. 373, title VII, § 725, formerly § 728, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170; amended Sept. 4, 1964, Pub. L. 88–581, § 3(d), 78 Stat. 919; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(i), 85 Stat. 436; renumbered § 725, Oct. 12, 1976, Pub. L. 94–484, title III, § 308(d), 90 Stat. 2257, related to technical assistance to applicants for grants for construction of teaching facilities for medical, dental, and other health personnel, and to States or interstate planning agencies to plan programs for relieving shortages of training of health personnel.

A prior section 293e, act July 1, 1944, ch. 373, title VII, § 702, formerly § 725, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 169; amended Sept. 4, 1964, Pub. L. 88–581, § 3(c), 78 Stat. 919; Nov. 2, 1966, Pub. L. 89–709, § 2(d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 3(a), 80 Stat. 1230; Dec. 5, 1967, Pub. L. 90–174, § 12(c), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92–157, title I, § 108(a), 85 Stat. 460, was renumbered § 702 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 292b of this title.

Section 293f, act July 1, 1944, ch. 373, title VII, § 726, formerly § 729, as added Nov. 18, 1971, Pub. L. 92–157,

title I, § 102(d), 85 Stat. 432; renumbered § 726 and amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(d), title III, §§ 306, 308(d), 90 Stat. 2244, 2256, 2257; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2725, 95 Stat. 916, related to loan guarantees and interest subsidies.

A prior section 293f, act July 1, 1944, ch. 373, title VII, § 726, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170, provided for noninterference with administration of institutions, prior to repeal by Pub. L. 94–484, title III, § 308(b), Oct. 12, 1976, 90 Stat. 2257.

Section 293g, act July 1, 1944, ch. 373, title VII, § 727, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 102(j)(7)(B), 85 Stat. 437, which related to regulations, was renumbered section 724 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 293d of this title.

Section 293h, act July 1, 1944, ch. 373, title VII, § 728, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170; amended Sept. 4, 1964, Pub. L. 88–581, § 3(d), 78 Stat. 919; Nov. 18, 1971, Pub. L. 92–157, title I, § 102(i), 85 Stat. 436, which related to technical assistance, was renumbered section 726 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 293e of this title.

Section 293i, act July 1, 1944, ch. 373, title VII, § 729, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 102(d), 85 Stat. 432, which related to loan guarantees and interest subsidies, was renumbered section 725 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 293f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

PART C—TRAINING IN FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, PHYSICIAN ASSISTANTS, GENERAL DENTISTRY, AND PEDIATRIC DENTISTRY

§ 293j. Repealed. Pub. L. 105–392, title I, § 102(2), Nov. 13, 1998, 112 Stat. 3537

Section, act July 1, 1944, ch. 373, title VII, § 746, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2034; amended Pub. L. 102–531, title III, § 313(a)(2), Oct. 27, 1992, 106 Stat. 3507; Pub. L. 103–43, title XX, § 2008(i)(3), June 10, 1993, 107 Stat. 213, related to area health education center programs.

A prior section 746 of act July 1, 1944, was classified to section 294q–2 of this title prior to the general revision of this subchapter by Pub. L. 102–408.

§ 293k. Family medicine, general internal medicine, general pediatrics, general dentistry, pediatric dentistry, and physician assistants

(a) Training generally

The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathic medicine, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of family medicine, internal medicine, or pediatrics for medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians that emphasizes training for the practice of family medicine, general internal medicine, or general pediatrics (as defined by the Secretary);

(2) to provide financial assistance (in the form of traineeships and fellowships) to medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine, general internal medicine, or general pediatrics;

(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine (including geriatrics), general internal medicine or general pediatrics training programs;

(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine (including geriatrics), general internal medicine or general pediatrics training program;

(5) to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 295p of this title), and for the training of individuals who will teach in programs to provide such training; and

(6) to meet the costs of planning, developing, or operating programs, and to provide financial assistance to residents in such programs, of general dentistry or pediatric dentistry.

For purposes of paragraph (6), entities eligible for such grants or contracts shall include entities that have programs in dental schools, approved residency programs in the general or pediatric practice of dentistry, approved advanced education programs in the general or pediatric practice of dentistry, or approved residency programs in pediatric dentistry.

(b) Academic administrative units

(1) In general

The Secretary may make grants to or enter into contracts with schools of medicine or osteopathic medicine to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine, general internal medicine, or general pediatrics.

(2) Preference in making awards

In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

(A) establishing an academic administrative unit for programs in family medicine, general internal medicine, or general pediatrics;[1]

(B) substantially expanding the programs of such a unit; or[1]

(3) Priority in making awards

In making awards of grants and contracts under paragraph (1), the Secretary shall give priority to any qualified applicant for such an award that proposes a collaborative project between departments of primary care.

[1] So in original.

(c) Priority

(1) In general

With respect to programs for the training of interns or residents, the Secretary shall give priority in awarding grants under this section to qualified applicants that have a record of training the greatest percentage of providers, or that have demonstrated significant improvements in the percentage of providers, which enter and remain in primary care practice or general or pediatric dentistry.

(2) Disadvantaged individuals

With respect to programs for the training of interns, residents, or physician assistants, the Secretary shall give priority in awarding grants under this section to qualified applicants that have a record of training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among primary care practice or general or pediatric dentistry).

(3) Special consideration

In awarding grants under this section the Secretary shall give special consideration to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, homeless, and victims of domestic violence.

(d) Duration of award

The period during which payments are made to an entity from an award of a grant or contract under subsection (a) of this section may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

(e) Funding

(1) Authorization of appropriations

For the purpose of carrying out this section, there is authorized to be appropriated $78,300,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(2) Allocation

(A) In general

Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available—

(i) not less than $49,300,000 for awards of grants and contracts under subsection (a) of this section to programs of family medicine, of which not less than $8,600,000 shall be made available for awards of grants and contracts under subsection (b) of this section for family medicine academic administrative units;

(ii) not less than $17,700,000 for awards of grants and contracts under subsection (a) of this section to programs of general internal medicine and general pediatrics;

(iii) not less than $6,800,000 for awards of grants and contracts under subsection (a) of this section to programs relating to physician assistants; and

(iv) not less than $4,500,000 for awards of grants and contracts under subsection (a) of this section to programs of general or pediatric dentistry.

(B) Ratable reduction

If amounts appropriated under paragraph (1) for any fiscal year are less than the amount required to comply with subparagraph (A), the Secretary shall ratably reduce the amount to be made available under each of clauses (i) through (iv) of such subparagraph accordingly.

(July 1, 1944, ch. 373, title VII, § 747, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2042; amended Pub. L. 105–392, title I, § 102(3), Nov. 13, 1998, 112 Stat. 3537.)

PRIOR PROVISIONS

A prior section 747 of act July 1, 1944, was classified to section 294q–3 of this title prior to the general revision of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Pub. L. 105–392, § 102(3)(A), substituted ''Family medicine, general internal medicine, general pediatrics, general dentistry, pediatric dentistry, and physician assistants'' for ''Family medicine'' in section catchline.

Subsec. (a). Pub. L. 105–392, § 102(3)(B)(iv), (v), (vii), added pars. (5) and (6) and concluding provisions.

Subsec. (a)(1). Pub. L. 105–392, § 102(3)(B)(i), inserted '', internal medicine, or pediatrics'' after ''family medicine'' and inserted before semicolon at end ''that emphasizes training for the practice of family medicine, general internal medicine, or general pediatrics (as defined by the Secretary)''.

Subsec. (a)(2). Pub. L. 105–392, § 102(3)(B)(ii), inserted '', general internal medicine, or general pediatrics'' before semicolon at end.

Subsec. (a)(3), (4). Pub. L. 105–392, § 102(3)(B)(iii), inserted ''(including geriatrics), general internal medicine or general pediatrics'' after ''family medicine''.

Subsec. (b)(1), (2)(A). Pub. L. 105–392, § 102(3)(C)(i), inserted '', general internal medicine, or general pediatrics'' after ''family medicine''.

Subsec. (b)(3). Pub. L. 105–392, § 102(3)(C)(ii), (iii), added par. (3).

Subsecs. (c) to (e). Pub. L. 105–392, § 102(3)(D), (E), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (e)(1). Pub. L. 105–392, § 102(3)(F)(i), substituted ''$78,300,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.'' for ''$54,000,000 for each of the fiscal years 1993 through 1995.''

Subsec. (e)(2). Pub. L. 105–392, § 102(3)(F)(ii), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b) of this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 288, 293*l*, 295j of this title.

§ 293*l*. Advisory Committee on Training in Primary Care Medicine and Dentistry

(a) Establishment

The Secretary shall establish an advisory committee to be known as the Advisory Committee on Training in Primary Care Medicine and Dentistry (in this section referred to as the ''Advisory Committee'').

(b) Composition

(1) In general

The Secretary shall determine the appropriate number of individuals to serve on the Advisory Committee. Such individuals shall not be officers or employees of the Federal Government.

(2) Appointment

Not later than 90 days after November 13, 1998, the Secretary shall appoint the members of the Advisory Committee from among individuals who are health professionals. In making such appointments, the Secretary shall ensure a fair balance between the health professions, that at least 75 percent of the members of the Advisory Committee are health professionals, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved.

(3) Minority representation

In appointing the members of the Advisory Committee under paragraph (2), the Secretary shall ensure the adequate representation of women and minorities.

(c) Terms

(1) In general

A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed—

(A) ⅓ of such members shall serve for a term of 1 year;

(B) ⅓ of such members shall serve for a term of 2 years; and

(C) ⅓ of such members shall serve for a term of 3 years.

(2) Vacancies

(A) In general

A vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) Filling unexpired term

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) Duties

The Advisory Committee shall—

(1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning the activities under section 293k of this title; and

(2) not later than 3 years after November 13, 1998, and annually thereafter, prepare and submit to the Secretary, and the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under section 293k of this title.

(e) Meetings and documents

(1) Meetings

The Advisory Committee shall meet not less than 2 times each year. Such meetings shall be held jointly with other related entities established under this subchapter where appropriate.

(2) Documents

Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Committee shall prepare and make available an agenda of the matters to be considered by the Advisory Committee at such meeting. At any such meeting, the Advisory Council[1] shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Committee shall prepare and make available a summary of the meeting and any actions taken by the Committee based upon the meeting.

(f) Compensation and expenses

(1) Compensation

Each member of the Advisory Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(2) Expenses

The members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Committee.

(g) FACA

The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.

(July 1, 1944, ch. 373, title VII, § 748, as added Pub. L. 105–392, title I, § 102(4), Nov. 13, 1998, 112 Stat. 3539.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

November 13, 1998, referred to in subsec. (b)(2), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 105–329, which enacted this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 293*l*, act July 1, 1944, ch. 373, title VII, § 748, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2043; amended Pub. L. 102–531, title III,

[1] So in original. Probably should be ''Committee''.

§ 313(a)(3), Oct. 27, 1992, 106 Stat. 3507, authorized grants and contracts for development of general internal medicine and general pediatrics training programs, prior to repeal by Pub. L. 105–392, title I, § 102(4), Nov. 13, 1998, 112 Stat. 3539.

A prior section 748 of act July 1, 1944, was classified to section 294r of this title prior to renumbering by Pub. L. 97–35.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288 of this title.

§§ 293m to 293p. Repealed. Pub. L. 105–392, title I, § 102(4), Nov. 13, 1998, 112 Stat. 3539

Section 293m, act July 1, 1944, ch. 373, title VII, § 749, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2043, authorized grants and contracts for development of programs in general practice of dentistry.

A prior section 749 of act July 1, 1944, was classified to section 294s of this title prior to renumbering by Pub. L. 97–35.

Section 293n, act July 1, 1944, ch. 373, title VII, § 750, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2044, authorized grants and contracts for development of training programs for physician assistants.

Section 293*o*, act July 1, 1944, ch. 373, title VII, § 751, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2044, authorized grants and contracts for implementation of training projects for podiatric physicians.

Section 293p, act July 1, 1944, ch. 373, title VII, § 752, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2045, set forth general provisions relating to traineeships and fellowships.

PART D—INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 295*o*–1 of this title.

§ 294. General provisions

(a) Collaboration

To be eligible to receive assistance under this part, an academic institution shall use such assistance in collaboration with 2 or more disciplines.

(b) Activities

An entity shall use assistance under this part to carry out innovative demonstration projects for strategic workforce supplementation activities as needed to meet national goals for interdisciplinary, community-based linkages. Such assistance may be used consistent with this part—

(1) to develop and support training programs;

(2) for faculty development;

(3) for model demonstration programs;

(4) for the provision of stipends for fellowship trainees;

(5) to provide technical assistance; and

(6) for other activities that will produce outcomes consistent with the purposes of this part.

(July 1, 1944, ch. 373, title VII, § 750, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3541.)

PRIOR PROVISIONS

A prior section 294, act July 1, 1944, ch. 373, title VII, § 761, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2045; amended Pub. L. 103–43, title XX, § 2014(e), June 10, 1993, 107 Stat. 217, authorized grants for traineeships in health professions fields experiencing severe shortages of health professionals, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294, act July 1, 1944, ch. 373, title VII, § 727, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2257; amended Dec. 19, 1977, Pub. L. 95–215, § 4(e)(1), 91 Stat. 1506, stated purpose of and authorized appropriations for Federal program of student loan insurance, prior to the general amendment of this subchapter by Pub. L. 102–408. See sections 292 and 292p of this title.

Another prior section 294, act July 1, 1944, ch. 373, title VII, § 740, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170; amended Oct. 13, 1964, Pub. L. 88–654, § 1(a), (b), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89–290, §§ 2(b), 4(a), (f)(1), (2), 79 Stat. 1056 to 1058; Nov. 2, 1966, Pub. L. 89–709, § 3(a), (b), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 5(c)(1), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90–490, title I § 121(a)(1), (2), (5)(B), 82 Stat. 777, 778; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e)(1), (4), (f)(2), 85 Stat. 451; Aug. 23, 1974, Pub. L. 93–385, § 2(b), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94–278, title XI, 1105(b), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94–484, title IV, § 402, 90 Stat. 2266, which related to loan agreements for the establishment of student loan funds, was transferred to section 294m of this title.

A prior section 750 of act July 1, 1944, was classified to section 293n of this title prior to repeal by Pub. L. 105–392.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295j of this title.

§ 294a. Area health education centers

(a) Authority for provision of financial assistance

(1) Assistance for planning, development, and operation of programs

(A) In general

The Secretary shall award grants to and enter into contracts with schools of medicine and osteopathic medicine, and incorporated consortia made up of such schools, or the parent institutions of such schools, for projects for the planning, development and operation of area health education center programs that—

(i) improve the recruitment, distribution, supply, quality and efficiency of personnel providing health services in underserved rural and urban areas and personnel providing health services to populations having demonstrated serious unmet health care needs;

(ii) increase the number of primary care physicians and other primary care providers who provide services in underserved areas through the offering of an educational continuum of health career recruitment through clinical education concerning underserved areas in a comprehensive health workforce strategy;

(iii) carry out recruitment and health career awareness programs to recruit individuals from underserved areas and underrepresented populations, including minority and other elementary or secondary students, into the health professions;

(iv) prepare individuals to more effectively provide health services to underserved areas or underserved populations through field placements, preceptorships, the conduct of or support of community-based primary care residency programs, and agreements with community-based organizations such as community health centers, migrant health centers, Indian health centers, public health departments and others;

(v) conduct health professions education and training activities for students of health professions schools and medical residents;

(vi) conduct at least 10 percent of medical student required clinical education at sites remote to the primary teaching facility of the contracting institution; and

(vii) provide information dissemination and educational support to reduce professional isolation, increase retention, enhance the practice environment, and improve health care through the timely dissemination of research findings using relevant resources.

(B) Other eligible entities

With respect to a State in which no area health education center program is in operation, the Secretary may award a grant or contract under subparagraph (A) to a school of nursing.

(C) Project terms

(i) In general

Except as provided in clause (ii), the period during which payments may be made under an award under subparagraph (A) may not exceed—

(I) in the case of a project, 12 years or

(II) in the case of a center within a project, 6 years.

(ii) Exception

The periods described in clause (i) shall not apply to projects that have completed the initial period of Federal funding under this section and that desire to compete for model awards under paragraph (2)(A).

(2) Assistance for operation of model programs

(A) In general

In the case of any entity described in paragraph (1)(A) that—

(i) has previously received funds under this section;

(ii) is operating an area health education center program; and

(iii) is no longer receiving financial assistance under paragraph (1);

the Secretary may provide financial assistance to such entity to pay the costs of operating and carrying out the requirements of the program as described in paragraph (1).

(B) Matching requirement

With respect to the costs of operating a model program under subparagraph (A), an entity, to be eligible for financial assistance under subparagraph (A), shall make available (directly or through contributions from State, county or municipal governments, or the private sector) recurring non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs.

(C) Limitation

The aggregate amount of awards provided under subparagraph (A) to entities in a State for a fiscal year may not exceed the lesser of—

(i) $2,000,000; or

(ii) an amount equal to the product of $250,000 and the aggregate number of area health education centers operated in the State by such entities.

(b) Requirements for centers

(1) General requirement

Each area health education center that receives funds under this section shall encourage the regionalization of health professions schools through the establishment of partnerships with community-based organizations.

(2) Service area

Each area health education center that receives funds under this section shall specifically designate a geographic area or medically underserved population to be served by the center. Such area or population shall be in a location removed from the main location of the teaching facilities of the schools participating in the program with such center.

(3) Other requirements

Each area health education center that receives funds under this section shall—

(A) assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs;

(B) arrange and support rotations for students and residents in family medicine, general internal medicine or general pediatrics, with at least one center in each program being affiliated with or conducting a rotating osteopathic internship or medical residency training program in family medicine (including geriatrics), general internal medicine (including geriatrics), or general pediatrics in which no fewer than 4 individuals are enrolled in first-year positions;

(C) conduct and participate in interdisciplinary training that involves physicians and other health personnel including, where practicable, public health professionals, physician assistants, nurse practitioners, nurse midwives, and behavioral and mental health providers; and

(D) have an advisory board, at least 75 percent of the members of which shall be individuals, including both health service providers and consumers, from the area served by the center.

(c) Certain provisions regarding funding

(1) Allocation to center

Not less than 75 percent of the total amount of Federal funds provided to an entity under this section shall be allocated by an area health education center program to the area

health education center. Such entity shall enter into an agreement with each center for purposes of specifying the allocation of such 75 percent of funds.

(2) Operating costs

With respect to the operating costs of the area health education center program of an entity receiving funds under this section, the entity shall make available (directly or through contributions from State, county or municipal governments, or the private sector) non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs, except that the Secretary may grant a waiver for up to 75 percent of the amount of the required non-Federal match in the first 3 years in which an entity receives funds under this section.

(July 1, 1944, ch. 373, title VII, § 751, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3541.)

PRIOR PROVISIONS

A prior section 294a, act July 1, 1944, ch. 373, title VII, § 762, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2046, authorized grants and contracts for public health special projects, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294a, act July 1, 1944, ch. 373, title VII, § 728, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2257; amended Dec. 19, 1977, Pub. L. 95–215, § 4(e)(2)–(4), 91 Stat. 1506; Dec. 17, 1980, Pub. L. 96–538, title IV, § 401, 94 Stat. 3192; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2726, 95 Stat. 916; Oct. 22, 1985, Pub. L. 99–129, title I, § 101, title II, § 208(h), 99 Stat. 523, 532; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 602(a)–(d), 636, title VII, § 707, 102 Stat. 3122, 3149, 3159; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(b), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101–93, § 5(g)(1), 103 Stat. 612, related to Federal student loan insurance program, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292a of this title.

Another prior section 294a, act July 1, 1944, ch. 373, title VII, § 741, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 171; amended Oct. 13, 1964, Pub. L. 88–654, § 1(c), (d), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89–290, § 4(b), (f)(3), (4), (g)(1), 79 Stat. 1057, 1058; Nov. 2, 1966, Pub. L. 89–709, § 3(c), (d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 4, 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(a)(3), (4), (5)(A), 82 Stat. 777; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(b)–(d), (e)(4), (f)(2), 85 Stat. 449–451; Oct. 27, 1972, Pub. L. 92–585, § 4, 86 Stat. 1293; Oct. 12, 1976, Pub. L. 94–484, title IV, §§ 403(a), (b), (d), 407(d)(1), 90 Stat. 2266, 2279, which related to loan provisions, was transferred to section 294n of this title.

A prior section 751 of act July 1, 1944, was classified to section 293*o* of this title prior to repeal by Pub. L. 105–392.

Another prior section 751 of act July 1, 1944, was classified to section 294r of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 751 of act July 1, 1944, was classified to section 294t of this title prior to renumbering by Pub. L. 97–35.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294b, 294f, 294g of this title; title 20 section 1092a.

§ 294b. Health education and training centers

(a) In general

To be eligible for funds under this section, a health education training center shall be an entity otherwise eligible for funds under section 294a of this title that—

(1) addresses the persistent and severe unmet health care needs in States along the border between the United States and Mexico and in the State of Florida, and in other urban and rural areas with populations with serious unmet health care needs;

(2) establishes an advisory board comprised of health service providers, educators and consumers from the service area;

(3) conducts training and education programs for health professions students in these areas;

(4) conducts training in health education services, including training to prepare community health workers; and

(5) supports health professionals (including nursing) practicing in the area through educational and other services.

(b) Allocation of funds

The Secretary shall make available 50 percent of the amounts appropriated for each fiscal year under this section[1] for the establishment or operation of health education training centers through projects in States along the border between the United States and Mexico and in the State of Florida.

(July 1, 1944, ch. 373, title VII, § 752, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3544.)

REFERENCES IN TEXT

This section, referred to in subsec. (b), was in the original "section 752" meaning section 752 of act July 1, 1944, ch. 373, title VII, as added by Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3544, which is classified to this section. Provisions allocating appropriations for awards of grants and contracts under this section and providing that not less than 50 percent of the amount be made available for centers described in subsection (a)(1) of this section are contained in section 757(b)(1)(B) of act July 1, 1944, which is classified to section 294g(b)(1)(B) of this title.

PRIOR PROVISIONS

A prior section 294b, act July 1, 1944, ch. 373, title VII, § 763, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2047, authorized grants and contracts for development of preventive medicine and dental public health programs, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294b, act July 1, 1944, ch. 373, title VII, § 729, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2258; amended Dec. 19, 1977, Pub. L. 95–215, § 4(e)(5), 91 Stat. 1506; Sept. 29, 1979, Pub. L. 96–76, title II, § 201, 93 Stat. 582; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2727, 95 Stat. 917; Oct. 22, 1985, Pub. L. 99–129, title II, § 208(g)(1), 99 Stat. 531; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 628(5), 629(b)(2), 102 Stat. 3145, 3146, related to limitations on individually insured loans and loan insurance, prior to the general revision of this subchapter by Pub. L. 102–408. See section 292b of this title.

Another prior section 294b, act July 1, 1944, ch. 373, title VII, § 742, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 172; amended Oct. 22, 1965, Pub. L. 89–290, § 4(c), 79 Stat. 1057; Nov. 2, 1966, Pub. L. 89–709, § 3(e), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 5(b), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(b), 82 Stat. 778; July 9, 1971, Pub. L. 92–52, § 1(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(a), (f)(2), 85 Stat. 449, 451; Aug. 23, 1974, Pub. L. 93–385, § 2(a), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94–278, title XI, § 1105(a), 90 Stat. 416;

[1] See References in Text note below.

Oct. 12, 1976, Pub. L. 94–484, title I, § 101(e), title IV, §§ 404, 406(d), 90 Stat. 2244, 2267, 2268, which related to authorization of appropriations, was transferred to section 294*o* of this title.

A prior section 752 of act July 1, 1944, was classified to section 293p of this title prior to repeal by Pub. L. 105–392.

Another prior section 752 of act July 1, 1944, was classified to section 294u of this title prior to renumbering by Pub. L. 97–35.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 294g of this title; title 20 section 1092a.

§ 294c. Education and training relating to geriatrics

(a) Geriatric education centers

(1) In general

The Secretary shall award grants or contracts under this section to entities described in paragraphs[1] (1), (3), or (4) of section 295p of this title, and section 298b(2)[2] of this title, for the establishment or operation of geriatric education centers.

(2) Requirements

A geriatric education center is a program that—

(A) improves the training of health professionals in geriatrics, including geriatric residencies, traineeships, or fellowships;

(B) develops and disseminates curricula relating to the treatment of the health problems of elderly individuals;

(C) supports the training and retraining of faculty to provide instruction in geriatrics;

(D) supports continuing education of health professionals who provide geriatric care; and

(E) provides students with clinical training in geriatrics in nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers.

(b) Geriatric training regarding physicians and dentists

(1) In general

The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathic medicine, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including residencies, traineeships, and fellowships) for geriatric training projects to train physicians, dentists and behavioral and mental health professionals who plan to teach geriatric medicine, geriatric behavioral or mental health, or geriatric dentistry.

(2) Requirements

Each project for which a grant or contract is made under this subsection shall—

(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine or geriatric behavioral or mental health;

(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

(C) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching behavioral mental health professionals who have experience or training in geriatric behavioral or mental health;

(D) be based in a graduate medical education program in internal medicine or family medicine or in a department of geriatrics or behavioral or mental health;

(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric behavioral or mental health units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

(3) Training options

The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

(A) A 1-year retraining program in geriatrics for—

(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and behavioral or mental health at schools of medicine and osteopathic medicine;

(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry; and

(iii) behavioral or mental health professionals who are faculty members in departments of behavioral or mental health; and

(B) A 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, behavioral or mental health, neurology, gynecology, or rehabilitation medicine;

(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience; and

(iii) behavioral or mental health professionals who have completed graduate medical education programs in behavioral or mental health.

(4) Definitions

For purposes of this subsection:

(A) The term ''graduate medical education program'' means a program sponsored by a school of medicine, a school of osteopathic

[1] So in original. Probably should be ''paragraph''.

[2] See References in Text note below.

medicine, a hospital, or a public or private institution that—

(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

(B) The term ''post-doctoral dental education program'' means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

(ii) has been accredited by the Commission on Dental Accreditation.

(c) Geriatric faculty fellowships

(1) Establishment of program

The Secretary shall establish a program to provide Geriatric Academic Career Awards to eligible individuals to promote the career development of such individuals as academic geriatricians.

(2) Eligible individuals

To be eligible to receive an Award under paragraph (1), an individual shall—

(A) be board certified or board eligible in internal medicine, family practice, or psychiatry;

(B) have completed an approved fellowship program in geriatrics; and

(C) have a junior faculty appointment at an accredited (as determined by the Secretary) school of medicine or osteopathic medicine.

(3) Limitations

No Award under paragraph (1) may be made to an eligible individual unless the individual—

(A) has submitted to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, and the Secretary has approved such application; and

(B) provides, in such form and manner as the Secretary may require, assurances that the individual will meet the service requirement described in subsection (e)[3].

(4) Amount and term

(A) Amount

The amount of an Award under this section shall equal $50,000 for fiscal year 1998, adjusted for subsequent fiscal years to reflect the increase in the Consumer Price Index.

(B) Term

The term of any Award made under this subsection shall not exceed 5 years.

(5) Service requirement

An individual who receives an Award under this subsection shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 75 percent of the obligations of such individual under the Award.

(July 1, 1944, ch. 373, title VII, § 753, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3544.)

REFERENCES IN TEXT

Section 298b(2) of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562. See section 296(2) of this title.

PRIOR PROVISIONS

A prior section 294c, act July 1, 1944, ch. 373, title VII, § 765, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2047, authorized appropriations for purpose of carrying out subpart I of this part, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294c, act July 1, 1944, ch. 373, title VII, § 730, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2258, related to sources of funds for eligible student loans, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292c of this title.

Another prior section 294c, act July 1, 1944, ch. 373, title VII, § 743, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 172; amended Oct. 22, 1965, Pub. L. 89–290, § 4(d), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89–751, § 5(c)(2), (3), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(c), 82 Stat. 778; July 9, 1971, Pub. L. 92–52, § 1(b), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e)(2), (f)(2), 85 Stat. 451; Oct. 12, 1976, Pub. L. 94–484, title IV, §§ 405, 406(e), 90 Stat. 2267, 2268, which related to the distribution of assets from loan funds, was transferred to section 294p of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294f, 294g of this title.

§ 294d. Quentin N. Burdick program for rural interdisciplinary training

(a) Grants

The Secretary may make grants or contracts under this section to help entities fund authorized activities under an application approved under subsection (c) of this section.

(b) Use of amounts

(1) In general

Amounts provided under subsection (a) of this section shall be used by the recipients to fund interdisciplinary training projects designed to—

(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

(C) deliver health care services to individuals residing in rural areas;

(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

(E) increase the recruitment and retention of health care practitioners from rural areas and make rural practice a more attractive career choice for health care practitioners.

[3] So in original. Probably should be ''paragraph (5)''.

(2) Methods

A recipient of funds under subsection (a) of this section may use various methods in carrying out the projects described in paragraph (1), including—

(A) the distribution of stipends to students of eligible applicants;

(B) the establishment of a post-doctoral fellowship program;

(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

(3) Administration

(A) In general

An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) of this section for administrative expenses.

(B) Training

Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) of this section shall be trained as doctors of medicine or doctors of osteopathy.

(C) Limitation

An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) of this section in the fiscal year preceding the year for which the grant is received.

(c) Applications

Applications submitted for assistance under this section shall—

(1) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas; and

(2) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community behavioral and mental health centers, long-term care facilities, Native Hawaiian health centers, or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(d) Definitions

For the purposes of this section, the term ''rural'' means geographic areas that are located outside of standard metropolitan statistical areas.

(July 1, 1944, ch. 373, title VII, § 754, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3547.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (c)(2), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 294d, act July 1, 1944, ch. 373, title VII, § 766, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2047, authorized grants and contracts for development of advanced training of allied health professionals, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294d, act July 1, 1944, ch. 373, title VII, § 731, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2258; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(c)(1), (2), 91 Stat. 389, 390; Dec. 19, 1977, Pub. L. 95–215, § 4(a)–(d), (e)(6), 91 Stat. 1505, 1506; Dec. 17, 1980, Pub. L. 96–538, title IV, § 402, 94 Stat. 3192; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2728, 95 Stat. 918; Oct. 22, 1985, Pub. L. 99–129, title II, §§ 208(a), (b)(1), (2), (c)(1), (d), (i), 211(a)(2), 99 Stat. 529–532, 539; Nov. 4, 1988, Pub. L. 100–607, title VI, § 602(e), (f), 102 Stat. 3123; Apr. 6, 1991, Pub. L. 102–25, title III, § 374, 105 Stat. 95; July 23, 1992, Pub. L. 102–325, title IV, § 427(b)(2), 106 Stat. 549, related to eligibility of borrowers and terms of insurance, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292d of this title.

Another prior section 294d, act July 1, 1944, ch. 373, title VII, § 744, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 173; amended Oct. 22, 1965, Pub. L. 89–290, § 4(e), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89–751, § 5(a), 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(d), 82 Stat. 778; July 9, 1971, Pub. L. 92–52, § 1(c), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e)(3), (f)(2), 85 Stat. 451, provided for loans to schools to capitalize health professions student loan funds, prior to repeal by Pub. L. 94–484, title IV, § 406(a)(1), Oct. 12, 1976, 90 Stat. 2268.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294f, 294g of this title.

§ 294e. Allied health and other disciplines

(a) In general

The Secretary may make grants or contracts under this section to help entities fund activities of the type described in subsection (b) of this section.

(b) Activities

Activities of the type described in this subsection include the following:

(1) Assisting entities in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions. Programs and activities funded under this paragraph may include—

(A) those that expand enrollments in allied health professions with the greatest shortages or whose services are most needed by the elderly;

(B) those that provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

(C) those that establish community-based allied health training programs that link academic centers to rural clinical settings;

(D) those that provide career advancement training for practicing allied health professionals;

(E) those that expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained;

(F) those that develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

(G) those that expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

(H) those that expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research;

(I) those that provide financial assistance (in the form of traineeships) to students who are participants in any such program; and

(i) who plan to pursue a career in an allied health field that has a demonstrated personnel shortage; and

(ii) who agree upon completion of the training program to practice in a medically underserved community;

that shall be utilized to assist in the payment of all or part of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary; and

(J) those to meet the costs of projects to plan, develop, and operate or maintain graduate programs in behavioral and mental health practice.

(2) Planning and implementing projects in preventive and primary care training for podiatric physicians in approved or provisionally approved residency programs that shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

(3) Carrying out demonstration projects in which chiropractors and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions.

(July 1, 1944, ch. 373, title VII, § 755, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3548.)

PRIOR PROVISIONS

A prior section 294e, act July 1, 1944, ch. 373, title VII, § 767, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2048, authorized grants and contracts for establishment of programs to increase number of allied health professionals, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294e, act July 1, 1944, ch. 373, title VII, § 732, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2260; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(c)(3), (4), 91 Stat. 390; Dec. 19, 1977, Pub. L. 95–215, § 4(e)(8), (9), 91 Stat. 1506; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2729, 95 Stat. 918; Oct. 22, 1985, Pub. L. 99–129, title II, § 208(e), 99 Stat. 531; Nov. 4, 1988, Pub. L. 100–607, title VI, § 602(g), 102 Stat. 3123, related to certificates of loan insurance, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292e of this title.

Another prior section 294e, act July 1, 1944, ch. 373, title VII, § 744, formerly § 745, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 173; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 105(f)(2), 85 Stat. 451; renumbered § 744, Oct. 12, 1976, Pub. L. 94–484, title IV, § 406(a)(2), 90 Stat. 2268, which related to administrative provisions, was transferred to section 294q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294f, 294g of this title.

§ 294f. Advisory Committee on Interdisciplinary, Community-Based Linkages

(a) Establishment

The Secretary shall establish an advisory committee to be known as the Advisory Committee on Interdisciplinary, Community-Based Linkages (in this section referred to as the ''Advisory Committee'').

(b) Composition

(1) In general

The Secretary shall determine the appropriate number of individuals to serve on the Advisory Committee. Such individuals shall not be officers or employees of the Federal Government.

(2) Appointment

Not later than 90 days after November 13, 1998, the Secretary shall appoint the members of the Advisory Committee from among individuals who are health professionals from schools of the types described in sections 294a(a)(1)(A), 294a(a)(1)(B), 294c(b), 294d(3)(A), and 294e(b) of this title. In making such appointments, the Secretary shall ensure a fair balance between the health professions, that at least 75 percent of the members of the Advisory Committee are health professionals, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved.

(3) Minority representation

In appointing the members of the Advisory Committee under paragraph (2), the Secretary shall ensure the adequate representation of women and minorities.

(c) Terms

(1) In general

A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed—

(A) ⅓ of the members shall serve for a term of 1 year;

(B) ⅓ of the members shall serve for a term of 2 years; and

(C) ⅓ of the members shall serve for a term of 3 years.

(2) Vacancies

(A) In general

A vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made and shall be

subject to any conditions which applied with respect to the original appointment.

(B) Filling unexpired term

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) Duties

The Advisory Committee shall—

(1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning the activities under this part; and

(2) not later than 3 years after November 13, 1998, and annually thereafter, prepare and submit to the Secretary, and the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under this part.

(e) Meetings and documents

(1) Meetings

The Advisory Committee shall meet not less than 3 times each year. Such meetings shall be held jointly with other related entities established under this subchapter where appropriate.

(2) Documents

Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Committee shall prepare and make available an agenda of the matters to be considered by the Advisory Committee at such meeting. At any such meeting, the Advisory Council[1] shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Committee shall prepare and make available a summary of the meeting and any actions taken by the Committee based upon the meeting.

(f) Compensation and expenses

(1) Compensation

Each member of the Advisory Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(2) Expenses

The members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Committee.

(g) FACA

The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.

(July 1, 1944, ch. 373, title VII, § 756, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3549.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

November 13, 1998, referred to in subsec. (b)(2), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 105–329, which amended this part generally, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 294f, act July 1, 1944, ch. 373, title VII, § 733, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2262; amended Dec. 19, 1977, Pub. L. 95–215, § 4(e)(10), 91 Stat. 1506; Nov. 6, 1978, Pub. L. 95–598, title III, § 327, 92 Stat. 2679; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2730, 95 Stat. 919; July 1, 1988, Pub. L. 100–360, title IV, § 411(f)(10)(C)(ii), 102 Stat. 781; Nov. 4, 1988, Pub. L. 100–607, title VI, § 602(h)–(k), 102 Stat. 3123; Aug. 16, 1989, Pub. L. 101–93, § 7, 103 Stat. 615, related to procedures upon default by borrower under student loan insurance program, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292f of this title.

Another prior section 294f, act July 1, 1944, ch. 373, title VII, § 746, as added Aug. 16, 1968, Pub. L. 90–490, title I, § 121(e), 82 Stat. 778; amended Nov. 18, 1971, Pub. L. 92–157, title I, §§ 105(f)(2), 106(b)(5), 85 Stat. 451, 453, provided for transfer of funds to scholarships in relation to loans to students studying in United States, prior to repeal by Pub. L. 94–484, title IV, § 406(a)(1), Oct. 12, 1976, 90 Stat. 2268.

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.

§ 294g. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this part, $55,600,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(b) Allocation

(1) In general

Of the amounts appropriated under subsection (a) of this section for a fiscal year, the Secretary shall make available—

(A) not less than $28,587,000 for awards of grants and contracts under section 294a of this title;

(B) not less than $3,765,000 for awards of grants and contracts under section 294b of this title, of which not less than 50 percent of such amount shall be made available for centers described in subsection (a)(1) of such section; and

(C) not less than $22,631,000 for awards of grants and contracts under sections 294c, 294d, and 294e of this title.

[1] So in original. Probably should be ''Committee''.

(2) Ratable reduction

If amounts appropriated under subsection (a) of this section for any fiscal year are less than the amount required to comply with paragraph (1), the Secretary shall ratably reduce the amount to be made available under each of subparagraphs (A) through (C) of such paragraph accordingly.

(3) Increase in amounts

If amounts appropriated for a fiscal year under subsection (a) of this section exceed the amount authorized under such subsection for such fiscal year, the Secretary may increase the amount to be made available for programs and activities under this part without regard to the amounts specified in each of subparagraphs (A) through (C) of paragraph (2).

(c) Obligation of certain amounts

(1) Area health education center programs

Of the amounts made available under subsection (b)(1)(A) of this section for each fiscal year, the Secretary may obligate for awards under section 294a(a)(2) of this title—

(A) not less than 23 percent of such amounts in fiscal year 1998;

(B) not less than 30 percent of such amounts in fiscal year 1999;

(C) not less than 35 percent of such amounts in fiscal year 2000;

(D) not less than 40 percent of such amounts in fiscal year 2001; and

(E) not less than 45 percent of such amounts in fiscal year 2002.

(2) Sense of Congress

It is the sense of the Congress that—

(A) every State have an area health education center program in effect under this section; and

(B) the ratio of Federal funding for the model program under section 294a(a)(2) of this title should increase over time and that Federal funding for other awards under this section shall decrease so that the national program will become entirely comprised of programs that are funded at least 50 percent by State and local partners.

(July 1, 1944, ch. 373, title VII, § 757, as added Pub. L. 105–392, title I, § 103, Nov. 13, 1998, 112 Stat. 3551.)

PRIOR PROVISIONS

A prior section 294g, act July 1, 1944, ch. 373, title VII, § 734, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2263; amended Oct. 22, 1985, Pub. L. 99–129, title II, § 208(f), 99 Stat. 531, related to establishment of a student loan insurance fund, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292i of this title.

Another prior section 294g, act July 1, 1944, ch. 373, title VII, § 747, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 105(f)(4), 85 Stat. 451; amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(f), 90 Stat. 2244, provided for student loans to citizens of United States who were full-time students in schools of medicine located outside United States, prior to repeal by Pub. L. 94–484, title IV, § 401(a), Oct. 12, 1976, 90 Stat. 2257, effective Oct. 1, 1976.

A prior section 294h, act July 1, 1944, ch. 373, title VII, § 735, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2263; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(c)(5), 91 Stat. 390; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2709(e)(4)(B), 95 Stat. 911; Nov. 16, 1990, Pub. L. 101–597, title IV, § 401(b)[(a)], 104 Stat. 3035, related to functions, powers, and duties of the Secretary under the Federal student loan insurance program, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292j of this title.

A prior section 294i, act July 1, 1944, ch. 373, title VII, § 771, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2049, authorized grants to educational entities offering programs in health administration, hospital administration, or health policy analysis and planning, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294i, act July 1, 1944, ch. 373, title VII, § 736, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2265; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(d), 91 Stat. 390, related to participation by Federal credit unions in Federal, State, and private student loan insurance programs, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292k of this title.

A prior section 771 of act July 1, 1944, was classified to section 295f–1 of this title prior to repeal by act July 1, 1944, ch. 373, title VII, § 773, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 606(b), 102 Stat. 3127.

Sections 294j to 294m were omitted in the general amendment of this subchapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.

Section 294j, act July 1, 1944, ch. 373, title VII, § 737, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2265; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(c)(6), 91 Stat. 390; Dec. 19, 1977, Pub. L. 95–215, § 4(f), 91 Stat. 1506; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2731, 95 Stat. 919; Jan. 4, 1983, Pub. L. 97–414, § 8(i), 96 Stat. 2061; Oct. 22, 1985, Pub. L. 99–129, title II, §§ 201(c), 204(c), 208(g)(2), 99 Stat. 525, 527, 531; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 602(*l*), 628(6), 629(b)(2), 102 Stat. 3124, 3145, 3146, defined ''eligible institution'', ''eligible lender'', ''line of credit'', and ''school of allied health''. See section 292*o* of this title.

Section 294j–1, act July 1, 1944, ch. 373, title VII, § 737A, as added Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2732, 95 Stat. 919, related to determination of eligible students. See section 292*l* of this title.

Section 294k, act July 1, 1944, ch. 373, title VII, § 738, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2265; amended Dec. 19, 1977, Pub. L. 95–215, § 4(e)(12), 91 Stat. 1506, related to repayment of loans of deceased or disabled borrowers from student loan insurance fund. See section 292m of this title.

Section 294*l*, act July 1, 1944, ch. 373, title VII, § 739, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 401(b)(3), 90 Stat. 2266; amended Dec. 19, 1977, Pub. L. 95–215, § 4(e)(13), 91 Stat. 1506; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2733, 95 Stat. 920, related to eligibility of institutions and recordation and availability of information. See section 292n of this title.

Section 294*l*–1, act July 1, 1944, ch. 373, title VII, § 739A, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 602(m), 102 Stat. 3124, related to reissuance and refinancing of certain loans.

Section 294m, act July 1, 1944, ch. 373, title VII, § 740, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170; amended Oct. 13, 1964, Pub. L. 88–654, § 1(a), (b), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89–290, §§ 2(b), 4 (a), (f)(1), (2), 79 Stat. 1056–1058; Nov. 2, 1966, Pub. L. 89–709, § 3(a), (b), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 5(c)(1), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(a)(1), (2), (5)(B), 82 Stat. 777, 778; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e)(1), (4), (f)(2), 85 Stat. 451; Aug. 23, 1974, Pub. L. 93–385, § 2(b), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94–278, title XI, § 1105(b), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94–484, title IV, § 402, 90 Stat. 2266; Oct. 22, 1985, Pub. L. 99–129, title II, § 209(a)(1), (j)(1), 99 Stat. 532, 536; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 603(a), 628(7), 629(b)(2), 102 Stat. 3125, 3145, 3146; Nov. 6, 1990, Pub. L. 101–527, § 5(a), (b), 104 Stat. 2322, 2323, related to loan agreements for establishment of student loan funds. See section 292q of this title.

PART E—HEALTH PROFESSIONS AND PUBLIC HEALTH WORKFORCE

SUBPART 1—HEALTH PROFESSIONS WORKFORCE INFORMATION AND ANALYSIS

§ 294n. Health professions workforce information and analysis

(a) Purpose

It is the purpose of this section to—

(1) provide for the development of information describing the health professions workforce and the analysis of workforce related issues; and

(2) provide necessary information for decision-making regarding future directions in health professions and nursing programs in response to societal and professional needs.

(b) Grants or contracts

The Secretary may award grants or contracts to State or local governments, health professions schools, schools of nursing, academic health centers, community-based health facilities, and other appropriate public or private nonprofit entities to provide for—

(1) targeted information collection and analysis activities related to the purposes described in subsection (a) of this section;

(2) research on high priority workforce questions;

(3) the development of a non-Federal analytic and research infrastructure related to the purposes described in subsection (a) of this section; and

(4) the conduct of program evaluation and assessment.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section, $750,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(2) Reservation

Of the amounts appropriated under subsection (a) of this section for a fiscal year, the Secretary shall reserve not less than $600,000 for conducting health professions research and for carrying out data collection and analysis in accordance with section 295k of this title.

(3) Availability of additional funds

Amounts otherwise appropriated for programs or activities under this subchapter may be used for activities under subsection (b) of this section with respect to the programs or activities from which such amounts were made available.

(July 1, 1944, ch. 373, title VII, § 761, as added Pub. L. 105–392, title I, § 104(a), Nov. 13, 1998, 112 Stat. 3552.)

PRIOR PROVISIONS

A prior section 294n, act July 1, 1944, ch. 373, title VII, § 776, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2050, and amended, which related to grants and contracts to provide health care for individuals with acquired immune deficiency syndrome, was renumbered section 2692 of title XXVI of act July 1, 1944, by Pub. L. 104–146, § 3(h)(3), May 20, 1996, 110 Stat. 1364, and transferred to section 300ff–111 of this title.

Another prior section 294n, act July 1, 1944, ch. 373, title VII, § 741, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 171; amended Oct. 13, 1964, Pub. L. 88–654, § 1(c), (d), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89–290, § 4(b), (f)(3), (4), (g)(1), 79 Stat. 1057, 1058; Nov. 2, 1966, Pub. L. 89–709, § 3(c), (d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 4, 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(a)(3), (4), (5)(A), 82 Stat. 777; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(b)–(d), (e)(4), (f)(2), 85 Stat. 449–451; Oct. 27, 1972, Pub. L. 92–585, § 4, 86 Stat. 1293; Oct. 12, 1976, Pub. L. 94–484, title IV, §§ 403(a), (b), (d), 407(d)(1), 90 Stat. 2266, 2267, 2279; Aug. 1, 1977, Pub. L. 95–83, title III, § 307(e)(1), (2), 91 Stat. 390; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2735, 95 Stat. 920; Oct. 22, 1985, Pub. L. 99–129, title II, § 209(a)(2), (3), (b), (c)(1), (d)–(f), 99 Stat. 532, 534; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 603(b), (c), 628(8), 629(b)(2), 102 Stat. 3125, 3145, 3146; Nov. 16, 1990, Pub. L. 101–597, title IV, § 401(b)[(a)], 104 Stat. 3035, outlined provisions for loans from a student loan fund, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292r of this title.

A prior section 761 of act July 1, 1944, was classified to section 294 of this title prior to the general amendment of part D of this subchapter by Pub. L. 105–392.

Another prior section 761 of act July 1, 1944, was classified to section 294cc of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 761 of act July 1, 1944, was classified to section 295 of this title prior to repeal by Pub. L. 99–129.

Another prior section 761 of act July 1, 1944, was classified to section 295 of this title prior to the general amendment of part D of this subchapter by Pub. L. 91–696.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295*o*–1 of this title.

§ 294*o*. Advisory Council on Graduate Medical Education

(a) Establishment; duties

There is established the Council on Graduate Medical Education (in this section referred to as the ''Council''). The Council shall—

(1) make recommendations to the Secretary of Health and Human Services (in this section referred to as the ''Secretary''), and to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with respect to—

(A) the supply and distribution of physicians in the United States;

(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

(C) issues relating to foreign medical school graduates;

(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathic medicine, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and postgraduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

(2) encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

(b) Composition

The Council shall be composed of—

(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

(2) the Administrator of the Health Care Financing Administration;

(3) the Chief Medical Director of the Department of Veterans Affairs;

(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations;

(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathic medicine and public and private teaching hospitals; and

(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

(c) Terms of appointed members

(1) In general; staggered rotation

Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) of this section shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of 1 year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

(2) Date certain for appointment

The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) of this section within 60 days after October 13, 1992.

(d) Chair

The Council shall elect one of its members as Chairman of the Council.

(e) Quorum

Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

(f) Vacancies

Any vacancy in the Council shall not affect its power to function.

(g) Compensation

Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5 for each day, including traveltime,[1] such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) Certain authorities and duties

(1) Authorities

In order to carry out the provisions of this section, the Council is authorized to—

(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(2) Coordination of activities

The Council shall coordinate its activities with the activities of the Secretary under section 295k of this title. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 295k of this title and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

(i) Requirement regarding reports

In the reports required under subsection (a) of this section, the Council shall specify its activities during the period for which the report is made.

(j) Final report

Not later than April 1, 2002, the Council shall submit a final report under subsection (a) of this section.

(k) Termination

The Council shall terminate September 30, 2002.

***(l)* Funding**

Amounts otherwise appropriated under this subchapter may be utilized by the Secretary to support the activities of the Council.

(July 1, 1944, ch. 373, title VII, § 762, formerly Pub. L. 102–408, title III, § 301, Oct. 13, 1992, 106 Stat. 2080, as amended Pub. L. 102–531, title III, § 313(b), Oct. 27, 1992, 106 Stat. 3507; renumbered § 762 of act July 1, 1944, and amended Pub. L. 105–392, title I, § 104(b), Nov. 13, 1998, 112 Stat. 3552.)

CODIFICATION

Section was formerly set out as a note under section 295k of this title prior to renumbering by Pub. L. 105–392.

[1] So in original. Probably should be ''travel time,''.

PRIOR PROVISIONS

A prior section 294*o*, act July 1, 1944, ch. 373, title VII, § 777, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2052, authorized grants and contracts for improvement of training in geriatrics, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294*o*, act July 1, 1944, ch. 373, title VII, § 742, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 172; amended Oct. 22, 1965, Pub. L. 89–290, § 4(c), 79 Stat. 1057; Nov. 2, 1966, Pub. L. 89–709, § 3(e), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 5(b), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(b), 82 Stat. 778; July 9, 1971, Pub. L. 92–52, § 1(a), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(a), (f)(2), 85 Stat. 449, 451; Aug. 23, 1974, Pub. L. 93–385, § 2(a), 88 Stat. 741; Apr. 22, 1976, Pub. L. 94–278, title XI, § 1105(a), 90 Stat. 416; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(e), title IV, §§ 404, 406(d), 90 Stat. 2244, 2267, 2268; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2734, 95 Stat. 920; Oct. 22, 1985, Pub. L. 99–129, title II, § 209(g), 99 Stat. 534; Nov. 6, 1990, Pub. L. 101–527, § 5(c), 104 Stat. 2323, provided for authorization of appropriations for purpose of making Federal contributions into student loan funds, prior to the general amendment of this subchapter by Pub. L. 102–408. See sections 292t and 292y of this title.

A prior section 762 of act July 1, 1944, was classified to section 295a of this title prior to repeal by Pub. L. 99–129.

Another prior section 762 of act July 1, 1944, was classified to section 295a of this title prior to the general amendment of part D of this subchapter by Pub. L. 91–696.

A prior section 294p, act July 1, 1944, ch. 373, title VII, § 778, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2054, authorized grants and contracts to assist provision of health care in rural areas, prior to the general amendment of this part by Pub. L. 105–392.

Another prior section 294p, act July 1, 1944, ch. 373, title VII, § 743, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 172; amended Oct. 22, 1965, Pub. L. 89–290, § 4(d), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89–751, § 5(c)(2), (3), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(c), 82 Stat. 778; July 9, 1971, Pub. L. 92–52, § 1(b), 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, § 105(e)(2), (f)(2), 85 Stat. 451; Oct. 12, 1976, Pub. L. 94–484, title IV, §§ 405, 406(e), 90 Stat. 2267, 2268; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2736, 95 Stat. 920; Oct. 22, 1985, Pub. L. 99–129, title II, § 209(i), 99 Stat. 536; Nov. 4, 1988, Pub. L. 100–607, title VI, § 603(d), 102 Stat. 3125, related to distribution of assets from loan funds, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 292x of this title.

Sections 294q to 294r were omitted in the general amendment of this subchapter by Pub. L. 102–408.

Section 294q, act July 1, 1944, ch. 373, title VII, § 744, formerly § 745, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 173; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 105(f)(2), 85 Stat. 451; renumbered § 744, Oct. 12, 1976, Pub. L. 94–484, title IV, § 406(a)(2), 90 Stat. 2268, related to administrative provisions. See section 292u of this title.

Section 294q–1, act July 1, 1944, ch. 373, title VII, § 745, as added Oct. 22, 1985, Pub. L. 99–129, title II, § 209(h)(2), 99 Stat. 535, related to student loan information to be furnished to students. See section 292v of this title.

Section 294q–2, act July 1, 1944, ch. 373, title VII, § 746, as added Oct. 22, 1985, Pub. L. 99–129, title II, § 209(h)(2), 99 Stat. 536, related to procedures for appeal of terminations of agreements with schools. See section 292w of this title.

Section 294q–3, act July 1, 1944, ch. 373, title VII, § 747, formerly § 745, as added and renumbered § 747, Oct. 22, 1985, Pub. L. 99–129, title II, § 209(a)(4), (h)(1), 99 Stat. 532, 535, defined ''school of pharmacy''.

Section 294r, act July 1, 1944, ch. 373, title VII, § 751, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 604, 102 Stat. 3126, related to establishment of a loan repayment program for allied health personnel.

A prior section 294r, act July 1, 1944, ch. 373, title VII, § 748, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(a), 90 Stat. 2279; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(f), 91 Stat. 391; Dec. 19, 1977, Pub. L. 95–215, § 3, 91 Stat. 1504; Sept. 29, 1979, Pub. L. 96–76, title II, § 206(a), 93 Stat. 583, which related to traineeships for students in schools of public health, was renumbered section 792 of act July 1, 1944, by Pub. L. 97–35 and transferred to section 295h–1b of this title.

Section 294s, act July 1, 1944, ch. 373, title VII, § 749, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(a), 90 Stat. 2280; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(f), 91 Stat. 391, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692, which related to traineeships for students in other graduate programs, was renumbered section 791A of act July 1, 1944, by Pub. L. 97–35 and transferred to section 295h–1a of this title.

Section 294t, act July 1, 1944, ch. 373, title VII, § 751, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2281; amended Dec. 19, 1977, Pub. L. 95–215, § 5, 91 Stat. 1506; Nov. 9, 1978, Pub. L. 95–623, § 12(c), 92 Stat. 3457; Nov. 10, 1978, Pub. L. 95–626, title I, § 113(b), 92 Stat. 3563; July 10, 1979, Pub. L. 96–32, § 7(i), 93 Stat. 84, which related to National Health Service Corps Scholarships Program, was renumbered section 338A of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254*l* of this title.

Section 294u, act July 1, 1944, ch. 373, title VII, § 752, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2284; amended Nov. 10, 1978, Pub. L. 95–626, title I, § 113(b), 92 Stat. 3563; Sept. 29, 1979, Pub. L. 96–76, title II, § 202(a), (b), 93 Stat. 582, which related to obligated service under contract, was renumbered section 338B of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254m of this title, and subsequently renumbered section 338C of act July 1, 1944, by Pub. L. 100–177.

Section 294v, act July 1, 1944, ch. 373, title VII, § 753, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2285; amended Dec. 17, 1980, Pub. L. 96–538, title IV, § 403, 94 Stat. 3192, which related to private practice, was renumbered section 338C of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254n of this title, and subsequently renumbered section 338D of act July 1, 1944, by Pub. L. 100–177.

Section 294w, act July 1, 1944, ch. 373, title VII, § 754, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2286; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(g), 91 Stat. 391, which related to breach of scholarship contract, was renumbered section 338D of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254*o* of this title, and subsequently renumbered section 338E of act July 1, 1944, by Pub. L. 100–177.

Section 294x, act July 1, 1944, ch. 373, title VII, § 755, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2287, which related to special grants for former Corps member to enter private practice, was renumbered section 338E of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254p of this title, and subsequently renumbered section 338F of act July 1, 1944, by Pub. L. 100–177.

Section 294y, act July 1, 1944, ch. 373, title VII, § 756, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(b)(1), 90 Stat. 2288, which related to authorization of appropriations, was renumbered section 338F of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254q of this title, and subsequently renumbered section 338G of act July 1, 1944, prior to repeal by Pub. L. 100–177, title II, §§ 201(2), 203, Dec. 1, 1987, 101 Stat. 992, 999.

Section 294y–1, act July 1, 1944, ch. 373, title VII, § 757, as added Aug. 1, 1977, Pub. L. 95–83, title III, § 307(n)(1), 91 Stat. 392; amended Dec. 17, 1980, Pub. L. 96–537, § 3(d), 94 Stat. 3174, which related to Indian Health Scholarships, was renumbered section 338G of act July 1, 1944, by Pub. L. 97–35 and transferred to section 254r of this title, and subsequently renumbered section 338I of act July 1, 1944, by Pub. L. 100–177, prior to repeal by Pub. L. 100–713, title I, § 104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

Sections 294z to 294cc were omitted in the general revision of this subchapter by Pub. L. 102–408.

Section 294z, act July 1, 1944, ch. 373, title VII, § 758, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(c), 90

Stat. 2289; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(h), 91 Stat. 391; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2737, 95 Stat. 920; Oct. 22, 1985, Pub. L. 99–129, title I, § 102, title II, § 210(a), 99 Stat. 523, 537; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 605, 628(9), 629(b)(2), 102 Stat. 3126, 3146, related to scholarships for students of exceptional financial need.

Section 294aa, act July 1, 1944, ch. 373, title VII, § 759, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(c), 90 Stat. 2289; amended Nov. 16, 1990, Pub. L. 101–597, title IV, § 401(b)[(a)], 104 Stat. 3035, established a Lister Hill scholarship program of grants for family practice of medicine.

Section 294bb, act July 1, 1944, ch. 373, title VII, § 760, as added Nov. 6, 1990, Pub. L. 101–527, § 6, 104 Stat. 2323, related to grants and other assistance for students from disadvantaged backgrounds. See section 293a of this title.

Section 294cc, act July 1, 1944, ch. 373, title VII, § 761, as added Nov. 6, 1990, Pub. L. 101–527, § 6, 104 Stat. 2325, related to a loan repayment program regarding service on faculties of certain health professions schools. See section 293b of this title.

AMENDMENTS

1998—Subsec. (j). Pub. L. 105–392, § 104(b)(1), substituted ''2002'' for ''1995''.

Subsec. (k). Pub. L. 105–392, § 104(b)(2), substituted ''2002'' for ''1995''.

Subsec. (*l*). Pub. L. 105–392, § 104(b)(3), added subsec. (*l*).

1992—Subsec. (a)(2). Pub. L. 102–531 substituted ''voluntarily'' for ''voluntary''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

Reference to Chief Medical Director of Department of Veterans Affairs deemed to refer to Under Secretary for Health of Department of Veterans Affairs pursuant to section 302(e) of Pub. L. 102–405, set out as a note under section 305 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–531 effective immediately after enactment of Pub. L. 102–408, see section 313(c) of Pub. L. 102–531, set out as a note under section 292y of this title.

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.

SUBPART 2—PUBLIC HEALTH WORKFORCE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 295*o*–1 of this title.

§ 295. General provisions

(a) In general

The Secretary may award grants or contracts to eligible entities to increase the number of individuals in the public health workforce, to enhance the quality of such workforce, and to enhance the ability of the workforce to meet national, State, and local health care needs.

(b) Eligibility

To be eligible to receive a grant or contract under subsection (a) of this section an entity shall—

(1) be—

(A) a health professions school, including an accredited school or program of public health, health administration, preventive medicine, or dental public health or a school providing health management programs;

(B) an academic health center;

(C) a State or local government; or

(D) any other appropriate public or private nonprofit entity; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Preference

In awarding grants or contracts under this section the Secretary may grant a preference to entities—

(1) serving individuals who are from disadvantaged backgrounds (including underrepresented racial and ethnic minorities); and

(2) graduating large proportions of individuals who serve in underserved communities.

(d) Activities

Amounts provided under a grant or contract awarded under this section may be used for—

(1) the costs of planning, developing, or operating demonstration training programs;

(2) faculty development;

(3) trainee support;

(4) technical assistance;

(5) to meet the costs of projects—

(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health, that have available full-time faculty members with training and experience in the fields of preventive medicine and dental public health; and

(B) to provide financial assistance to residency trainees enrolled in such programs;

(6) the retraining of existing public health workers as well as for increasing the supply of new practitioners to address priority public health, preventive medicine, public health dentistry, and health administration needs;

(7) preparing public health professionals for employment at the State and community levels; or

(8) other activities that may produce outcomes that are consistent with the purposes of this section.

(e) Traineeships

(1) In general

With respect to amounts used under this section for the training of health professionals, such training programs shall be designed to—

(A) make public health education more accessible to the public and private health workforce;

(B) increase the relevance of public health academic preparation to public health practice in the future;

(C) provide education or training for students from traditional on-campus programs in practice-based sites; or

(D) develop educational methods and distance-based approaches or technology that address adult learning requirements and increase knowledge and skills related to community-based cultural diversity in public health education.

(2) Severe shortage disciplines

Amounts provided under grants or contracts under this section may be used for the operation of programs designed to award traineeships to students in accredited schools of public health who enter educational programs in fields where there is a severe shortage of public health professionals, including epidemiology, biostatistics, environmental health, toxicology, public health nursing, nutrition, preventive medicine, maternal and child health, and behavioral and mental health professions.

(July 1, 1944, ch. 373, title VII, § 765, as added Pub. L. 105–392, title I, § 105, Nov. 13, 1998, 112 Stat. 3553.)

PRIOR PROVISIONS

A prior section 295, act July 1, 1944, ch. 373, title VII, § 781, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2055; amended Pub. L. 105–12, § 12(b), Apr. 30, 1997, 111 Stat. 29, authorized grants and contracts for research on certain health professions issues, prior to repeal by Pub. L. 105–392, title I, § 106(a)(1), Nov. 13, 1998, 112 Stat. 3557.

Another prior section 295, act July 1, 1944, ch. 373, title VII, § 761, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–1; amended Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692, provided Congressional declaration of purpose for former part D of this subchapter, prior to repeal by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Another prior section 295, act July 1, 1944, ch. 373, title VII, § 761, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 282, related to authorization of appropriations respecting grants for construction of mental retardation facilities, prior to the general amendment of former part D of this subchapter by section 101 of Pub. L. 91–696.

A prior section 765 of act July 1, 1944, was classified to section 294c of this title prior to the general amendment of part D of this subchapter by Pub. L. 105–392.

Another prior section 765 of act July 1, 1944, was classified to section 295d of this title prior to repeal by Pub. L. 99–129.

Another prior section 765 of act July 1, 1944, was classified to section 295d of this title prior to the general amendment of part D of this subchapter by Pub. L. 91–696.

§ 295a. Public health training centers

(a) In general

The Secretary may make grants or contracts for the operation of public health training centers.

(b) Eligible entities

(1) In general

A public health training center shall be an accredited school of public health, or another public or nonprofit private institution accredited for the provision of graduate or specialized training in public health, that plans, develops, operates, and evaluates projects that are in furtherance of the goals established by the Secretary for the year 2000 in the areas of preventive medicine, health promotion and disease prevention, or improving access to and quality of health services in medically underserved communities.

(2) Preference

In awarding grants or contracts under this section the Secretary shall give preference to accredited schools of public health.

(c) Certain requirements

With respect to a public health training center, an award may not be made under subsection (a) of this section unless the program agrees that it—

(1) will establish or strengthen field placements for students in public or nonprofit private health agencies or organizations;

(2) will involve faculty members and students in collaborative projects to enhance public health services to medically underserved communities;

(3) will specifically designate a geographic area or medically underserved population to be served by the center that shall be in a location removed from the main location of the teaching facility of the school that is participating in the program with such center; and

(4) will assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs.

(July 1, 1944, ch. 373, title VII, § 766, as added Pub. L. 105–392, title I, § 105, Nov. 13, 1998, 112 Stat. 3554.)

PRIOR PROVISIONS

A prior section 295a, act July 1, 1944, ch. 373, title VII, § 782, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2057, authorized grants and contracts for chiropractic demonstration projects, prior to repeal by Pub. L. 105–392, title I, § 106(a)(1), Nov. 13, 1998, 112 Stat. 3557.

Another prior section 295a, act July 1, 1944, ch. 373, title VII, § 762, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–2, authorized appropriations for former part D of this subchapter, prior to repeal by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Another prior section 295a, act July 1, 1944, ch. 373, title VII, § 762, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 282, related to applications for grants for construction of mental retardation facilities, including their approval by Surgeon General and consideration of certain matters, prior to the general amendment of former part D of this subchapter by section 101 of Pub. L. 91–696.

A prior section 766 of act July 1, 1944, was classified to section 294d of this title prior to the general amendment of part D of this subchapter by Pub. L. 105–392.

Another prior section 766 of act July 1, 1944, was classified to section 295d–1 of this title prior to repeal by Pub. L. 99–129.

Another prior section 766 of act July 1, 1944, was classified to section 295d–1 of this title prior to the general amendment of part D of this subchapter by Pub. L. 91–696.

§ 295b. Public health traineeships

(a) In general

The Secretary may make grants to accredited schools of public health, and to other public or nonprofit private institutions accredited for the provision of graduate or specialized training in

public health, for the purpose of assisting such schools and institutions in providing traineeships to individuals described in subsection (b)(3) of this section.

(b) Certain requirements

(1) Amount

The amount of any grant under this section shall be determined by the Secretary.

(2) Use of grant

Traineeships awarded under grants made under subsection (a) of this section shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(3) Eligible individuals

The individuals referred to in subsection (a) of this section are individuals who are pursuing a course of study in a health professions field in which there is a severe shortage of health professionals (which fields include the fields of epidemiology, environmental health, biostatistics, toxicology, nutrition, and maternal and child health).

(July 1, 1944, ch. 373, title VII, § 767, as added Pub. L. 105–392, title I, § 105, Nov. 13, 1998, 112 Stat. 3555.)

PRIOR PROVISIONS

A prior section 295b, act July 1, 1944, ch. 373, title VII, § 763, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–2, authorized Secretary to make grants and to set limitations and conditions on grants, required applications for grants, limited use of grant funds, set forth method of payment of grants, and provided for protection of financial interests of the United States, prior to repeal by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Another prior section 295b, act July 1, 1944, ch. 373, title VII, § 763, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 283, related to amount of grants for construction of mental retardation facilities, including maximum payments, advances or reimbursement, installments, conditions, and nonduplication of grants, prior to the general amendment of former part D of this subchapter by section 101 of Pub. L. 91–696.

A prior section 767 of act July 1, 1944, was classified to section 295e–1 of this title prior to repeal by Pub. L. 99–129.

Another prior section 767 of act July 1, 1944, was classified to section 295d–2 of this title prior to repeal by Pub. L. 99–129.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295e of this title.

§ 295c. Preventive medicine; dental public health

(a) In general

The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, and dentistry to meet the costs of projects—

(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

(2) to provide financial assistance to residency trainees enrolled in such programs.

(b) Administration

(1) Amount

The amount of any grant under subsection (a) of this section shall be determined by the Secretary.

(2) Eligibility

To be eligible for a grant under subsection (a) of this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine or dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

(3) Other funds

Schools of medicine, osteopathic medicine, dentistry, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

(July 1, 1944, ch. 373, title VII, § 768, as added Pub. L. 105–392, title I, § 105, Nov. 13, 1998, 112 Stat. 3555.)

PRIOR PROVISIONS

A prior section 295c, act July 1, 1944, ch. 373, title VII, § 764, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–2; amended Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692, established requirements of eligibility for grants, prior to repeal by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Another prior section 295c, act July 1, 1944, ch. 373, title VII, § 764, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 283, related to recovery of expenditures under certain conditions respecting grants for construction of mental retardation facilities, prior to the general amendment of former part D of this subchapter by section 101 of Pub. L. 91–696.

§ 295d. Health administration traineeships and special projects

(a) In general

The Secretary may make grants to State or local governments (that have in effect preventive medical and dental public health residency programs) or public or nonprofit private educational entities (including graduate schools of social work and business schools that have health management programs) that offer a program described in subsection (b) of this section—

(1) to provide traineeships for students enrolled in such a program; and

(2) to assist accredited programs health administration in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

(b) Relevant programs

The program referred to in subsection (a) of this section is an accredited program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and which meets such other quality standards as the Secretary of Health and Human Services by regulation may prescribe.

(c) Preference in making grants

In making grants under subsection (a) of this section, the Secretary shall give preference to qualified applicants that meet the following conditions:

(1) Not less than 25 percent of the graduates of the applicant are engaged in full-time practice settings in medically underserved communities.

(2) The applicant recruits and admits students from medically underserved communities.

(3) For the purpose of training students, the applicant has established relationships with public and nonprofit providers of health care in the community involved.

(4) In training students, the applicant emphasizes employment with public or nonprofit private entities.

(d) Certain provisions regarding traineeships

(1) Use of grant

Traineeships awarded under grants made under subsection (a) of this section shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(2) Preference for certain students

Each entity applying for a grant under subsection (a) of this section for traineeships shall assure to the satisfaction of the Secretary that the entity will give priority to awarding the traineeships to students who demonstrate a commitment to employment with public or nonprofit private entities in the fields with respect to which the traineeships are awarded.

(July 1, 1944, ch. 373, title VII, § 769, as added Pub. L. 105–392, title I, § 105, Nov. 13, 1998, 112 Stat. 3556.)

PRIOR PROVISIONS

A prior section 295d, act July 1, 1944, ch. 373, title VII, § 765, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–3; amended Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692, related to requisites for approval of grants, establishment of separate medical school departments of family medicine, establishment of special hospital programs of family medicine, and supplementation of non-Federal funds, prior to repeal by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Another prior section 295d, act July 1, 1944, ch. 373, title VII, § 765, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 284, related to noninterference with administration of institutions respecting grants for construction of mental retardation facilities, prior to the general amendment of former part D of this subchapter by section 101 of Pub. L. 91–696.

Prior sections 295d–1 and 295d–2 were repealed by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Section 295d–1, act July 1, 1944, ch. 373, title VII, § 766, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–4, related to establishment and funding of planning and developmental grants.

Another prior section 295d–1, act July 1, 1944, ch. 373, title VII, § 766, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 284, related to definitions in connection with grants for construction of mental retardation research facilities, prior to the general amendment of former part D of this subchapter by section 101 of Pub. L. 91–696.

Section 295d–2, act July 1, 1944, ch. 373, title VII, § 767, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–4, established Advisory Council on Family Medicine and provided for its composition, term and compensation of its members, and its duties and functions.

§ 295e. Authorization of appropriations

(a) In general

For the purpose of carrying out this subpart, there is authorized to be appropriated $9,100,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(b) Limitation regarding certain program

In obligating amounts appropriated under subsection (a) of this section, the Secretary may not obligate more than 30 percent for carrying out section 295b of this title.

(July 1, 1944, ch. 373, title VII, § 770, as added Pub. L. 105–392, title I, § 105, Nov. 13, 1998, 112 Stat. 3556.)

PRIOR PROVISIONS

A prior section 295e, act July 1, 1944, ch. 373, title VII, § 768, as added Dec. 25, 1970, Pub. L. 91–696, § 101, 84 Stat. 2080–5, set forth definitions for former part D of this subchapter, prior to repeal by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Another prior section 295e consisted of section 766 of act July 1, 1944. The classification of section 766 of act July 1, 1944, was changed to section 295d–1 of this title for purposes of codification.

Prior sections 295e–1 to 295e–5 were repealed by Pub. L. 99–129, title II, § 220(c), Oct. 22, 1985, 99 Stat. 544.

Section 295e–1, act July 1, 1944, ch. 373, title VII, § 767, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 457; amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(g), 90 Stat. 2244, authorized appropriations for grants to public or nonprofit private hospitals for training, traineeships, and fellowships in family medicine.

Section 295e–2, act July 1, 1944, ch. 373, title VII, § 768, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 458; amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(h), 90 Stat. 2244, established grants for postgraduate training programs for physicians and dentists and authorized appropriations for those grants.

Section 295e–3, act July 1, 1944, ch. 373, title VII, § 769, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 459; amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(i), 90 Stat. 2245, authorized the Secretary to make grants for training, traineeships, and fellowships for health professions teaching personnel and authorized appropriations for those grants.

Section 295e–4, act July 1, 1944, ch. 373, title VII, § 769A, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 459; amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(j), 90 Stat. 2245, authorized appropriations for grants for computer technology health care demonstration programs.

Section 295e–5, act July 1, 1944, ch. 373, title VII, § 769B, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 107(b), 85 Stat. 460, required applications for grants and approval of grants by Secretary and set forth payment limitations.

Prior sections 295f to 295f–3 were repealed by act July 1, 1944, ch. 373, title VII, § 773, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 606(b), 102 Stat. 3127, effective Oct. 1, 1990.

Section 295f, act July 1, 1944, ch. 373, title VII, § 770, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1052; amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(a), 82 Stat. 774; Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 437; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(k), title V, § 501(a)–(c), 90 Stat. 2245, 2290, 2291; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(a)(1), 95 Stat. 927; Oct.

22, 1985, Pub. L. 99–129, title II, § 211(a)(1), 99 Stat. 537; Nov. 4, 1988, Pub. L. 100–607, title VI, § 606(a), 102 Stat. 3127, related to capitation grants for schools of public health.

Section 295f–1, act July 1, 1944, ch. 373, title VII, § 771, as added Oct. 12, 1976, Pub. L. 94–484, title V, § 502, 90 Stat. 2293; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(i), 91 Stat. 391; Dec. 19, 1977, Pub. L. 95–215, §§ 1(a), 2, 91 Stat. 1503, 1504; Nov. 9, 1978, Pub. L. 95–623, §§ 11(g), 12(d), 92 Stat. 3456, 3457; Sept. 29, 1979, Pub. L. 96–76, title II, § 207, 93 Stat. 583; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(a)(2), 95 Stat. 927; Oct. 22, 1985, Pub. L. 99–129, title II, § 211(b), 99 Stat. 539, related to eligibility for capitation grants.

Another prior section 295f–1, act July 1, 1944, ch. 373, title VII, § 771, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1052; amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(a), 82 Stat. 775; Nov. 2, 1970, Pub. L. 91–519, title I, § 101(a), 84 Stat. 1343; Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 443; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(*l*), 90 Stat. 2245, authorized start-up assistance, prior to repeal by Pub. L. 94–484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293, effective with respect to fiscal years beginning after Sept. 30, 1977.

Section 295f–2, act July 1, 1944, ch. 373, title VII, § 772, formerly § 775, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 448; renumbered § 772 and amended Oct. 12, 1976, Pub. L. 94–484, title V, § 503(a), 90 Stat. 2300; Dec. 19, 1977, Pub. L. 95–215, §§ 1(b), 8(c), 91 Stat. 1504, 1507; Nov. 9, 1978, Pub. L. 95–623, § 12(j), 92 Stat. 3457; Oct. 22, 1985, Pub. L. 99–129, title II, § 211(c), 99 Stat. 539, related to applications for capitation grants.

Another prior section 295f–2, act July 1, 1944, ch. 373, title VII, § 772, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1053; amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(a), (e), 82 Stat. 776, 777; Nov. 2, 1970, Pub. L. 91–519, title I, § 102(a), 84 Stat. 1343; Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 444; Nov. 16, 1973, Pub. L. 93–154, § 3(b), 87 Stat. 604; July 12, 1974, Pub. L. 93–348, title II, § 215, 88 Stat. 354; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(m), 90 Stat. 2245, provided special project grants and contracts, prior to repeal by Pub. L. 94–484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293, effective with respect to fiscal years beginning after Sept. 30, 1977.

Section 295f–3, act July 1, 1944, ch. 373, title VII, § 773, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 606(b), 102 Stat. 3127, provided for repeal of former part D of this subchapter, effective Oct. 1, 1990.

Another prior section 295f–3, act July 1, 1944, ch. 373, title VII, § 773, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1053; amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(b), 82 Stat. 776; Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 446; July 12, 1974, Pub. L. 93–348, title I, § 106, 88 Stat. 347; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(n), 90 Stat. 2245, authorized grants to assist health professions schools which were in financial distress, prior to repeal by Pub. L. 94–484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293, effective with respect to fiscal years beginning after Sept. 30, 1977.

A prior section 295f–4, act July 1, 1944, ch. 373, title VII, § 774, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1054; amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(c)(1), (2), 82 Stat. 777; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311; Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 446; Nov. 16, 1973, Pub. L. 93–154, § 3(c), 87 Stat. 605; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(*o*), 90 Stat. 2245, authorized health manpower education initiative awards prior to repeal by Pub. L. 94–484, title V, § 502, Oct. 12, 1976, 90 Stat. 2293, effective with respect to fiscal years beginning after Sept. 30, 1977.

A prior section 295f–5, act July 1, 1944, ch. 373, title VII, § 775, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 104(a), 85 Stat. 448, which related to applications for capitation, start-up, special project, and financial distress grants, was renumbered section 772 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 295f–2 of this title.

A prior section 295f–6, act July 1, 1944, ch. 373, title VII, § 776, as added Nov. 16, 1973, Pub. L. 93–154, § 3(a), 87 Stat. 604, which related to training in emergency medical services, was renumbered section 789 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 295g–9 of this title.

Prior sections 295g to 295g–2 were omitted in the general amendment of this subchapter by Pub. L. 102–408.

Section 295g, act July 1, 1944, ch. 373, title VII, § 780, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2311; amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2738, 95 Stat. 921; Oct. 22, 1985, Pub. L. 99–129, title I, § 103, title II, § 212, 99 Stat. 523, 540; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 607, 629(b)(1), 102 Stat. 3127, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(3), 103 Stat. 614, related to project grants for establishment of departments of family medicine.

Another prior section 295g, act July 1, 1944, ch. 373, title VII, § 780, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1055; amended Aug. 16, 1968, Pub. L. 90–490, title I, §§ 111(c)(4), 122(a) to (c), 82 Stat. 777, 779; July 9, 1971, Pub. L. 92–52, § 2, 85 Stat. 144; Nov. 18, 1971, Pub. L. 92–157, title I, §§ 106(a), (b)(3), (4), 108(b)(2), title III, § 301(g), 85 Stat. 452, 453, 461, 464; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(p), 90 Stat. 2245, related to scholarship grants for study in United States, prior to repeal by Pub. L. 94–484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290, effective Oct. 1, 1976.

Section 295g–1, act July 1, 1944, ch. 373, title VII, § 781, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2312; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(j), 91 Stat. 392; Sept. 29, 1979, Pub. L. 96–76, title II, § 203, 93 Stat. 582; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2739, 95 Stat. 921; Jan. 4, 1983, Pub. L. 97–414, § 8(j), 96 Stat. 2061; Aug. 15, 1985, Pub. L. 99–91, § 7, 99 Stat. 392; Oct. 22, 1985, Pub. L. 99–129, title I, § 104, title II, § 213, 99 Stat. 523, 540; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 608, 629(b)(3), 102 Stat. 3127, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(3), (5), (6), 103 Stat. 614; Nov. 16, 1990, Pub. L. 101–597, title IV, § 401(b)[(a)], 104 Stat. 3035, related to area health education centers.

Another prior section 295g–1, act July 1, 1944, ch. 373, title VII, § 781, as added Aug. 16, 1968, Pub. L. 90–490, title I, § 122(d), 82 Stat. 779; amended Nov. 18, 1971, Pub. L. 92–157, title I, §§ 105(f)(3), 106(b)(4), 85 Stat. 451, 453, provided for transfer of monies to student loan fund, prior to repeal by Pub. L. 94–484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290, effective Oct. 1, 1976.

Section 295g–2, act July 1, 1944, ch. 373, title VII, § 782, formerly § 788A, as added Aug. 18, 1987, Pub. L. 100–97, § 3, 101 Stat. 713; renumbered § 782 and amended Nov. 4, 1988, Pub. L. 100–607, title VI, § 614, 102 Stat. 3136; amended Aug. 16, 1989, Pub. L. 101–93, § 5(i), 103 Stat. 613; Nov. 6, 1990, Pub. L. 101–527, § 4(a), 104 Stat. 2318, provided for programs of excellence in health professions education for minorities. See section 293 of this title.

Another prior section 295g–2, act July 1, 1944, ch. 373, title VII, § 782, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2314; amended Nov. 9, 1978, Pub. L. 95–623, § 12(e), 92 Stat. 3457, authorized Secretary to make grants to schools of medicine and osteopathy for programs to train United States citizens formerly enrolled in medical schools in foreign countries, authorized appropriations for those grants, and set forth reporting requirements, prior to repeal by Pub. L. 99–129, title II, § 220(d), Oct. 22, 1985, 99 Stat. 544.

A prior section 295g–3, act July 1, 1944, ch. 373, title VII, § 783, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2314; amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2740, 95 Stat. 922; Oct. 22, 1985, Pub. L. 99–129, title I, § 105, 99 Stat. 524, related to programs for physician assistants, prior to repeal by Pub. L. 100–607, title VI, § 615(b), Nov. 4, 1988, 102 Stat. 3138.

Prior sections 295g–4 to 295g–8 were omitted in the general amendment of this subchapter by Pub. L. 102–408.

Section 295g–4, act July 1, 1944, ch. 373, title VII, § 784, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2315; amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2741, 95 Stat. 922; Jan. 4, 1983, Pub. L. 97–414,

§ 9(f), 96 Stat. 2064; Oct. 22, 1985, Pub. L. 99–129, title I, § 106, title II, § 214, 99 Stat. 524, 540; Nov. 4, 1988, Pub. L. 100–607, title VI, § 609, 102 Stat. 3130; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(c), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(3), 103 Stat. 614, related to grants and contracts for training, traineeships, and fellowships in general internal medicine and general pediatrics.

Section 295g–5, act July 1, 1944, ch. 373, title VII, § 785, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 610(a)(2), 102 Stat. 3130, related to residency programs in the general practice of dentistry.

Another prior section 295g–5, act July 1, 1944, ch. 373, title VII, § 785, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2315, established grants to public or private nonprofit colleges or universities for occupational health training and education centers and authorized appropriations for those grants, prior to repeal by Pub. L. 99–129, title II, § 220(e), Oct. 22, 1985, 99 Stat. 544.

Section 295g–6, act July 1, 1944, ch. 373, title VII, § 786, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2316; amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2742, 95 Stat. 923; Oct. 22, 1985, Pub. L. 99–129, title I, § 107, title II, § 215, 99 Stat. 524, 540; Nov. 4, 1988, Pub. L. 100–607, title VI, § 610(a)(1), (b), 102 Stat. 3130, 3131; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(3), (6), 103 Stat. 614, related to grants and contracts for specified family medicine programs. See section 293k of this title.

Section 295g–7, act July 1, 1944, ch. 373, title VII, § 787, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2317; amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2743, 95 Stat. 923; Oct. 22, 1985, Pub. L. 99–129, title I, § 108, title II, § 216, 99 Stat. 524, 541; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 611(a)–(e), 628(10), 629(b)(2), 102 Stat. 3131, 3132, 3146; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(d), (e), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101–93, § 5(h), (*o*)(2), 103 Stat. 612, 614, related to educational assistance to individuals from disadvantaged backgrounds. See section 293c of this title.

Section 295g–7a, act July 1, 1944, ch. 373, title VII, § 787A, as added and amended Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 612, 629(b)(2), 102 Stat. 3132, 3146, related to a retention program for health professions schools with individuals from disadvantaged backgrounds. See section 293 et seq. of this title.

Section 295g–8, act July 1, 1944, ch. 373, title VII, § 788, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(a), 90 Stat. 2318; amended Nov. 9, 1978, Pub. L. 95–623, § 12(f), 92 Stat. 3457; Sept. 29, 1979, Pub. L. 96–76, title II, § 205, 93 Stat. 583; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2744(a)(1), (b)–(f), 95 Stat. 923, 924; Oct. 22, 1985, Pub. L. 99–129, title I, § 109, title II, § 217, 99 Stat. 524, 541; Nov. 14, 1986, Pub. L. 99–660, title VI, § 601, 100 Stat. 3797; Dec. 1, 1987, Pub. L. 100–177, title IV, § 401, 101 Stat. 1007; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 613(a), 628(11), 629(b)(2), 102 Stat. 3133, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(2), (3), 103 Stat. 614; July 23, 1992, Pub. L. 102–325, title XV, § 1559, 106 Stat. 841, related to grants and contracts for special projects.

Another prior section 295g–8, act July 1, 1944, ch. 373, title VII, § 788A, as added Aug. 18, 1987, Pub. L. 100–97, § 3, 101 Stat. 713, which related to grants for minority education, was renumbered section 782 of act July 1, 1944, by Pub. L. 100–607 and transferred to section 295g–2 of this title.

A prior section 295g–8a, act July 1, 1944, ch. 373, title VII, § 788A, as added Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2745, 95 Stat. 925, authorized Secretary to make grants or enter into contracts with schools in serious financial distress to assist their operations, under certain terms and conditions, prior to repeal by Pub. L. 99–129, title II, § 220(f)(1), Oct. 22, 1985, 99 Stat. 544.

Prior sections 295g–8b to 295g–10 were omitted in the general amendment of this subchapter by Pub. L. 102–408.

Section 295g–8b, act July 1, 1944, ch. 373, title VII, § 788A, formerly § 788B, as added Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2745, 95 Stat. 926; amended Oct. 22, 1985, Pub. L. 99–129, title I, § 110, title II, §§ 218, 220(f)(2)–(4), 99 Stat. 524, 543, 544; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 622, 629(b)(2), 102 Stat. 3141, 3146; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(g), 102 Stat. 4239; renumbered § 788A and amended Aug. 16, 1989, Pub. L. 101–93, § 5(k), (*o*)(4), 103 Stat. 613, 614, related to training with respect to acquired immune deficiency syndrome. See section 300ff–111 of this title.

Another prior section 788A of act July 1, 1944, was renumbered section 782 by section 614(a) of Pub. L. 100–607, as amended, and classified to section 295g–2 of this title.

Section 295g–9, act July 1, 1944, ch. 373, title VII, § 789, as added and amended Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 615(a), 629(b)(1), 102 Stat. 3136, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(3), 103 Stat. 614, related to geriatric education centers and geriatric training.

Another prior section 295g–9, act July 1, 1944, ch. 373, title VII, § 789, formerly § 776, as added Nov. 16, 1973, Pub. L. 93–154, § 3(a), 87 Stat. 604; renumbered § 789, Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(b), 90 Stat. 2322; amended Oct. 21, 1976, Pub. L. 94–573, § 12, 90 Stat. 2717; July 10, 1979, Pub. L. 96–32, § 7(h), 93 Stat. 84; Aug. 1, 1977, Pub. L. 95–83, title III, § 307(k), 91 Stat. 392; Dec. 12, 1979, Pub. L. 96–142, title I, § 102, 93 Stat. 1067, authorized Secretary to make grants and enter into contracts for training in emergency medical services, set forth eligibility requirements and amounts, directed Secretary to use a uniform funding cycle, and authorized appropriations for those grants and contracts, prior to repeal by Pub. L. 99–129, title II, § 220(g), Oct. 22, 1985, 99 Stat. 544.

Section 295g–10, act July 1, 1944, ch. 373, title VII, § 790, as added Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(c), 90 Stat. 2322; amended Nov. 4, 1988, Pub. L. 100–607, title VI, § 616(a), (b), 102 Stat. 3138, provided general provisions.

A prior section 295g–10a, Pub. L. 100–607, title VI, § 633, Nov. 4, 1988, 102 Stat. 3147, required with respect to the application and award process for certain health personnel training programs the semiannual issuance of solicitations for grant applications and the preliminary review of applications for technical sufficiency, prior to repeal by Pub. L. 102–408, title III, § 311, Oct. 13, 1992, 106 Stat. 2091.

A prior section 295g–11, act July 1, 1944, ch. 373, title VII, § 790A, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 617, 102 Stat. 3140, related to public health special projects, prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 295g–11, act July 1, 1944, ch. 373, title VII, § 785, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(b)(6), 85 Stat. 453; amended Oct. 12, 1976, Pub. L. 94–484, title I, § 101(q), 90 Stat. 2245, provided scholarship grants for study abroad, prior to repeal by Pub. L. 94–484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290, effective Oct. 1, 1976.

Prior sections 295g–21 to 295g–23 were repealed by Pub. L. 94–484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290, effective Oct. 1, 1976.

Section 295g–21, act July 1, 1944, ch. 373, title VII, § 784, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(c), 85 Stat. 455, provided scholarship grants in relation to physician shortage area scholarship program.

Section 295g–22, act July 1, 1944, ch. 373, title VII, § 785, as added Nov. 18, 1971, Pub. L. 92–157, title I, § 106(c), 85 Stat. 457, related to administration of and contractual arrangements for implementation of the physician shortage area scholarship program.

Section 295g–23, act July 1, 1944, ch. 373, title VII, § 786, as added Nov. 18, 1971 Pub. L. 92–157, title I, § 106(c), 85 Stat. 457; amended Apr. 22, 1976, Pub. L. 94–278, title XI, § 1104, 90 Stat. 416; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(r), 90 Stat. 2246, authorized appropriations for physician shortage area scholarships in amount of $2,500,000; $3,000,000; $3,500,000; $3,500,000; and $2,000,000 for fiscal years ending June 30, 1972, through 1976, and for fiscal years ending Sept. 30, 1977, and thereafter such sums necessary to continue making grants to students who prior to July 1, 1976, received grants and were eligible for grants during the succeeding fiscal year.

A prior section 295h, act July 1, 1944, ch. 373, title VII, § 791, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2303; amended Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(b)(1), 95 Stat. 927; Jan. 4, 1983, Pub. L. 97–414, § 8(k)(2), 96 Stat. 2061; Oct. 22, 1985, Pub. L. 99–129, title I, § 111, title II, § 219, 99 Stat. 524, 543; Nov. 4, 1988, Pub. L. 100–607, title VI, § 618, 102 Stat. 3140; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(f), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101–93, § 5(j), 103 Stat. 613, related to grants for graduate programs in health administration, prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 295h, act July 1, 1944, ch. 373, title VII, § 791, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1222; amended Aug. 16, 1968, Pub. L. 90–490, title III, § 301(a)(1), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91–519, title II, § 201, 84 Stat. 1344, provided for grants for construction of teaching facilities of allied health professions personnel, prior to the general amendment of this part by Pub. L. 94–484.

A prior section 295h–1, act July 1, 1944, ch. 373, title VII, § 792, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2304; amended Nov. 10, 1978, Pub. L. 95–626, title I, § 121, 92 Stat. 3570; Sept. 29, 1979, Pub. L. 96–76, title II, § 206(b), 93 Stat. 583, related to special projects for accredited schools of public health and graduate programs in health administration, prior to repeal by Pub. L. 97–35, title XXVII, § 2746(c), Aug. 13, 1981, 95 Stat. 927.

Another prior section 295h–1, act July 1, 1944, ch. 373, title VII, § 792, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1226; amended Aug. 16, 1968, Pub. L. 90–490, title III, § 301(a)(2), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91–519, title II, § 202(a), (b), 84 Stat. 1344, 1345; June 18, 1973, Pub. L. 93–45, title I, § 109(a), (b), 87 Stat. 93; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(s)(1), (2), 90 Stat. 2246, provided for grants to improve quality of training centers for allied health professions, prior to the general amendment of this part by Pub. L. 94–484.

Prior sections 295h–1a to 295h–2 were omitted in the general amendment of this subchapter by Pub. L. 102–408.

Section 295h–1a, act July 1, 1944, ch. 373, title VII, § 791A, formerly § 749, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(a), 90 Stat. 2280; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(f), 91 Stat. 391; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692; renumbered § 791A and amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(b)(2), 95 Stat. 927; Jan. 4, 1983, Pub. L. 97–414, § 8(k)(1), 96 Stat. 2061; Oct. 22, 1985, Pub. L. 99–129, title I, § 112, 99 Stat. 525; Nov. 4, 1988, Pub. L. 100–607, title VI, § 619, 102 Stat. 3140, related to traineeships for students in other graduate programs.

Section 295h–1b, act July 1, 1944, ch. 373, title VII, § 792; formerly § 748, as added Oct. 12, 1976, Pub. L. 94–484, title IV, § 408(a), 90 Stat. 2279; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 307(f), 91 Stat. 391; Dec. 19, 1977, Pub. L. 95–215, § 3, 91 Stat. 1504; Sept. 29, 1979, Pub. L. 96–76, title II, § 206(a), 93 Stat. 583; renumbered § 792 and amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(d), 95 Stat. 927; Oct. 22, 1985, Pub. L. 99–129, title I, § 113, 99 Stat. 525; Nov. 4, 1988, Pub. L. 100–607, title VI, § 621, 102 Stat. 3141, related to traineeships for students in schools of public health.

Another prior section 792 of act July 1, 1944, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2304, was classified to section 295h–1 of this title prior to repeal by Pub. L. 97–35, title XXVII, § 2746(c), Aug. 13, 1981, 95 Stat. 927.

Section 295h–1c, act July 1, 1944, ch. 373, title VII, § 793, as added Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(f), 95 Stat. 928; amended Oct. 22, 1985, Pub. L. 99–129, title I, § 114, 99 Stat. 525; Nov. 4, 1988, Pub. L. 100–607, title VI, § 629(b)(2), 102 Stat. 3146, related to training in preventive medicine.

Another prior section 793 of act July 1, 1944, was renumbered section 794 by Pub. L. 97–35, title XXVII, § 2746(f), Aug. 13, 1981, 95 Stat. 928, and classified to section 295h–2 of this title.

Section 295h–2, act July 1, 1944, ch. 373, title VII, § 794, formerly § 793, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2305; amended S. Res. No. 4, Feb. 4, 1977; Nov. 9, 1978, Pub. L. 95–623, § 12(g), 92 Stat. 3457; S. Res. No. 30, Mar. 7, 1979; H. Res. No. 549, Mar. 25, 1980; renumbered § 794, Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2746(f), 95 Stat. 928, related to statistics and annual report to Congress.

Another prior section 295h–2, act July 1, 1944, ch. 373, title VII, § 793, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1228; amended Aug. 16, 1968, Pub. L. 90–490, title III, § 301(a)(3), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91–519, title II, § 203, 84 Stat. 1436; June 18, 1973, Pub. L. 93–45, title I, § 109(c), 87 Stat. 93; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(s)(3), 90 Stat. 2246, provided traineeships for advanced training of allied health professions personnel, including authorization of appropriations, prior to the general amendment of this part by Pub. L. 94–484.

Another prior section 794 of act July 1, 1944, ch. 373, title VII, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1228, was classified to section 294h–3 of this title prior to repeal by Pub. L. 91–519, title II, § 202(d), Nov. 2, 1970, 84 Stat. 1345.

A prior section 295h–3, act July 1, 1944, ch. 373, title VII, § 794, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1228; amended Aug. 16, 1968, Pub. L. 90–490, title III, § 301(a)(4), (b), 82 Stat. 788, authorized appropriations for grants to public or nonprofit private agencies, institutions, and organizations for projects to develop, demonstrate, or evaluate curriculums and methods for the training of health technologists, prior to repeal by Pub. L. 91–519, title II, § 202(d), Nov. 2, 1970, 84 Stat. 1345, effective with respect to the fiscal year beginning July 1, 1970.

Prior sections 295h–3a to 295h–3d were omitted in the general amendment of this part by Pub. L. 94–484.

Section 295h–3a, act July 1, 1944, ch. 373, title VII, § 794A, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 204, 84 Stat. 1346; amended June 18, 1973, Pub. L. 93–45, title I, § 109(d), 87 Stat. 93; Oct. 12, 1976, Pub. L. 94–484, title I, § 101(s)(4), 90 Stat. 2246, provided for grants and contracts to encourage full utilization of educational talent for allied health professions and authorizing appropriations.

Section 295h–3b, act July 1, 1944, ch. 373, title VII, § 794B, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 204, 84 Stat. 1346, provided for scholarship grants for training in allied health professions.

Section 295h–3c, act July 1, 1944, ch. 373, title VII, § 794C, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 204, 84 Stat. 1347, provided for work-study programs in training in allied health professions.

Section 295h–3d, act July 1, 1944, ch. 373, title VII, § 794D, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 204, 84 Stat. 1349; amended Nov. 18, 1971, Pub. L. 92–157, title III, § 301(e), 85 Stat. 464, provided for loans for students of allied health professions.

Prior sections 295h–4 to 295h–7 were omitted in the general amendment of this subchapter by Pub. L. 102–408.

Section 295h–4, act July 1, 1944, ch. 373, title VII, § 795, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2306; amended Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, 93 Stat. 677, 692, defined ''allied health personnel'', ''training center for allied health professions'', and ''nonprofit''. See section 295p of this title.

Another prior section 295h–4, act July 1, 1944, ch. 373, title VII, § 795, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1228; amended Dec. 5, 1967, Pub. L. 90–174, § 12(e), 81 Stat. 542; Nov. 2, 1970, Pub. L. 91–519, title II, § 202(c), 84 Stat. 1344; Nov. 18, 1971, Pub. L. 92–157, title III, § 301(f), 85 Stat. 464, defined ''training center for allied health professions''; ''full-time student''; ''nonprofit''; ''construction'' and ''cost of construction''; and ''affiliated hospital'', prior to the general amendment of this part by Pub. L. 94–484.

Section 295h–5, act July 1, 1944, ch. 373, title VII, § 796, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2307; amended Aug. 1, 1977, Pub. L. 95–83, title

III, § 307(*l*), (m), 91 Stat. 392; Nov. 4, 1988, Pub. L. 100–607, title VI, § 624, 102 Stat. 3143; Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(f) [(h)], 102 Stat. 4240, related to project grants and contracts with eligible entities to improve the effectiveness of allied health administration and practitioners. See section 294e of this title.

Another prior section 295h–5, act July 1, 1944, ch. 373, title VII, § 796, as added Nov. 3, 1966, Pub. L. 89–751, § 2, 80 Stat. 1230, provided for keeping of records and audits in relation to training in allied health professions, prior to the general amendment of this part by Pub. L. 94–484.

Section 295h–6, act July 1, 1944, ch. 373, title VII, § 797, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2308; amended Nov. 4, 1988, Pub. L. 100–607, title VI, § 625, 102 Stat. 3144, related to traineeships for advanced training of allied health personnel.

Another prior section 295h–6, act July 1, 1944, ch. 373, title VII, § 797, as added Aug. 16, 1968, Pub. L. 90–490, title III, § 301(c), 82 Stat. 788, authorized the use of up to one-half of one per centum of appropriated funds for evaluation of programs covered thereby, prior to repeal by Pub. L. 91–296, title IV, § 401(b)(1)(E), June 30, 1970, 84 Stat. 352, effective with respect to appropriations for fiscal years beginning after June 30, 1970.

Section 295h–7, act July 1, 1944, ch. 373, title VII, § 798, as added Oct. 12, 1976, Pub. L. 94–484, title VII, § 701(a), 90 Stat. 2309, related to educational assistance to disadvantaged individuals in allied health training.

Another prior section 295h–7, act July 1, 1944, ch. 373, title VII, § 798, as added Aug. 16, 1968, Pub. L. 90–490, title III, § 301(d), 82 Stat. 788; amended Nov. 2, 1970, Pub. L. 91–519, title II, § 205, 84 Stat. 1354, directed Secretary to conduct a study of the allied health programs, prior to the general amendment of this part by Pub. L. 94–484.

A prior section 295h–8, act July 1, 1944, ch. 373, title VII, § 799, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 206, 84 Stat. 1354; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 109, 85 Stat. 461, which related to advance funding, was renumbered section 703 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 292c of this title.

A prior section 295h–9, act July 1, 1944, ch. 373, title VII, § 799A, as added Nov. 2, 1970, Pub. L. 91–519, title II, § 207, 84 Stat. 1355, § 704; amended Nov. 18, 1971, Pub. L. 92–157, title I, § 110(2), 85 Stat. 461; July 12, 1974, Pub. L. 93–348, title I, § 105, 88 Stat. 347, which related to sexual discrimination, was renumbered section 704 of act July 1, 1944, by Pub. L. 94–484 and transferred to section 292d of this title.

A prior section 295i, act July 1, 1944, ch. 373, title VII, § 799, as added Apr. 7, 1986, Pub. L. 99–272, title XVII, § 17001, 100 Stat. 357; amended Oct. 25, 1988, Pub. L. 100–527, § 10(4), 102 Stat. 2641; Nov. 4, 1988, Pub. L. 100–607, title VI, §§ 627, 629(b)(1), 102 Stat. 3145, 3146; Aug. 16, 1989, Pub. L. 101–93, § 5(*o*)(3), 103 Stat. 614; Oct. 9, 1992, Pub. L. 102–405, title III, § 302(e)(1), 106 Stat. 1985, established a Council on Graduate Medical Education, prior to the general amendment of this subchapter by Pub. L. 102–408. See section 294*o* of this title.

PART F—GENERAL PROVISIONS

AMENDMENTS

1998—Pub. L. 105–392, title I, § 106(a)(2)(A), Nov. 13, 1998, 112 Stat. 3557, redesignated part G as F.

§ 295j. Preferences and required information in certain programs

(a) Preferences in making awards

(1) In general

Subject to paragraph (2), in making awards of grants or contracts under any of sections 293k and 294 of this title, the Secretary shall give preference to any qualified applicant that—

(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

(2) Limitation regarding peer review

For purposes of paragraph (1), the Secretary may not give an applicant preference if the proposal of the applicant is ranked at or below the 20th percentile of proposals that have been recommended for approval by peer review groups.

(b) "Graduate" defined

For purposes of this section, the term ''graduate'' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health profession selected by the individual.

(c) Exceptions for new programs

(1) In general

To permit new programs to compete equitably for funding under this section, those new programs that meet at least 4 of the criteria described in paragraph (3) shall qualify for a funding preference under this section.

(2) Definition

As used in this subsection, the term ''new program'' means any program that has graduated less than three classes. Upon graduating at least three classes, a program shall have the capability to provide the information necessary to qualify the program for the general funding preferences described in subsection (a) of this section.

(3) Criteria

The criteria referred to in paragraph (1) are the following:

(A) The mission statement of the program identifies a specific purpose of the program as being the preparation of health professionals to serve underserved populations.

(B) The curriculum of the program includes content which will help to prepare practitioners to serve underserved populations.

(C) Substantial clinical training experience is required under the program in medically underserved communities.

(D) A minimum of 20 percent of the clinical faculty of the program spend at least 50 percent of their time providing or supervising care in medically underserved communities.

(E) The entire program or a substantial portion of the program is physically located in a medically underserved community.

(F) Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program.

(G) The program provides a placement mechanism for deploying graduates to medically underserved communities.

(July 1, 1944, ch. 373, title VII, § 791, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2058; amended Pub. L. 102–531, title III, § 313(a)(5), Oct. 27, 1992, 106 Stat. 3507; Pub. L. 105–392, title I, §§ 106(a)(2)(B), 107, Nov. 13, 1998, 112 Stat. 3557, 3560.)

PRIOR PROVISIONS

A prior section 295j, act July 1, 1944, ch. 373, title VII, § 799A, as added Nov. 4, 1988, Pub. L. 100–607, title VI, § 637(a), 102 Stat. 3149; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2615(g)[(i)], 102 Stat. 4240; Aug. 16, 1989, Pub. L. 101–93, § 5(n), 103 Stat. 613, related to grants and contracts to provide health care in rural areas, prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 295j, act July 1, 1944, ch. 373, title VII, § 799A, as added Nov. 23, 1988, Pub. L. 100–713, title VII, § 714, 102 Stat. 4834, relating to grants and contracts to provide health care in rural areas, prior to repeal by Pub. L. 100–607, title VI, § 637(b), Nov. 4, 1988, 102 Stat. 3151. Subsequently, section 637(b) of Pub. L. 100–607 was repealed by Pub. L. 101–93, § 5(n)(1), Aug. 16, 1989, 103 Stat. 613, and section 5(n)(2) of Pub. L. 101–93 amended this subchapter to read as if the amendment made by section 714 of Pub. L. 100–713 had not been enacted.

A prior section 791 of act July 1, 1944, was classified to section 295h of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–392, § 107(b)(1), substituted "sections 293k and 294 of this title" for "sections 293k through 293*o* of this title, under section 294b of this title, or under section 294d or 294e of this title" in introductory provisions.

Subsec. (a)(2). Pub. L. 105–392, § 107(b)(2), struck out "under section 295*o*(a) of this title" before period at end.

Subsec. (b). Pub. L. 105–392, § 106(a)(2)(B), redesignated subsec. (c) as (b) and struck out former subsec. (b) which required submission of certain information by applicant.

Subsec. (c). Pub. L. 105–392, §§ 106(a)(2)(B)(ii), 107(a), added subsec. (c) and redesignated former subsec. (c) as (b).

1992—Subsec. (b). Pub. L. 102–531, in introductory provisions, inserted references to sections 294d and 294e of this title and substituted reference to section 295*o*(f)(2) of this title for reference to section 293p(a) of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–531 effective immediately after enactment of Pub. L. 102–408, see section 313(c) of Pub. L. 102–531, set out as a note under section 292y of this title.

REQUIRED ASSURANCES REGARDING BLOODBORNE DISEASES

Section 308 of Pub. L. 102–408 provided that: "With respect to awards of grants or contracts under title VII or VIII of the Public Health Service Act [this subchapter or subchapter VI of this chapter], the Secretary of Health and Human Services may make such an award for the provision of traineeships only if the applicant for the award provides assurances satisfactory to the Secretary that all trainees will, as appropriate, receive instruction in the utilization of universal precautions and infection control procedures for the prevention of the transmission of bloodborne diseases."

§ 295k. Health professions data

(a) In general

The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which program shall initially include data respecting all physicians and dentists in the States. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, chiropractors, clinical psychologists, professional counselors, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

(b) Certain authorities and requirements

(1) Sources of information

In carrying out subsection (a) of this section, the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

(2) Contracts for studies of health professions

The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location. Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.

(3) Grants and contracts regarding States

The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a) of this section. The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurance, satisfactory to the Secretary, that—

(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a)

of this section who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

(C) such State or entity shall comply with the requirements of subsection (e) of this section.

(d)[1] Reports to Congress

The Secretary shall submit to the Congress on October 1, 1993, and biennially thereafter, the following reports:

(1) A comprehensive report regarding the status of health personnel according to profession, including a report regarding the analytic and descriptive studies conducted under this section.

(2) A comprehensive report regarding applicants to, and students enrolled in, programs and institutions for the training of health personnel, including descriptions and analyses of student indebtedness, student need for financial assistance, financial resources to meet the needs of students, student career choices such as practice specialty and geographic location and the relationship, if any, between student indebtedness and career choices.

(e) Requirements regarding personal data

(1) In general

The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as ''personal data'') for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

(2) Consent as precondition to disclosure

Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3) Disclosure by Secretary

(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) "Program entity" defined

For purposes of this subsection, the term ''program entity'' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

(g)[2] Technical assistance

The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.

(h) Grants and contracts regarding nonprofit entities

(1) In general

In carrying out subsection (a) of this section, the Secretary may make grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any nonprofit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

(2) Reports

With respect to reports required in subsection (d) of this section, each such report made on or after October 1, 1991, shall include a description and analysis of data collected pursuant to paragraph (1).

(July 1, 1944, ch. 373, title VII, § 792, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2058; amended Pub. L. 105–392, title I, § 106(b), Nov. 13, 1998, 112 Stat. 3559.)

PRIOR PROVISIONS

A prior section 792 of act July 1, 1944, was classified to section 295h–1b of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

[1] So in original. No subsec. (c) has been enacted.

[2] So in original. No subsec. (f) has been enacted.

Another prior section 792 of act July 1, 1944, was classified to section 295h–1 of this title prior to repeal by Pub. L. 97–35.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392 inserted ''professional counselors,'' after ''clinical psychologists,''.

ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION

Section 301 of Pub. L. 102–408, as amended by Pub. L. 102–531, title III, § 313(b), Oct. 27, 1992, 106 Stat. 3507; Pub. L. 105–392, title I, § 104(b)(1)–(3), Nov. 13, 1998, 112 Stat. 3552, which was formerly set out as a note under this section, was renumbered section 762 of the Public Health Service Act by Pub. L. 105–392, title I, § 104(b)(4)–(6), Nov. 13, 1998, 112 Stat. 3553, and is classified to section 294*o* of this title.

COMMISSION ON ALLIED HEALTH

Section 302 of Pub. L. 102–408 provided for establishment of a National Commission on Allied Health, charged with (1) making recommendations to the Secretary of Health and Human Services and Congress with respect to nationwide supply and distribution of allied health personnel, current and future shortages of personnel, priority research needs within allied health professions, Federal policies relating to personnel and research as well as undergraduate and graduate financing, concerted efforts on part of allied health facilities and educational institutions to address such matters, and needs with respect to nationwide data bases concerning supply and distribution of allied health personnel, and (2) encouraging entities providing allied health education to voluntarily achieve recommendations of Commission, and further provided for composition of Commission, date certain for appointments to Commission, resources for Commission activities, an interim progress report due not later than Oct. 1, 1993, a final report due not later than Apr. 1, 1994, and termination of Commission 60 days after submission of final report.

STUDY REGARDING SHORTAGE OF CLINICAL LABORATORY TECHNOLOGISTS FOR MEDICALLY UNDERSERVED AND RURAL COMMUNITIES

Section 303 of Pub. L. 102–408 directed Secretary of Health and Human Services, with respect to the shortage of clinical laboratory technologists, to conduct a study for the purpose of determining whether there are special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities, and assessing alternative routes for certification of the competence of individuals to serve as such technologists, with consideration of the role of entities providing such certifications, and, not later than Oct. 1, 1993, complete the study and submit to Committee on Energy and Commerce of House of Representatives, and to Committee on Labor and Human Resources of Senate, a report describing the findings made as result of the study.

NATIONAL ADVISORY COUNCIL ON MEDICAL LICENSURE

Section 307 of Pub. L. 102–408 directed Secretary of Health and Human Services to establish National Advisory Council on Medical Licensure to advise Secretary on American Medical Association's system of verifying and maintaining information regarding qualifications of individuals to practice medicine, as well as advice regarding establishment and operation of any similar system, provided for activities of Council, including review of private credentials verification system and recommendations on how it could be improved, as well as review of State procedures for licensing individuals licensed in other States and procedures for licensing international medical graduates, provided for composition of Council and appointment of members, required submission of an interim report to Congress not later than Sept. 30, 1993, and a final report with recommendations not later than Sept. 30, 1995, provided for termination of Council not later than Sept. 30, 1995, or upon submission of final report, whichever is earlier, and further directed Secretary, in cooperation with Council to submit to Congress, not later than Sept. 30, 1994, study of not less than 10 States for purposes of determining average time required for States to process licensure applications of domestic and international medical graduates as well as percentages of domestic and international licensure applications approved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294n, 294*o* of this title.

§ 295*l*. Repealed. Pub. L. 105–392, title I, § 106(a)(2)(C), Nov. 13, 1998, 112 Stat. 3557

Section, act July 1, 1944, ch. 373, title VII, § 793, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2061; amended Pub. L. 102–531, title III, § 313(a)(6), Oct. 27, 1992, 106 Stat. 3507, required development, publication, dissemination, and biennial report to Congress on statistics respecting public and community health personnel.

A prior section 793 of act July 1, 1944, was classified to section 295h–1c of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 793 of act July 1, 1944, was renumbered section 794 by Pub. L. 97–35 and classified to section 295h–2 of this title.

§ 295m. Prohibition against discrimination on basis of sex

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, or public health or any training center for allied health personnel, or graduate program in clinical psychology, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any such school or training center unless the school, training center, or graduate program furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

(1) on October 13, 1992, is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979.

(July 1, 1944, ch. 373, title VII, § 794, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2063.)

PRIOR PROVISIONS

A prior section 794 of act July 1, 1944, was classified to section 295h–2 of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 794 of act July 1, 1944, was classified to section 294h–3 of this title prior to repeal by Pub. L. 91–519.

§ 295n. Repealed. Pub. L. 105–392, title I, § 101(b)(1), Nov. 13, 1998, 112 Stat. 3537

Section, act July 1, 1944, ch. 373, title VII, § 795, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2063; amended Pub. L. 102–531, title III, § 313(a)(7), Oct. 27, 1992, 106 Stat. 3507, related to obligated service regarding certain programs.

A prior section 795 of act July 1, 1944, was classified to section 295h–4 of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 795 of act July 1, 1944, was classified to section 295h–4 of this title prior to the general amendment of part G of this subchapter by Pub. L. 94–484.

SAVINGS PROVISION

Pub. L. 105–392, title I, § 101(b)(2), Nov. 13, 1998, 112 Stat. 3537, provided that: "The amendments made by this section [enacting sections 293 to 293d of this title, amending section 287a–2 of this title, and repealing this section and former sections 293 to 293d of this title] shall not be construed to terminate agreements that, on the day before the date of enactment of this Act [Nov. 13, 1998], are in effect pursuant to section 795 of the Public Health Service Act (42 U.S.C. 795 [295n]) as such section existed on such date. Such agreements shall continue in effect in accordance with the terms of the agreements. With respect to compliance with such agreements, any period of practice as a provider of primary health services shall be counted towards the satisfaction of the requirement of practice pursuant to such section 795."

§ 295n–1. Application

(a) In general

To be eligible to receive a grant or contract under this subchapter, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

(b) Plan

An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this subchapter. Such plan shall be consistent with relevant Federal, State, or regional health professions program plans.

(c) Performance outcome standards

An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant health workforce needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

(d) Linkages

An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish. To the extent practicable, grantees under this section shall establish linkages with health care providers who provide care for underserved communities and populations.

(July 1, 1944, ch. 373, title VII, § 796, as added Pub. L. 105–392, title I, § 106(a)(2)(F), Nov. 13, 1998, 112 Stat. 3557.)

§ 295n–2. Use of funds

(a) In general

Amounts provided under a grant or contract awarded under this subchapter may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, dissemination of information, and exploring new policy directions, as appropriate to meet recognized health workforce objectives, in accordance with this subchapter.

(b) Maintenance of effort

With respect to activities for which a grant awarded under this subchapter is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

(July 1, 1944, ch. 373, title VII, § 797, as added Pub. L. 105–392, title I, § 106(a)(2)(F), Nov. 13, 1998, 112 Stat. 3557.)

§ 295*o*. Matching requirement

The Secretary may require that an entity that applies for a grant or contract under this subchapter provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. As determined by the Secretary, such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

(July 1, 1944, ch. 373, title VII, § 798, as added Pub. L. 105–392, title I, § 106(a)(2)(F), Nov. 13, 1998, 112 Stat. 3558.)

PRIOR PROVISIONS

A prior section 295*o*, act July 1, 1944, ch. 373, title VII, § 798, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2064; amended Pub. L. 102–531, title III, § 313(a)(8), Oct. 27, 1992, 106 Stat. 3507, set forth certain general provisions relating to this subchapter, prior to repeal by Pub. L. 105–392, title I, § 106(a)(2)(D), Nov. 13, 1998, 112 Stat. 3557.

A prior section 798 of act July 1, 1944, was classified to section 295h–7 of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

Another prior section 798 of act July 1, 1944, was classified to section 295h–7 of this title prior to the general amendment of part G of this subchapter by Pub. L. 94–484.

§ 295*o*–1. Generally applicable provisions

(a) Awarding of grants and contracts

The Secretary shall ensure that grants and contracts under this subchapter are awarded on

a competitive basis, as appropriate, to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet health workforce goals and in accordance with this subchapter. Contracts may be entered into under this subchapter with public or private entities as may be necessary.

(b) Eligible entities

Unless specifically required otherwise in this subchapter, the Secretary shall accept applications for grants or contracts under this subchapter from health professions schools, academic health centers, State or local governments, or other appropriate public or private nonprofit entities for funding and participation in health professions and nursing training activities. The Secretary may accept applications from for-profit private entities if determined appropriate by the Secretary.

(c) Information requirements

(1) In general

Recipients of grants and contracts under this subchapter shall meet information requirements as specified by the Secretary.

(2) Data collection

The Secretary shall establish procedures to ensure that, with respect to any data collection required under this subchapter, such data is collected in a manner that takes into account age, sex, race, and ethnicity.

(3) Use of funds

The Secretary shall establish procedures to permit the use of amounts appropriated under this subchapter to be used for data collection purposes.

(4) Evaluations

The Secretary shall establish procedures to ensure the annual evaluation of programs and projects operated by recipients of grants or contracts under this subchapter. Such procedures shall ensure that continued funding for such programs and projects will be conditioned upon a demonstration that satisfactory progress has been made by the program or project in meeting the objectives of the program or project.

(d) Training programs

Training programs conducted with amounts received under this subchapter shall meet applicable accreditation and quality standards.

(e) Duration of assistance

(1) In general

Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this subchapter, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

(2) Limitation

In the case of an award to an entity of a grant, cooperative agreement, or contract under this subchapter, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this subchapter that relates to the period during which payments may be made under the award.

(f) Peer review regarding certain programs

(1) In general

Each application for a grant under this subchapter, except any scholarship or loan program, including those under sections[1] 292, 292q, or 292s of this title, shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

(2) Composition

Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. In providing for the establishment of peer review groups and procedures, the Secretary shall ensure sex, racial, ethnic, and geographic balance among the membership of such groups.

(3) Administration

This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

(g) Preference or priority considerations

In considering a preference or priority for funding which is based on outcome measures for an eligible entity under this subchapter, the Secretary may also consider the future ability of the eligible entity to meet the outcome preference or priority through improvements in the eligible entity's program design.

(h) Analytic activities

The Secretary shall ensure that—

(1) cross-cutting workforce analytical activities are carried out as part of the workforce information and analysis activities under section 294n of this title; and

(2) discipline-specific workforce information and analytical activities are carried out as part of—

(A) the community-based linkage program under part D of this subchapter; and

(B) the health workforce development program under subpart 2 of part E of this subchapter.

(i) Osteopathic Schools

For purposes of this subchapter, any reference to—

(1) medical schools shall include osteopathic medical schools; and

(2) medical students shall include osteopathic medical students.

(July 1, 1944, ch. 373, title VII, § 799, as added Pub. L. 105–392, title I, § 106(a)(2)(F), Nov. 13, 1998, 112 Stat. 3558.)

PRIOR PROVISIONS

A prior section 799 of act July 1, 1944, was renumbered section 799B by Pub. L. 105–392 and classified to section 295p of this title.

[1] So in original. Probably should be "section".

Another prior section 799 of act July 1, 1944, was classified to section 295i of this title prior to the general amendment of this subchapter by Pub. L. 102–408.

§ 295*o*–2. Technical assistance

Funds appropriated under this subchapter may be used by the Secretary to provide technical assistance in relation to any of the authorities under this subchapter.

(July 1, 1944, ch. 373, title VII, § 799A, as added Pub. L. 105–392, title I, § 106(a)(2)(F), Nov. 13, 1998, 112 Stat. 3559.)

§ 295p. Definitions

For purposes of this subchapter:

(1)(A) The terms ''school of medicine'', ''school of dentistry'', ''school of osteopathic medicine'', ''school of pharmacy'', ''school of optometry'', ''school of podiatric medicine'', ''school of veterinary medicine'', ''school of public health'', and ''school of chiropractic'' mean an accredited public or nonprofit private school in a State that provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree or a degree of doctor of pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a graduate degree in public health or an equivalent degree, and a degree of doctor of chiropractic or an equivalent degree, and including advanced training related to such training provided by any such school.

(B) The terms ''graduate program in health administration'' and ''graduate program in clinical psychology'' mean an accredited graduate program in a public or nonprofit private institution in a State that provides training leading, respectively, to a graduate degree in health administration or an equivalent degree and a doctoral degree in clinical psychology or an equivalent degree.

(C) The terms ''graduate program in clinical social work'' and ''graduate program in marriage and family therapy'' and ''graduate program in professional counseling'' mean an accredited graduate program in a public or nonprofit private institution in a State that provides training, respectively, in a concentration in health or mental health care leading to a graduate degree in social work and a concentration leading to a graduate degree in marriage and family therapy and a concentration leading to a graduate degree in counseling.

(D) The term ''graduate program in behavioral health and mental health practice'' means a graduate program in clinical psychology, behavioral health and mental health practice, clinical social work, professional counseling, or marriage and family therapy.

(E) The term ''accredited'', when applied to a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, or chiropractic, or a graduate program in health administration, clinical psychology, clinical social work, professional counseling, or marriage and family therapy, means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this subchapter, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this subchapter, if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school or program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program.

(2) The term ''teaching facilities'' means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities but does not include off-site improvements or living quarters.

(3) The term ''program for the training of physician assistants'' means an educational program that—

(A) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide primary care under the supervision of a physician;

(B) extends for at least one academic year and consists of—

(i) supervised clinical practice; and

(ii) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care;

(C) has an enrollment of not less than eight students; and

(D) trains students in primary care, disease prevention, health promotion, geriatric medicine, and home health care.

(4) The term ''school of allied health'' means a public or nonprofit private college, junior college, or university or hospital-based educational entity that—

(A) provides, or can provide, programs of education to enable individuals to become allied health professionals or to provide additional training for allied health professionals;

(B) provides training for not less than a total of twenty persons in the allied health curricula (except that this subparagraph shall not apply to any hospital-based educational entity);

(C) includes or is affiliated with a teaching hospital; and

(D) is accredited by a recognized body or bodies approved for such purposes by the

Secretary of Education, or which provides to the Secretary satisfactory assurance by such accrediting body or bodies that reasonable progress is being made toward accreditation.

(5) The term ''allied health professionals'' means a health professional (other than a registered nurse or physician assistant)—

(A) who has received a certificate, an associate's degree, a bachelor's degree, a master's degree, a doctoral degree, or postbaccalaureate training, in a science relating to health care;

(B) who shares in the responsibility for the delivery of health care services or related services, including—

(i) services relating to the identification, evaluation, and prevention of disease and disorders;

(ii) dietary and nutrition services;

(iii) health promotion services;

(iv) rehabilitation services; or

(v) health systems management services; and

(C) who has not received a degree of doctor of medicine, a degree of doctor of osteopathy, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of pharmacy or an equivalent degree, a graduate degree in public health or an equivalent degree, a degree of doctor of chiropractic or an equivalent degree, a graduate degree in health administration or an equivalent degree, a doctoral degree in clinical psychology or an equivalent degree, or a degree in social work or an equivalent degree or a degree in counseling or an equivalent degree.

(6) The term ''medically underserved community'' means an urban or rural area or population that—

(A) is eligible for designation under section 254e of this title as a health professional shortage area;

(B) is eligible to be served by a migrant health center under section 254b[1] of this title, a community health center under section 254c[1] of this title, a grantee under section 256[1] of this title (relating to homeless individuals), or a grantee under section 256a[1] of this title (relating to residents of public housing);

(C) has a shortage of personal health services, as determined under criteria issued by the Secretary under section 1395x(aa)(2) of this title (relating to rural health clinics); or

(D) is designated by a State Governor (in consultation with the medical community) as a shortage area or medically underserved community.

(7) The term ''Department'' means the Department of Health and Human Services.

(8) The term ''nonprofit'' refers to the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) The term ''State'' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(10)(A) Subject to subparagraph (B), the term ''underrepresented minorities'' means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved.

(B) For purposes of subparagraph (A), Asian individuals shall be considered by the various subpopulations of such individuals.

(11) The term ''psychologist'' means an individual who—

(A) holds a doctoral degree in psychology; and

(B) is licensed or certified on the basis of the doctoral degree in psychology, by the State in which the individual practices, at the independent practice level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals.

(July 1, 1944, ch. 373, title VII, § 799B, formerly § 799, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2066; renumbered § 799B and amended Pub. L. 105–392, title I, §§ 106(a)(2)(E), 108, Nov. 13, 1998, 112 Stat. 3557, 3560.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in par. (6)(B), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Sections 256 and 256a of this title, referred to in par. (6)(B), were repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

AMENDMENTS

1998—Par. (1)(C). Pub. L. 105–392, § 108(b)(1)(A), inserted ''and 'graduate program in professional counseling' '' before ''mean an'' and ''and a concentration leading to a graduate degree in counseling'' before period at end.

Par. (1)(D). Pub. L. 105–392, § 108(a), (b)(1)(B), inserted ''behavioral health and'' before ''mental'', ''behavioral health and mental health practice,'' before ''clinical'', and ''professional counseling,'' after ''social work,''.

Par. (1)(E). Pub. L. 105–392, § 108(b)(1)(C), inserted ''professional counseling,'' after ''social work,''.

Par. (3). Pub. L. 105–392, § 108(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The term 'program for the training of physician assistants' means an educational program that—

''(A) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide primary health care under the supervision of a physician; and

[1] See References in Text notes below.

''(B) meets regulations prescribed by the Secretary in accordance with section 293n(b) of this title.''

Par. (5)(C). Pub. L. 105–392, § 108(b)(2), inserted ''or a degree in counseling or an equivalent degree'' before period at end.

Par. (6)(D). Pub. L. 105–392, § 108(c), added subpar. (D).

Par. (11). Pub. L. 105–392, § 108(e), added par. (11).

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 292*o*, 293, 293k, 293n, 294c of this title.

SUBCHAPTER VI—NURSING WORKFORCE DEVELOPMENT

AMENDMENTS

1998—Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562, added subchapter VI heading and struck out former subchapter VI heading ''NURSE EDUCATION''.

1985—Pub. L. 99–92, § 9(b)(3), Aug. 16, 1985, 99 Stat. 400, substituted ''NURSE EDUCATION'' for ''NURSE TRAINING'' in subchapter VI heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 235, 300*l*–2, 12604 of this title; title 8 section 1613; title 38 section 8201.

PART A—GENERAL PROVISIONS

AMENDMENTS

1998—Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3563, added part A heading and struck out former part A heading ''Special Projects''.

1985—Pub. L. 99–92, § 9(b)(1), (2), Aug. 16, 1985, 99 Stat. 400, substituted ''Special Projects'' for ''Assistance for Expansion and Improvement of Nurse Training'' as part A heading, and struck out headings for subparts I, II, III, and IV of part A which read as follows: ''Subpart I—Construction Assistance'', ''Subpart II—Capitation Grants'', ''Subpart III—Financial Distress Grants'', and ''Subpart IV—Special Projects''.

§ 296. Definitions

As used in this subchapter:

(1) Eligible entities

The term ''eligible entities'' means schools of nursing, nursing centers, academic health centers, State or local governments, and other public or private nonprofit entities determined appropriate by the Secretary that submit to the Secretary an application in accordance with section 296a of this title.

(2) School of nursing

The term ''school of nursing'' means a collegiate, associate degree, or diploma school of nursing in a State.

(3) Collegiate school of nursing

The term ''collegiate school of nursing'' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, or to an equivalent degree, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

(4) Associate degree school of nursing

The term ''associate degree school of nursing'' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

(5) Diploma school of nursing

The term ''diploma school of nursing'' means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

(6) Accredited

(A) In general

Except as provided in subparagraph (B), the term ''accredited'' when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

(B) New programs

A new program of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this subchapter, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this subchapter if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program will meet the accreditation standards

of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such a program.

(7) Nonprofit

The term ''nonprofit'' as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(8) State

The term ''State'' means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(July 1, 1944, ch. 373, title VIII, § 801, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3562.)

PRIOR PROVISIONS

A prior section 296, act July 1, 1944, ch. 373, title VIII, § 801 as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 908; amended Nov. 3, 1966, Pub. L. 89–751, § 8(a), 80 Stat. 1236; Aug. 16, 1968, Pub. L. 90–490, title II, § 201(a), 82 Stat. 780; Nov. 18, 1971, Pub. L. 92–158, § 2(a), 85 Stat. 465; July 29, 1975, Pub. L. 94–63, title IX, §§ 902(a), 910(a)(1), 89 Stat. 354, 355; Sept. 29, 1979, Pub. L. 96–76, title I, § 102, 93 Stat. 579, authorized appropriations for construction grants, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

SAVINGS PROVISION

Pub. L. 105–392, title I, § 124, Nov. 13, 1998, 112 Stat. 3574, provided that: ''In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by section 123 [enacting sections 296, 296a to 296f, 296j, 296m, 296p, 297q, and 297t of this title, transferring section 298b–2 of this title to section 296g of this title, and repealing sections 296k to 296m, 296r, 297, 297–1, 297c, 298, 298a, 298b, 298b–1, 298b–3 to 298b–5, and 298b–7 of this title], the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act [Nov. 13, 1998], subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.''

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.

PURPOSE

Pub. L. 105–392, title I, § 122, Nov. 13, 1998, 112 Stat. 3562, provided that: ''It is the purpose of this subtitle [subtitle B (§§ 121–124) of title I of Pub. L. 105–392, see Short Title of 1998 Amendment note set out under section 201 of this title] to restructure the nurse education authorities of title VIII of the Public Health Service Act [this subchapter] to permit a comprehensive, flexible, and effective approach to Federal support for nursing workforce development.''

INFORMATION RESPECTING SUPPLY AND DISTRIBUTION OF AND REQUIREMENTS FOR NURSES; DETERMINATION PROCEDURES; SURVEYS AND COLLECTION OF DATES; ANNUAL REPORT TO CONGRESS ON DETERMINATIONS, ETC.; REVIEW BY OFFICE OF MANAGEMENT AND BUDGET OF REPORT PRIOR TO SUBMISSION

Section 951 of Pub. L. 94–63, as amended by Pub. L. 95–623, § 12(h), Nov. 9, 1978, 92 Stat. 3457, provided that:

''(a)(1) Using procedures developed in accordance with paragraph (3), the Secretary of Health, Education, and Welfare [now Health and Human Services] (hereinafter in this section referred to as the 'Secretary') shall determine on a continuing basis—

''(A) the supply (both current and projected and within the United States and within each State) of registered nurses, licensed practical and vocational nurses, nurse's aides, registered nurses with advanced training or graduate degrees, and nurse practitioners;

''(B) the distribution within the United States and within each State, of such nurses so as to determine (i) those areas of the United States which are oversupplied or undersupplied, or which have an adequate supply of such nurses in relation to the population of the area, and (ii) the demand for the services which such nurses provide; and

''(C) the current and future requirements for such nurses, nationally and within each State.

''(2) The Secretary shall survey and gather data, on a continuing basis, on—

''(A) the number and distribution of nurses, by type of employment and location of practice;

''(B) the number of nurses who are practicing full time and those who are employed part time, within the United States and within each State;

''(C) the average rates of compensation for nurses, by type of practice and location of practice;

''(D) the activity status of the total number of registered nurses within the United States and within each State;

''(E) the number of nurses with advanced training or graduate degrees in nursing, by specialty, including nurse practitioners, nurse clinicians, nurse researchers, nurse educators, and nurse supervisors and administrators; and

''(F) the number of registered nurses entering the United States annually from other nations, by country of nurse training and by immigrant status.

''(3) Within six months of the date of the enactment of this Act [July 29, 1975], the Secretary shall develop procedures for determining (on both a current and projected basis) the supply and distribution of and requirements for nurses within the United States and within each State.

''(b) Not later than October 1, 1979, and October 1 of each odd-numbered year thereafter, the Secretary shall report to the Congress—

''(1) his determinations under subsection (a)(1) and the data gathered under subsection (a)(2);

''(2) an analysis of such determination and data; and

''(3) recommendations for such legislation as the Secretary determines, based on such determinations and data, will achieve (A) an equitable distribution of nurses within the United States and within each State, and (B) adequate supplies of nurses within the United States and within each State.

''(c) The Office of Management and Budget may review the Secretary's report under subsection (b) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293b of this title.

§ 296a. Application

(a) In general

To be eligible to receive a grant or contract under this subchapter, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

(b) Plan

An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this subchapter. Such plan shall be consistent with relevant Federal, State, or regional program plans.

(c) Performance outcome standards

An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant national nursing needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

(d) Linkages

An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish.

(July 1, 1944, ch. 373, title VIII, § 802, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3564.)

PRIOR PROVISIONS

A prior section 296a, act July 1, 1944, ch. 373, title VIII, § 802, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 909; amended Aug. 16, 1968, Pub. L. 90–490, title II, § 201(b), 82 Stat. 780; Nov. 18, 1971, Pub. L. 92–158, §§ 2(d)(3), (e), (f), 13, 85 Stat. 468, 480; July 29, 1975, Pub. L. 94–63, title IX, §§ 910(a)(2), 941(a), 89 Stat. 355, 363, related to time of submission, determinations, etc., respecting applications for construction grants, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296 of this title.

§ 296b. Use of funds

(a) In general

Amounts provided under a grant or contract awarded under this subchapter may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, and dissemination of information, as appropriate to meet recognized nursing objectives, in accordance with this subchapter.

(b) Maintenance of effort

With respect to activities for which a grant awarded under this subchapter is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

(July 1, 1944, ch. 373, title VIII, § 803, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3564.)

PRIOR PROVISIONS

A prior section 296b, act July 1, 1944, ch. 373, title VIII, § 803, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 911; amended Aug. 16, 1968, Pub. L. 90–490, title II, § 202, 82 Stat. 780; Nov. 18, 1971, Pub. L. 92–158, §§ 2(b), 13, 85 Stat. 465, 480; July 29, 1975, Pub. L. 94–63, title IX, § 941(b), 89 Stat. 364, set forth provisions relating to amount of construction grant, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

§ 296c. Matching requirement

The Secretary may require that an entity that applies for a grant or contract under this subchapter provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

(July 1, 1944, ch. 373, title VIII, § 804, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3565.)

PRIOR PROVISIONS

A prior section 296c, act July 1, 1944, ch. 373, title VIII, § 804, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 911; amended Nov. 18, 1971, Pub. L. 92–158, §§ 2(d)(3), 13, 85 Stat. 468, 480; July 29, 1975, Pub. L. 94–63, title IX, § 941(c), 89 Stat. 364, which related to recovery of payments of funds by United States for construction of facilities, was renumbered section 858 of act July 1, 1944, by Pub. L. 99–92 and transferred to section 298b–5 of this title.

§ 296d. Preference

In awarding grants or contracts under this subchapter, the Secretary shall give preference to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

(July 1, 1944, ch. 373, title VIII, § 805, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3565.)

PRIOR PROVISIONS

A prior section 296d, act July 1, 1944, ch. 373, title VIII, § 805, formerly § 809, as added Nov. 18, 1971, Pub. L. 92–158, § 2(c), 85 Stat. 465; renumbered § 805 and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 902(d), 910(b)(1)(A), (B)(i), (2), (c), 911(b), 941(d), 89 Stat. 355, 356, 364; Sept. 29, 1979, Pub. L. 96–76, title I, § 103, 93 Stat. 579, related to applications, amounts, etc., for loan guarantees and interest subsidies for construction of training facilities by nonprofit nursing schools, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

Another prior section 296d, act July 1, 1944, ch. 373, title VIII, § 805, as added Sept. 4, 1964, Pub. L. 88–581, § 2,

78 Stat. 912; amended Aug. 16, 1968, Pub. L. 90–490, title II, §§211, 215, 82 Stat. 780, 783; Nov. 18, 1971, Pub. L. 92–158, §3(b), 85 Stat. 469, relating to special project grants and contracts for nurse training programs, was repealed by Pub. L. 94–63, title IX, §922, July 29, 1975, 89 Stat. 359, eff. July 1, 1975.

§ 296e. Generally applicable provisions

(a) Awarding of grants and contracts

The Secretary shall ensure that grants and contracts under this subchapter are awarded on a competitive basis, as appropriate, to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet national nursing service goals and in accordance with this subchapter. Contracts may be entered into under this subchapter with public or private entities as determined necessary by the Secretary.

(b) Information requirements

(1) In general

Recipients of grants and contracts under this subchapter shall meet information requirements as specified by the Secretary.

(2) Evaluations

The Secretary shall establish procedures to ensure the annual evaluation of programs and projects operated by recipients of grants under this subchapter. Such procedures shall ensure that continued funding for such programs and projects will be conditioned upon a demonstration that satisfactory progress has been made by the program or project in meeting the objectives of the program or project.

(c) Training programs

Training programs conducted with amounts received under this subchapter shall meet applicable accreditation and quality standards.

(d) Duration of assistance

(1) In general

Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this subchapter, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

(2) Limitation

In the case of an award to an entity of a grant, cooperative agreement, or contract under this subchapter, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this subchapter that relates to the period during which payments may be made under the award.

(e) Peer review regarding certain programs

(1) In general

Each application for a grant under this subchapter, except advanced nurse traineeship grants under section 296j(a)(2) of this title, shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

(2) Composition

Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. In providing for the establishment of peer review groups and procedures, the Secretary shall, except as otherwise provided, ensure sex, racial, ethnic, and geographic representation among the membership of such groups.

(3) Administration

This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

(f) Analytic activities

The Secretary shall ensure that—

(1) cross-cutting workforce analytical activities are carried out as part of the workforce information and analysis activities under this subchapter; and

(2) discipline-specific workforce information is developed and analytical activities are carried out as part of—

(A) the advanced education nursing activities under part B of this subchapter;

(B) the workforce diversity activities under part C of this subchapter; and

(C) basic nursing education and practice activities under part D of this subchapter.

(g) State and regional priorities

Activities under grants or contracts under this subchapter shall, to the extent practicable, be consistent with related Federal, State, or regional nursing professions program plans and priorities.

(h) Filing of applications

(1) In general

Applications for grants or contracts under this subchapter may be submitted by health professions schools, schools of nursing, academic health centers, State or local governments, or other appropriate public or private nonprofit entities as determined appropriate by the Secretary in accordance with this subchapter.

(2) For-profit entities

Notwithstanding paragraph (1), a for-profit entity may be eligible for a grant or contract under this subchapter as determined appropriate by the Secretary.

(July 1, 1944, ch. 373, title VIII, §806, as added Pub. L. 105–392, title I, §123(4), Nov. 13, 1998, 112 Stat. 3565.)

PRIOR PROVISIONS

A prior section 296e, act July 1, 1944, ch. 373, title VIII, §810, formerly §806, as added Sept. 4, 1964, Pub. L. 88–581, §2, 78 Stat. 912; amended Dec. 5, 1967, Pub. L. 90–174, §12(a), 81 Stat. 541; Aug. 16, 1968, Pub. L. 90–490, title II, §211, 82 Stat. 781; Nov. 18, 1971, Pub. L. 92–158,

§ 4(a), 85 Stat. 470; renumbered § 810 and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 902(b), 915(a)–(c), 916(a), (b), 941(e), 89 Stat. 354, 356, 358, 365; Aug. 1, 1977, Pub. L. 95–83, title III, § 307(*o*)(1)–(4), 91 Stat. 393; Sept. 29, 1979, Pub. L. 96–76, title I, § 104, 93 Stat. 579, set forth provisions relating to computation, requirements, etc., respecting grants for institutional support, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

§ 296f. Technical assistance

Funds appropriated under this subchapter may be used by the Secretary to provide technical assistance in relation to any of the authorities under this subchapter.

(July 1, 1944, ch. 373, title VIII, § 807, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3566.)

PRIOR PROVISIONS

A prior section 296f, act July 1, 1944, ch. 373, title VIII, § 811, formerly § 807, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 212, 82 Stat. 782; amended Nov. 18, 1971, Pub. L. 92–158, § 4(c), 85 Stat. 475; renumbered § 811 and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(f), 89 Stat. 365, related to filing dates, etc., for applications for grants, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

§ 296g. Prohibition against discrimination by schools on basis of sex

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of nursing unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any school unless the school furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs.

(July 1, 1944, ch. 373, title VIII, § 810, formerly § 845, as added Pub. L. 92–158, § 11, Nov. 18, 1971, 85 Stat. 479; renumbered § 855, Pub. L. 94–63, title IX, § 941(k)(1), July 29, 1975, 89 Stat. 366; renumbered § 810, Pub. L. 105–392, title I, § 123(6), Nov. 13, 1998, 112 Stat. 3574.)

CODIFICATION

Section was formerly classified to section 298b–2 of this title prior to renumbering by Pub. L. 105–392.

Amendment by Pub. L. 105–392, which directed the renumbering of section 855 of act July 1, 1944, as section 810 of that act, and the transfer of that section so as to appear after section 809 of that act, was executed by transferring the renumbered section so as to appear after section 807 of act July 1, 1944, to reflect the probable intent of Congress. No section 809 was enacted.

PRIOR PROVISIONS

A prior section 296g, act July 1, 1944, ch. 373, title VIII, § 808, as added Aug. 16, 1968, Pub. L. 90–490, title II § 212, 82 Stat. 783; amended Nov. 18, 1971, Pub. L. 92–158, § 3(a), 85 Stat. 469; July 29, 1975, Pub. L. 94–63, title IX, § 902(c), 89 Stat. 354, authorized appropriations for special project grants and contracts and financial distress grants from the fiscal year ending June 30, 1972 through the fiscal year ending June 30, 1975, prior to repeal by Pub. L. 94–63, title IX, §§ 905, 922, July 29, 1975, 89 Stat. 355, 359, effective July 1, 1975.

A prior section 296h, act July 1, 1944, ch. 373, title VIII, § 809, as added Nov. 18, 1971, Pub. L. 92–158, § 2(c), 85 Stat. 465, which related to loan guarantees and interest subsidies for construction of training facilities by nonprofit nursing schools, was renumbered section 805 of act July 1, 1944, by Pub. L. 94–63 and transferred to section 296d of this title.

A prior section 296i, act July 1, 1944, ch. 373, title VIII, § 810, as added Nov. 18, 1971, Pub. L. 92–158, § 4(b), 85 Stat. 474; amended July 29, 1975, Pub. L. 94–63, title IX, § 902(e), 89 Stat. 355, authorized grants for start-up programs for new nurse training programs, and set out prerequisites, etc., prior to repeal by Pub. L. 94–63, title IX, §§ 905, 931(b), July 29, 1975, 89 Stat. 355, 362, effective July 1, 1975.

PART B—NURSE PRACTITIONERS, NURSE MIDWIVES, NURSE ANESTHETISTS, AND OTHER ADVANCED EDUCATION NURSES

PRIOR PROVISIONS

A prior part B related to assistance to nursing students and consisted of sections 297 to 297n, prior to the general amendment of this subchapter by Pub. L. 105–392.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 296e, 297q of this title.

§ 296j. Advanced education nursing grants

(a) In general

The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of—

(1) projects that support the enhancement of advanced nursing education and practice; and

(2) traineeships for individuals in advanced nursing education programs.

(b) Definition of advanced education nurses

For purposes of this section, the term ''advanced education nurses'' means individuals trained in advanced degree programs including individuals in combined R.N./Master's degree programs, post-nursing master's certificate programs, or, in the case of nurse midwives, in certificate programs in existence on the date that is one day prior to November 13, 1998, to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators, or public health nurses, or in other nurse specialties determined by the Secretary to require advanced education.

(c) Authorized nurse practitioner and nurse midwifery programs

Nurse practitioner and nurse midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

(1) meet guidelines prescribed by the Secretary; and

(2) have as their objective the education of nurses who will upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, acute care, and other health care settings.

(d) Authorized nurse anesthesia programs

Nurse anesthesia programs eligible for support under this section are education programs that—

(1) provide registered nurses with full-time anesthetist education; and

(2) are accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs.

(e) Other authorized educational programs

The Secretary shall prescribe guidelines as appropriate for other advanced nurse education programs eligible for support under this section.

(f) Traineeships

(1) In general

The Secretary may not award a grant to an applicant under subsection (a) of this section unless the applicant involved agrees that traineeships provided with the grant will only pay all or part of the costs of—

(A) the tuition, books, and fees of the program of advanced nurse education with respect to which the traineeship is provided; and

(B) the reasonable living expenses of the individual during the period for which the traineeship is provided.

(2) Doctoral programs

The Secretary may not obligate more than 10 percent of the traineeships under subsection (a) of this section for individuals in doctorate degree programs.

(3) Special consideration

In making awards of grants and contracts under subsection (a)(2) of this section, the Secretary shall give special consideration to an eligible entity that agrees to expend the award to train advanced education nurses who will practice in health professional shortage areas designated under section 254e of this title.

(July 1, 1944, ch. 373, title VIII, § 811, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3566.)

PRIOR PROVISIONS

A prior section 296j, act July 1, 1944, ch. 373, title VIII, § 815, as added July 29, 1975, Pub. L. 94–63, title IX, § 921, 89 Stat. 358; amended Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2752, 95 Stat. 929, set forth provisions relating to authorization, terms and conditions, etc., respecting grants for operational costs or meeting accreditation requirements, prior to repeal by Pub. L. 99–92, §§ 9(a)(1), 10(a), Aug. 16, 1985, 99 Stat. 400, 402, effective Oct. 1, 1985.

Prior sections 296k and 296*l* were repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

Section 296k, act July 1, 1944, ch. 373, title VIII, § 820, as added Pub. L. 94–63, title IX, § 931(a), July 29, 1975, 89 Stat. 359; amended Pub. L. 96–76, title I, § 105, Sept. 29, 1979, 93 Stat. 579; Pub. L. 97–35, title XXVII, § 2753(a)(1), (b), Aug. 13, 1981, 95 Stat. 929; Pub. L. 99–92, § 3, Aug. 16, 1985, 99 Stat. 393; Pub. L. 99–129, title II, § 227(a), Oct. 22, 1985, 99 Stat. 547; Pub. L. 100–607, title VII, §§ 701(a)(2), (b)–(i), 721(b)(1), Nov. 4, 1988, 102 Stat. 3153–3156, 3165; Pub. L. 102–408, title II, § 202(a), Oct. 13, 1992, 106 Stat. 2069; Pub. L. 102–531, title III, § 313(a)(9), Oct. 27, 1992, 106 Stat. 3507, authorized grants and contracts for special projects.

Section 296*l*, act July 1, 1944, ch. 373, title VIII, § 821, as added Pub. L. 94–63, title IX, § 931(a), July 29, 1975, 89 Stat. 361; amended Pub. L. 96–76, title I, § 106, Sept. 29, 1979, 93 Stat. 579; Pub. L. 97–35, title XXVII, § 2754, Aug. 13, 1981, 95 Stat. 930; Pub. L. 99–92, § 4, Aug. 16, 1985, 99 Stat. 394; Pub. L. 99–129, title II, § 227(b), Oct. 22, 1985, 99 Stat. 548; Pub. L. 100–607, title VII, § 702, Nov. 4, 1988, 102 Stat. 3157; Pub. L. 102–408, title II, § 203, Oct. 13, 1992, 106 Stat. 2072, authorized grants and contracts for advanced nurse education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296e of this title.

PART C—INCREASING NURSING WORKFORCE DIVERSITY

PRIOR PROVISIONS

A prior part C set forth general provisions and consisted of sections 298 to 298b–7, prior to the general amendment of this subchapter by Pub. L. 105–392.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 296e, 297q of this title.

§ 296m. Workforce diversity grants

(a) In general

The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of special projects to increase nursing education opportunities for individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among registered nurses) by providing student scholarships or stipends, pre-entry preparation, and retention activities.

(b) Guidance

In carrying out subsection (a) of this section, the Secretary shall take into consideration the recommendations of the First, Second and Third Invitational Congresses for Minority Nurse Leaders on ''Caring for the Emerging Majority,'' in 1992, 1993 and 1997, and consult with nursing associations including the American Nurses Association, the National League for Nursing, the American Association of Colleges of Nursing, the National Black Nurses Association, the National Association of Hispanic Nurses, the Association of Asian American and Pacific Islander Nurses, the Native American Indian and Alaskan Nurses Association, and the National Council of State Boards of Nursing.

(c) Required information and conditions for award recipients

(1) In general

Recipients of awards under this section may be required, where requested, to report to the Secretary concerning the annual admission, retention, and graduation rates for individuals from disadvantaged backgrounds and ethnic and racial minorities in the school or schools involved in the projects.

(2) Falling rates

If any of the rates reported under paragraph (1) fall below the average of the two previous years, the grant or contract recipient shall provide the Secretary with plans for immediately improving such rates.

(3) Ineligibility

A recipient described in paragraph (2) shall be ineligible for continued funding under this

section if the plan of the recipient fails to improve the rates within the 1-year period beginning on the date such plan is implemented.

(July 1, 1944, ch. 373, title VIII, § 821, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3568.)

PRIOR PROVISIONS

A prior section 296m, act July 1, 1944, ch. 373, title VIII, § 822, as added Pub. L. 94–63, title IX, § 931(a), July 29, 1975, 89 Stat. 361; amended Pub. L. 95–83, title III, § 307(*o*)(5)(A), Aug. 1, 1977, 91 Stat. 393; Pub. L. 96–76, title I, § 107, Sept. 29, 1979, 93 Stat. 579; Pub. L. 97–35, title XXVII, § 2755, Aug. 13, 1981, 95 Stat. 930; Pub. L. 99–92, § 5, Aug. 16, 1985, 99 Stat. 394; Pub. L. 99–129, title II, § 227(c), Oct. 22, 1985, 99 Stat. 548; Pub. L. 100–607, title VII, § 703, Nov. 4, 1988, 102 Stat. 3157; Pub. L. 101–93, § 5(q), Aug. 16, 1989, 103 Stat. 614; Pub. L. 101–597, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035; Pub. L. 102–408, title II, § 204, Oct. 13, 1992, 106 Stat. 2072, authorized grants and contracts for nurse practitioner and nurse midwife programs, prior to repeal by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

A prior section 821 of act July 1, 1944, was classified to section 296*l* of this title prior to repeal by Pub. L. 105–392.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297q of this title.

PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE

PRIOR PROVISIONS

A prior part D related to scholarship grants to schools of nursing and consisted of sections 298c to 298c–8, prior to the general amendment of this subchapter by Pub. L. 105–392.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 296e, 297q of this title.

§ 296p. Basic nurse education and practice grants

(a) In general

The Secretary may award grants to and enter into contracts with eligible entities for projects to strengthen capacity for basic nurse education and practice.

(b) Priority areas

In awarding grants or contracts under this section the Secretary shall give priority to entities that will use amounts provided under such a grant or contract to enhance the educational mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education, such as through—

(1) establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities;

(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, the homeless, and victims of domestic violence;

(3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems;

(4) developing cultural competencies among nurses;

(5) expanding the enrollment in baccalaureate nursing programs;

(6) promoting career mobility for nursing personnel in a variety of training settings and cross training or specialty training among diverse population groups;

(7) providing education in informatics, including distance learning methodologies; or

(8) other priority areas as determined by the Secretary.

(July 1, 1944, ch. 373, title VIII, § 831, as added Pub. L. 105–392, title I, § 123(4), Nov. 13, 1998, 112 Stat. 3568.)

PRIOR PROVISIONS

A prior section 831 of act July 1, 1944, was classified to section 297–1 of this title prior to repeal by Pub. L. 105–392.

Prior sections 296r, 297, and 297–1 were repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

Section 296r, act July 1, 1944, ch. 373, title VIII, § 827, as added Pub. L. 100–607, title VII, § 701(a)(3), Nov. 4, 1988, 102 Stat. 3153; amended Pub. L. 102–408, title II, § 205, Oct. 13, 1992, 106 Stat. 2073, authorized grants and contracts for special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds.

Section 297, act July 1, 1944, ch. 373, title VIII, § 830, formerly § 821, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 913; amended Pub. L. 90–490, title II, § 221, Aug. 16, 1968, 82 Stat. 783; Pub. L. 92–52, § 5, July 9, 1971, 85 Stat. 145; Pub. L. 92–158, §§ 5, 13, Nov. 18, 1971, 85 Stat. 475, 480; renumbered § 830 and amended Pub. L. 94–63, title IX, §§ 935, 941(g)(2), July 29, 1975, 89 Stat. 362, 365; Pub. L. 94–484, title IX, § 901, Oct. 12, 1976, 90 Stat. 2323; Pub. L. 95–83, title III, § 307(*o*)(5)(B), Aug. 1, 1977, 91 Stat. 394; Pub. L. 96–76, title I, § 108, Sept. 29, 1979, 93 Stat. 579; Pub. L. 97–35, title XXVII, § 2756, Aug. 13, 1981, 95 Stat. 931; Pub. L. 99–92, § 6, Aug. 16, 1985, 99 Stat. 395; Pub. L. 100–607, title VII, § 711, Nov. 4, 1988, 102 Stat. 3159; Pub. L. 102–408, title II, § 206, Oct. 13, 1992, 106 Stat. 2073; Pub. L. 103–43, title XX, § 2014(f), June 10, 1993, 107 Stat. 217, authorized grants for traineeships for advanced education of professional nurses.

Section 297–1, act July 1, 1944, ch. 373, title VIII, § 831, as added Pub. L. 96–76, title I, § 111, Sept. 29, 1979, 93 Stat. 580; amended Pub. L. 97–414, § 8(*l*), Jan. 4, 1983, 96 Stat. 2061; Pub. L. 99–92, § 7, Aug. 16, 1985, 99 Stat. 396; Pub. L. 100–607, title VII, § 712, Nov. 4, 1988, 102 Stat. 3160; Pub. L. 102–408, title II, § 207, Oct. 13, 1992, 106 Stat. 2074, authorized grants for training of nurse anesthetists.

PART E—STUDENT LOANS

§ 297a. Student loan fund

(a) Agreements to establish and operate fund authorized

The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart[1] with any public or nonprofit private school of nursing which is located in a State.

(b) Provisions of agreements

Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 297h of this title, of (A) the Federal capital contributions paid from allot-

[1] See References in Text note below.

ments under section 297d of this title to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 297b(f) of this title, and (E) any other earnings of the fund;

(3) provide that the fund, except as provided in section 297h of this title, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a fulltime or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing;

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

(c) Regulatory standards applicable to collection of loans

(1) Any standard established by the Secretary by regulation for the collection by schools of nursing of loans made pursuant to loan agreements under this subpart[1] shall provide that the failure of any such school to collect such loans shall be measured in accordance with this subsection. With respect to the student loan fund established pursuant to such agreements, this subsection may not be construed to require such schools to reimburse such loan fund for loans that became uncollectable prior to 1983.

(2) The measurement of a school's failure to collect loans made under this subpart[1] shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of such school bears to the matured loans of such school.

(3) For purposes of this subsection—

(A) the term ''default'' means the failure of a borrower of a loan made under this subpart to—

(i) make an installment payment when due; or

(ii) comply with any other term of the promissory note for such loan,

except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy or if the school reasonably concludes from written contacts with the borrower that the borrower intends to repay the loan;

(B) the term ''defaulted principal amount outstanding'' means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or cancelled) on loans—

(i) repayable monthly and in default for at least 120 days; and

(ii) repayable less frequently than monthly and in default for at least 180 days;

(C) the term ''grace period'' means the period of nine months beginning on the date on which the borrower ceases to pursue a full-time or half-time course of study at a school of nursing; and

(D) the term ''matured loans'' means the total principal amount of all loans made by a school of nursing under this subpart minus the total principal amount of loans made by such school to students who are—

(i) enrolled in a full-time or half-time course of study at such school; or

(ii) in their grace period.

(July 1, 1944, ch. 373, title VIII, § 835, formerly § 822, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 913; amended Pub. L. 90–490, title II, § 222(a), (c)(2), Aug. 16, 1968, 82 Stat. 783, 784; Pub. L. 92–158, § 6(d)(3), (e), Nov. 18, 1971, 85 Stat. 478; Pub. L. 93–385, § 3(b), Aug. 23, 1974, 88 Stat. 741; renumbered § 835 and amended Pub. L. 94–63, title IX, §§ 936(a), 941(h)(1)–(3), (i)(1), (2), July 29, 1975, 89 Stat. 362, 365, 366; Pub. L. 96–76, title I, § 109(a), Sept. 29, 1979, 93 Stat. 579; Pub. L. 97–35, title XXVII, § 2757(a), Aug. 13, 1981, 95 Stat. 931; Pub. L. 99–92, § 8(a), Aug. 16, 1985, 99 Stat. 397; Pub. L. 99–129, title II, § 209(j)(2), Oct. 22, 1985, 99 Stat. 536; Pub. L. 100–607, title VII, § 713(a), Nov. 4, 1988, 102 Stat. 3160.)

REFERENCES IN TEXT

This subpart, referred to in subsecs. (a) and (c), probably should be ''this part'', to reflect the redesignation of subpart II of part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

AMENDMENTS

1988—Subsec. (c)(1). Pub. L. 100–607 inserted provisions relating to reimbursement of student loan fund for certain uncollectable loans.

1985—Subsec. (c). Pub. L. 99–92 added subsec. (c).

Subsec. (c)(3)(C). Pub. L. 99–129, § 209(j)(2)(A), substituted provisions defining ''grace period'' as the period of nine months beginning on the date on which the borrower ceases to pursue a full-time or half-time course of study at a school of nursing for former provisions defining ''grace period'' as the period of one year beginning on (i) the date on which the borrower ceased to pursue a full-time or half-time course of study at a school of nursing; or (ii) the date on which ended any period described in clause (A) or (B) of section 297b(b)(2) of this title which was applicable to such borrower, whichever was later.

Subsec. (c)(3)(D)(ii). Pub. L. 99–129, § 209(j)(2)(B), struck out ''first'' before ''grace period.''

1981—Subsec. (b)(4). Pub. L. 97–35 struck out provisions respecting prohibition on loans to students attending school before Oct. 1, 1980.

1979—Subsec. (b)(4). Pub. L. 96–76 substituted ''1980'' for ''1978''.

1975—Subsec. (a). Pub. L. 94–63, § 941(h)(1), (2), substituted ''subpart'' for ''part'' and struck out ''of Health, Education, and Welfare'' after ''Secretary''.

Subsec. (b). Pub. L. 94–63, §§ 936(a), 941(h)(3), (i)(2), in cl. (2) substituted ''from allotments under section 297d of this title'' for ''under this part'', in cl. (4) substituted ''October 1, 1978'' for ''July 1, 1975'', and in cls. (2) and (3) substituted references to sections 836 and 841 of the Act for references to sections 823 and 829, which had previously been translated as sections 297b and 297h of this title, respectively, requiring no further translations in the text as a result of the renumbering of the Public Health Service Act.

1974—Subsec. (b)(4). Pub. L. 93–385 substituted ''1975'' for ''1974''.

1971—Subsec. (b)(4). Pub. L. 92–158 substituted ''full-time or half-time course of study'' for ''full-time course of study'' and ''1974'' for ''1971''.

1968—Subsec. (b)(2). Pub. L. 90–490, § 222(a)(1), (c)(2), inserted '', except as provided in section 297h of this title,'' after ''fund'' where first appearing and added cl. (D) and redesignated former cl. (D) as (E), respectively.

Subsec. (b)(3). Pub. L. 90–490, § 222(a)(1), inserted ", except as provided in section 297h of this title" after "fund" where first appearing and authorized the cancellation of an additional 50 per centum of a nursery student loan.

Subsec. (b)(4). Pub. L. 90–490, § 222(a)(2), substituted "1971" for "1969".

EFFECTIVE DATE OF 1985 AMENDMENTS

Amendment by Pub. L. 99–129 effective June 30, 1984, see section 228(b)(5) of Pub. L. 99–129, set out as a note under section 254*l* of this title.

Section 10 of Pub. L. 99–92 provided that:

"(a) Except as provided in subsection (b), this Act [enacting section 297i of this title, transferring section 296c to section 298b–5 of this title, amending this section, sections 296k, 296*l*, 296m, 297, 297–1, 297b, 297d, 297e, 298, 298b, and 298b–5 of this title, sections 1332, 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, 296j, 297h, and 297j of this title, and enacting provisions set out as notes under sections 201 and 298b–5 of this title and section 1333 of Title 15] and the amendments and repeals made by this Act shall take effect on October 1, 1985.

"(b)(1) The provisions of section 9(c) of this Act [transferring section 296c of this title to section 298b–5 of this title, amending section 298b–5 of this title, and enacting provisions set out as notes under section 298b–5 of this title] and the amendment made by paragraph (1) of such section shall take effect on the date of enactment of this Act [Aug. 16, 1985].

"(2) The amendment made by section 8(a) of this Act [amending section 297a of this title] shall take effect June 30, 1984."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 905 of Pub. L. 94–63 provided that: "Except as may otherwise be specifically provided, the amendments made by this part [part B (§§ 905–937) of title IX of Pub. L. 94–63, enacting sections 296j to 296m of this title, amending sections 296, 296a, 296d, 296e, 297 to 297c, 297e, and 297j of this title, repealing sections 296d, 296g, 296i, 297f, and 298c–7 of this title, and enacting provisions set out as notes under sections 296, 296a, 296d, 296e, 296m, 297, 297b, and 297f of this title] shall take effect July 1, 1975. The amendments made by this part to provisions of title VIII of the Public Health Service Act [this subchapter] (hereinafter in this part referred to as the 'Act') are made to such provisions as amended by part A of this title [amending sections 296, 296d, 296e, 296g, 296i, 297j, and 298c–7 of this title]."

Section 942 of Pub. L. 94–63 provided that: "The amendments made by section 941 [enacting section 298b–3 of this title, amending sections 296a to 296d, 296f, 297a to 297e, 297g to 297k, 298, and 298b of this title, and repealing section 298c–8 of this title] shall take effect July 1, 1975. Except as otherwise specifically provided, the amendments made by section 941 to provisions of title VIII of the Act [this subchapter] are made to such provisions as in effect July 1, 1975, and as amended by part B of this title [see note set out above]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 222(c)(2) of Pub. L. 90–490 applicable with respect to loans made after June 30, 1969, see section 222(i) of Pub. L. 90–490, set out as a note under section 297b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296e, 297b, 297d, 297e of this title.

§ 297b. Loan provisions

(a) Maximum amount per individual per year; preference to first year students

The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this subpart[1] may not exceed $2,500 in the case of any student, except that for the final two academic years of the program involved, such total may not exceed $4,000. The aggregate of the loans for all years from such funds may not exceed $13,000 in the case of any student. In the granting of such loans, a school shall give preference to licensed practical nurses, to persons with exceptional financial need, and to persons who enter as first-year students after enactment of this subchapter.

(b) Terms and conditions

Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, (B) is capable, in the opinion of the school, of maintaining good standing in such course of study, and (C) with respect to any student enrolling in the school after June 30, 1986, is of financial need (as defined in regulations issued by the Secretary);;[2]

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a full-time or half-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.], (B) periods (up to ten years) during which the borrower is pursuing a full-time or half-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist), and (C) such additional periods under the terms of paragraph (8) of this subsection;

(3) in the case of a student who received such a loan before September 29, 1979, an amount up to 85 per centum of any such loan made before such date (plus interest thereon) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any

[1] See References in Text note below.

[2] So in original.

of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers), at the rate of 15 per centum of the amount of such loan (plus interest) unpaid on the first day of such service for each of the first, second, and third complete year of such service, and 20 per centum of such amount (plus interest) for each complete fourth and fifth year of such service;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(5) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 5 percent per annum;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this subpart[1] such note or other evidence of a loan may be transferred to such other school; and

(8) pursuant to uniform criteria established by the Secretary, the repayment period established under paragraph (2) for any student borrower who during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments may be extended for a period not to exceed 10 years.

(c) Cancellation

Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Installments

Any loan for any year by a school from a student loan fund established pursuant to an agreement under this subpart[1] shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the school that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) Availability to eligible students in need

An agreement under this subpart[1] with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f) Penalty for late payment

Subject to regulations of the Secretary and in accordance with this section, a school shall assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this subpart[1] for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b)(2) of this section or cancellation of part or all of the loan under subsection (b)(3) of this section, for any failure to file timely and satisfactory evidence for such entitlement. No such charge may be made if the payment of such installment or the filing of such evidence is made within 60 days after the date on which such installment or filing is due. The amount of any such charge may not exceed an amount equal to 6 percent of the amount of such installment. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) Minimum monthly repayment

A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart[1] payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $40 per month.

(h) Loan cancellation

Notwithstanding the amendment made by section 6(b) of the Nurse Training Act of 1971 to this section—

(A) any person who obtained one or more loans from a loan fund established under this subpart,[1] who before November 18, 1971, became eligible for cancellation of all or part of such loans (including accrued interest) under this section (as in effect on the day before such date), and who on such date was not engaged in a service for which loan cancellation was authorized under this section (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this subpart[1] and who on such date was engaged in a service for which cancellation of all or part of such loans (including accrued interest) was authorized under this section (as so in effect), this section (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such service.

Nothing in this subsection shall be construed to prevent any person from entering into an agreement for loan cancellation under subsection (h)[1] of this section (as amended by section 6(b)(2) of the Nurse Training Act of 1971).

(i) Loan repayment

Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a nursing student, the

Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete the nursing studies with respect to which such loan was made;

(2) is in exceptionally needy circumstances; and

(3) has not resumed, or cannot reasonably be expected to resume, such nursing studies within two years following the date upon which the applicant terminated the studies with respect to which such loan was made.

(j) Collection by Secretary of loan in default; preconditions and procedures applicable

The Secretary is authorized to attempt to collect any loan which was made under this subpart,[1] which is in default, and which was referred to the Secretary by a school of nursing with which the Secretary has an agreement under this subpart,[1] on behalf of that school under such terms and conditions as the Secretary may prescribe (including reimbursement from the school's student loan fund for expenses the Secretary may reasonably incur in attempting collection), but only if the school has complied with such requirements as the Secretary may specify by regulation with respect to the collection of loans under this subpart.[1] A loan so referred shall be treated as a debt subject to section 5514 of title 5. Amounts collected shall be deposited in the school's student loan fund. Whenever the Secretary desires the institution of a civil action regarding any such loan, the Secretary shall refer the matter to the Attorney General for appropriate action.

(k) Redesignated (j)

(*l*) Elimination of statute of limitation for loan collections

(1) Purpose

It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Prohibition

Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school of nursing that has an agreement with the Secretary pursuant to section 297a of this title that is seeking the repayment of the amount due from a borrower on a loan made under this subpart[1] after the default of the borrower on such loan.

(July 1, 1944, ch. 373, title VIII, § 836, formerly § 823, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 914; amended Pub. L. 89–290, § 4(g)(2), Oct. 22, 1965, 79 Stat. 1058; Pub. L. 90–490, title II, § 222(b), (c)(1), Aug. 16, 1968, 82 Stat. 783, 784; Pub. L. 92–158, § 6(a), (b)(1), (e), Nov. 18, 1971, 85 Stat. 475, 476, 478; renumbered § 836 and amended Pub. L. 94–63, title IX, §§ 936(b), 941(h)(1), (2), (5), (i)(1), July 29, 1975, 89 Stat. 363, 365; Pub. L. 96–76, title I, § 112, Sept. 29, 1979, 93 Stat. 580; Pub. L. 97–35, title XXVII, § 2757(b), Aug. 13, 1981, 95 Stat. 931; Pub. L. 99–92, § 8(b)–(d), Aug. 16, 1985, 99 Stat. 398; Pub. L. 100–607, title VII, §§ 713(b)–(g), 714(a)–(c), Nov. 4, 1988, 102 Stat. 3160, 3161; Pub. L. 101–93, § 5(r), Aug. 16, 1989, 103 Stat. 614; Pub. L. 102–408, title II, § 211(a)(1), Oct. 13, 1992, 106 Stat. 2078; Pub. L. 105–392, title I, § 133(a)–(c)(1), Nov. 13, 1998, 112 Stat. 3575.)

REFERENCES IN TEXT

This subpart, referred to in subsecs. (a), (b)(7), (d) to (h), (j), and (*l*), probably should be "this part", to reflect the redesignation of subpart II of part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

The Peace Corps Act, referred to in subsec. (b)(2), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

Subsection (h) of this section, referred to in subsec. (h), was struck out and subsec. (i) was redesignated (h) by Pub. L. 102–408. See 1992 Amendment note below.

Section 6(b) of the Nurse Training Act of 1971, referred to in subsec. (h), is section 6(b) of Pub. L. 92–158, Nov. 18, 1971, 85 Stat. 477. Section 6(b)(1) amended subsec. (b)(3) of this section, added former subsec. (h) of this section, and enacted the provisions editorially classified to subsec. (i) [now (h)] of this section. Section 6(b)(2) enacted section 297i of this title which was transferred and redesignated as subsec. (j) [now (i)] of this section pursuant to section 941(h)(5) of Pub. L. 94–63.

CODIFICATION

Provisions of subsec. (h) of this section were, in the original, enacted by section 6(b)(1) of Pub. L. 92–158, without directory language with respect to classification in the Code and were editorially set out as subsec. (i) [now (h)] as the probable intent of Congress.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–392, § 133(a)(1), substituted semicolon for period at end.

Subsec. (b)(2)(C). Pub. L. 105–392, § 133(a)(2), added subpar. (C).

Subsec. (b)(8). Pub. L. 105–392, § 133(a)(3), (4), added par. (8).

Subsec. (g). Pub. L. 105–392, § 133(b), substituted "$40" for "$15".

Subsec. (*l*). Pub. L. 105–392, § 133(c)(1), added subsec. (*l*).

1992—Subsecs. (h) to (k). Pub. L. 102–408 redesignated subsecs. (i) to (k) as (h) to (j), respectively, and struck out former subsec. (h) which provided for a loan repayment program. See section 297n of this title.

1989—Subsec. (h)(6)(C). Pub. L. 101–93 substituted "means a skilled nursing facility, as such term is defined in section 1395x(j) of this title, and an intermediate care facility, as such term is defined in section 1396d(c) of this title" for "means an intermediate care facility and a skilled nursing facility, as such terms are defined in subsections (c) and (i), respectively, of section 1396d of this title".

1988—Subsec. (a). Pub. L. 100–607, § 713(b), (c), inserted in first sentence ", except that for the final two academic years of the program involved, such total may not exceed $4,000", substituted "$13,000" for "$10,000" in second sentence, and inserted ", to persons with exceptional financial need," after "nurses" in third sentence.

Subsec. (b)(1)(C). Pub. L. 100–607, § 713(d), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "if a student who will enroll in the

school after June 30, 1986, is of exceptional financial need (as defined by regulations of the Secretary)''.

Subsec. (b)(2)(B). Pub. L. 100–607, § 713(e), substituted ''ten'' for ''five'' and inserted ''or half-time'' after ''a full-time''.

Subsec. (b)(5). Pub. L. 100–607, § 713(f), substituted ''5 percent'' for ''6 per centum''.

Subsec. (h)(1)(C). Pub. L. 100–607, § 714(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''who enters into an agreement with the Secretary to serve as a nurse for a period of at least two years in an area in a State determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations), to have a shortage of and need for nurses;''.

Subsecs. (h)(5), (6). Pub. L. 100–607, § 714(b), (c), added pars. (5) and (6).

Subsec. (j)(2) to (4). Pub. L. 100–607, § 713(g), redesignated par. (4) as (3) and struck out former par. (3) which related to low-income or disadvantaged family.

1985—Subsec. (b)(1). Pub. L. 99–92, § 8(b), which directed that cl. (C) be inserted before period, was executed by inserting cl. (C) before the semicolon as the probable intent of Congress.

Subsec. (f). Pub. L. 99–92, § 8(c), substituted ''the Secretary and in accordance with this section, a school shall'' for ''the Secretary, a school may'', and substituted provisions relating to charges not allowed in certain cases and allowed where payment is late for provisions relating to maximum amount of late charges.

Subsec. (k). Pub. L. 99–92, § 8(d), added subsec. (k).

1981—Subsec. (b)(5). Pub. L. 97–35 substituted ''6'' for ''3''.

1979—Subsec. (b)(3). Pub. L. 96–76 inserted provisions requiring conditions to be applicable to loans arising prior to Sept. 29, 1979.

1975—Subsec. (a). Pub. L. 94–63, § 941(h)(1), substituted ''subpart'' for ''part''.

Subsec. (b). Pub. L. 94–63, § 941(h)(2), struck out ''of Health, Education, and Welfare'' after ''Secretary''.

Subsec. (b)(2)(B). Pub. L. 94–63, § 936(b), inserted ''(or training to be a nurse anesthetist)'' after ''professional training in nursing''.

Subsec. (b)(7). Pub. L. 94–63, § 941(h)(1), substituted ''subpart'' for ''part''.

Subsec. (c). Pub. L. 94–63, § 941(h)(2), struck out ''of Health, Education, and Welfare'' after ''Secretary''.

Subsecs. (d) to (i). Pub. L. 94–63, § 941(h)(1), substituted ''subpart'' for ''part'' whenever appearing.

Subsec. (j). Pub. L. 94–63, § 941(h)(5), added subsec. (j), formerly classified as section 297i of this title pursuant to enactment as section 830 of act July 1, 1944, ch. 373. Section 941(h)(5)(A) of Pub. L. 94–63 transferred such former section to this section and section 941(h)(5)(B) redesignated provision as subsec. (j).

1971—Subsec. (a). Pub. L. 92–158, § 6(a), substituted''$2,500'' for ''$1,500'' and ''$10,000'' for ''$60,000''.

Subsec. (b)(1). Pub. L. 92–158, § 6(e), substituted ''full-time or half-time course of study'' for ''full-time course of study''.

Subsec. (b)(2). Pub. L. 92–158, § 6(e), in text preceding cl. (A), substituted ''full-time or half-time course of study'' for ''full-time course of study''.

Subsec. (b)(3). Pub. L. 92–158, § 6(b)(1)(A), substituted provisions cancelling up to 85 per centum of loan, for provisions cancelling up to 50 per centum of loan, where borrower holds full-time employment as a professional nurse, added to areas of possible employment under this par. by inserting reference to any public or nonprofit organization including neighborhood health centers, substituted, with regard to the rate of cancellation of loan, the rate of 15 per centum of the amount unpaid on the first day of service, continuing at such rate with each of the first, second and third complete years of such service and 20 per centum of such amount with each complete fourth and fifth year of service for the rate of 10 per centum of the amount unpaid on the first day of service and to continue with each complete year of service, and struck out reference to 15 per centum rate of cancellation per complete year of service plus, for the purpose of such higher rate, the cancellation of an additional 50 per centum of such loan where such service is in a public or nonprofit hospital in any area which is determined, in accordance with the regulations of the Secretary, to be in an area having a substantial shortage of such nurses at such hospitals.

Subsec. (h). Pub. L. 92–158, § 6(b)(1)(B), added subsec. (h).

1968—Subsec. (a). Pub. L. 90–490, § 222(b)(1), increased limitation on amount of annual loans per student from $1,000 to $1,500, required preferences in granting of loans to licensed practical nurses, and limited aggregate of loans for all years to any one student to $6,000.

Subsec. (b)(2). Pub. L. 90–490, § 222(b)(2), provided for commencement of repayment nine months, rather than one year, after student ceases to pursue full-time course of study, excluded from ten-year repayment period periods (up to three years) of active duty as member of a uniformed service or Peace Corps volunteer service and periods (up to five years) as undergraduate or graduate degree student in nursing, including advanced professional training in nursing, and struck out prohibition against accrual of interest on loans.

Subsec. (b)(3). Pub. L. 90–490, § 222(b)(3), authorized cancellation of an additional 50 per centum of a nursing student loan (plus interest) at rate of 15 per centum for each complete year of service in a public or other nonprofit hospital in an area with a substantial shortage of nurses.

Subsec. (b)(5). Pub. L. 90–490, § 222(b)(4), struck out provisions for an interest rate which is the greater of 3 per centum or the going Federal rate at time loan is made, defining going Federal rate, and making rate determined for first loan applicable to any subsequent loan.

Subsecs. (f), (g). Pub. L. 90–490, § 222(c)(1), added subsecs. (f) and (g).

1965—Subsec. (b)(5). Pub. L. 89–290 applied rate of interest for first loan obtained by a student from a loan fund established under this part to any subsequent loan to such student from such fund during his course of study.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–392, title I, § 133(c)(2), Nov. 13, 1998, 112 Stat. 3576, provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective with respect to actions pending on or after the date of enactment of this Act [Nov. 13, 1998].''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–92 effective Oct. 1, 1985, see section 10(a) of Pub. L. 99–92, set out as a note under section 297a of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 936(b) of Pub. L. 94–63 provided that the amendment made by that section is effective with respect to periods of training to be a nurse anesthetist undertaken on or after July 29, 1975.

Amendment by section 941(h)(1), (2), (5), (i)(1) of Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 297a of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 6(a)(1) of Pub. L. 92–158 provided that the amendment made by that section is effective with respect to academic years (or their equivalent as determined under regulations of the Secretary of Health, Education, and Welfare under this section) beginning after June 30, 1971.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 222(i) of Pub. L. 90–490 provided that: ''The amendments made by subsection (b)(1) and (2) [amend-

ing this section] shall apply with respect to all loans made after June 30, 1969, and with respect to loans made from a student loan fund established under an agreement pursuant to section 822 [section 297a of this title], before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but then only for years beginning after June 30, 1968). The amendments made by subsection (b)(4) [amending this section] and subsection (c) [amending this section and section 297a of this title] shall apply with respect to loans made after June 30, 1969. The amendment made by subsection (h) [enacting section 297h of this title] shall apply with respect to appropriations for fiscal years beginning after June 30, 1969. The amendment made by subsection (b)(3) [amending this section] shall apply with respect to service, specified in section 823(b)(3) of such Act [subsec. (b)(3) of this section] performed during academic years beginning after the enactment of this Act, whether the loan was made before or after such enactment [Aug. 16, 1968].''

CONSTRUCTION OF 1992 AMENDMENT

Section 211(b) of Pub. L. 102–408 provided that: ''With respect to section 836(h) of the Public Health Service Act [former subsec. (h) of this section], as in effect prior to the date of the enactment of this Act [Oct. 13, 1992], any agreement entered into under such section that is in effect on the day before such date remains in effect in accordance with the terms of the agreement, notwithstanding the amendment made by subsection (a) of this section [enacting section 297n of this title, amending this section, and repealing section 297c–1 of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297a of this title.

§ 297c. Repealed. Pub. L. 105–392, title I, § 123(3), Nov. 13, 1998, 112 Stat. 3562

Section, act July 1, 1944, ch. 373, title VIII, § 837, formerly § 824, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 915; amended Pub. L. 89–751, § 6(b), Nov. 3, 1966, 80 Stat. 1235; Pub. L. 90–490, title II, § 222(d), Aug. 16, 1968, 82 Stat. 784; Pub. L. 92–52, § 3(a), July 9, 1971, 85 Stat. 144; Pub. L. 92–158, § 6(c), Nov. 18, 1971, 85 Stat. 477; Pub. L. 93–385, § 3(a), Aug. 23, 1974, 88 Stat. 741; renumbered § 837 and amended Pub. L. 94–63, title IX, §§ 936(c), 941(i)(1), (3), July 29, 1975, 89 Stat. 363, 365, 366; Pub. L. 96–76, title I, § 109(b), Sept. 29, 1979, 93 Stat. 580; Pub. L. 97–35, title XXVII, § 2757(c), Aug. 13, 1981, 95 Stat. 931, authorized appropriations for student loan funds for certain fiscal years.

§ 297c–1. Repealed. Pub. L. 102–408, title II, § 211(a)(2), Oct. 13, 1992, 106 Stat. 2078

Section, act July 1, 1944, ch. 373, title VIII, § 837A, as added Nov. 4, 1988, Pub. L. 100–607, title VII, § 714(d), 102 Stat. 3162, authorized appropriations for educational loan repayments for service in certain health facilities.

§ 297d. Allotments and payments of Federal capital contributions

(a) Application for allotment; reduction or adjustment of amount requested in application; reallotment; continued availability of funds

(1) The Secretary shall from time to time set dates by which schools of nursing must file applications for Federal capital contributions.

(2)(A) If the total of the amounts requested for any fiscal year in such applications exceeds the total amount appropriated under section 297c[1] of this title for that fiscal year, the allotment from such total amount to the loan fund of each school of nursing shall be reduced to whichever of the following is the smaller:

(i) The amount requested in its application.

(ii) An amount which bears the same ratio to the total amount appropriated as the number of students estimated by the Secretary to be enrolled on a full-time basis in such school during such fiscal year bears to the estimated total number of students enrolled in all such schools on a full-time basis during such year.

(B) Amounts remaining after allotment under subparagraph (A) shall be reallotted in accordance with clause (ii) of such subparagraph among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund under this paragraph and paragraph (3) from exceeding the total so requested by it.

(3) Funds which, pursuant to section 297e(c) of this title or pursuant to a loan agreement under section 297a of this title are returned to the Secretary in any fiscal year, shall be available for allotment until expended. Funds described in the preceding sentence shall be allotted among schools of nursing in such manner as the Secretary determines will best carry out this subpart.[1]

(b) Installment payment of allotments

Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

(c) Manner of payment

The Federal capital contributions to a loan fund of a school under this subpart[1] shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

(July 1, 1944, ch. 373, title VIII, § 838, formerly § 825, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 915; amended Pub. L. 89–751, § 6(c), Nov. 3, 1966, 80 Stat. 1235; Pub. L. 90–490, title II, § 222(e), Aug. 16, 1968, 82 Stat. 785; renumbered § 838 and amended Pub. L. 94–63, title IX, § 941(h)(1), (2), (4)(A), (i)(1), (4), July 29, 1975, 89 Stat. 365, 366; Pub. L. 99–92, § 8(e), Aug. 16, 1985, 99 Stat. 398; Pub. L. 100–607, title VII, § 713(h)(1), Nov. 4, 1988, 102 Stat. 3161; Pub. L. 102–408, title II, § 208(a), Oct. 13, 1992, 106 Stat. 2075.)

REFERENCES IN TEXT

Section 297c of this title, referred to in subsec. (a)(2)(A), was repealed by Pub. L. 105–392, title I, § 123(3), Nov. 13, 1998, 112 Stat. 3562.

This subpart, referred to in subsecs. (a)(3) and (c), probably should be ''this part'', to reflect the redesignation of subpart II of part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–408 struck out ''(A)'' after ''(3)'', substituted ''available for allotment until expended.'' for ''available for allotment in such fiscal year and in the fiscal year succeeding the fiscal year.'' and ''this subpart.'' for ''this subpart, except that in

[1] See References in Text note below.

making such allotments, the Secretary shall give priority to schools of nursing which established student loan funds under this subpart after September 30, 1975.'', and struck out subpar. (B) which read as follows: ''With respect to funds available pursuant to subparagraph (A), any such funds returned to the Secretary and not allotted by the Secretary, during the period of availability specified in such subparagraph, shall be available to carry out section 297j of this title and, for such purpose, shall remain available until expended.''

1988—Subsec. (a)(3). Pub. L. 100–607 designated existing provisions as subpar. (A) and added subpar. (B).

1985—Subsec. (a). Pub. L. 99–92 amended subsec. (a) generally, substituting provisions relating to application for allotment, reduction or adjustment of amount requested in application, reallotment, and availability of funds for allotment during fiscal years for provisions relating to determination of amount of allotment.

Subsec. (b). Pub. L. 99–92 amended subsec. (b) generally, substituting provisions relating to payment to a loan fund of a school of allotments for provisions relating to application for allotment, adjustment or reduction of amount requested in application, and reallotment.

1975—Subsec. (a). Pub. L. 94–63, § 941(h)(1), (4)(A)(i), (i)(4), substituted ''subpart'' for ''part'' wherever appearing, struck out ''(whether as Federal capital contributions or as loans to schools under section 297f of this title)'' before ''which are in excess'', and substituted references to section 847 of the Act for references to section 824, which had previously been translated as section 297c of this title, requiring no further translations in text as a result of renumbering of the Public Health Service Act.

Subsec. (b)(1). Pub. L. 94–63, § 941(h)(4)(A)(ii), struck out '', and for loans pursuant to section 297f of this title,'' after ''contributions''.

Subsec. (b)(2). Pub. L. 94–63, § 941(h)(2), struck out ''of Health, Education, and Welfare'' after ''Secretary''.

Subsec. (c). Pub. L. 94–63, § 941(h)(1), substituted ''subpart'' for ''part''.

1968—Subsec. (a). Pub. L. 90–490 substituted a new formula for distribution of Federal funds among schools of nursing by providing for allotment of funds among the schools entirely on the basis of their relative enrollments for former provisions which allocated funds among the States, 50 per centum on the basis of relative number of high school graduates, and 50 per centum on the basis of relative number of students enrolled in schools of nursing, and provided for determination of number of persons enrolled in such schools for most recent year for which satisfactory data are available to the Secretary.

1966—Subsec. (a). Pub. L. 89–751, § 6(c)(1), authorized allotment of appropriations for payment as Federal capital contributions or as loans to schools under section 297f of this title, and directed that funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 297f of this title) which are in excess of the amount appropriated pursuant to section 297c of this title for that year shall be allotted among States and among schools within States in such manner as the Secretary determinates will best carry out the purposes of this part.

Subsec. (b)(1). Pub. L. 89–751, § 6(c)(2), substituted ''schools of nursing in a State must file applications for Federal capital contributions, and for loans pursuant to section 297f of this title, from the allotment of such State under the first two sentences of subsection (a) of this section'' for ''schools of nursing with which he has in effect agreements under this part must file applications for Federal capital contributions to their loan funds pursuant to section 297a(b)(2)(A) of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 713(h)(2) of Pub. L. 100–607 provided that: ''Except as provided in Public Law 100–436 [Sept. 20, 1988, 102 Stat. 1680, see Tables for classification], the amendment made by paragraph (1) [amending this section] shall take effect as if such amendment had been effective on September 30, 1988, and as if section 843 of the Public Health Service Act, as added by section 715 of this title [section 297j of this title], had been effective on such date.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–92 effective Oct. 1, 1985, see section 10(a) of Pub. L. 99–92, set out as a note under section 297a of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 297a of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 6(e)(1) of Pub. L. 89–751 provided that: ''The amendments made by this section [amending this section and sections 297c, 297e, and 297f of this title] shall be effective in the case of payments to student loan funds made after the enactment of this Act [Nov. 3, 1966], except in the case of payments pursuant to commitments (made prior to enactment of this Act) to make loans under section 827 of the Public Health Service Act [section 297f of this title] as in effect prior to the enactment of this Act.''

APPLICABILITY OF REORG. PLAN NO. 3 OF 1966

Section 9 of Pub. L. 89–751 provided that: ''The amendments made by this Act [enacting former sections 295h to 295h–5 and 298c to 298c–8 of this title and amending this section, former sections 292b, 294d, 294n to 294p, 296, and 297c, section 297e, former section 297f, and section 298 of this title, and section 1717 of Title 12, Banks and Banking] shall be subject to the provisions of Reorganization Plan Numbered 3 of 1966 [set out as a note under section 202 of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297a of this title.

§ 297e. Distribution of assets from loan funds

(a) Capital distribution of balance of loan fund

If a school terminates a loan fund established under an agreement pursuant to section 297a(b) of this title, or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund on the date of termination of the fund as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 297a(b)(2)(B) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) Payment of principal or interest on loans

If a capital distribution is made under subsection (a) of this section, the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 297a(b) of this title as determined by the Secretary under subsection (a) of this section.

(c) Payment of balance of loan fund

(1) Within 90 days after the termination of any agreement with a school under section 297a of

this title or the termination in any other manner of a school's participation in the loan program under this subpart,[1] such school shall pay to the Secretary from the balance of the loan fund of such school established under section 297a of this title, an amount which bears the same ratio to the balance in such fund on the date of such termination as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund on such date derived from such Federal capital contributions and from funds deposited in the fund pursuant to section 297a(b)(2)(B) of this title. The remainder of such balance shall be paid to the school.

(2) A school to which paragraph (1) applies shall pay to the Secretary after the date on which payment is made under such paragraph and not less than quarterly, the same proportionate share of amounts received by the school after the date of termination referred to in paragraph (1) in payment of principal or interest on loans made from the loan fund as was determined for the Secretary under such paragraph.

(July 1, 1944, ch. 373, title VIII, § 839, formerly § 826, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 916; amended Pub. L. 89–751, § 6(d), Nov. 3, 1966, 80 Stat. 1235; Pub. L. 90–490, title II, § 222(f), Aug. 16, 1968, 82 Stat. 785; Pub. L. 92–52, § 3(b), July 9, 1971, 85 Stat. 145; Pub. L. 92–158, § 6(d)(1), Nov. 18, 1971, 85 Stat. 478; renumbered § 839 and amended Pub. L. 94–63, title IX, §§ 936(d), 941(h)(1), (2), (4)(B), (i)(1), (5), July 29, 1975, 89 Stat. 363, 365, 366; Pub. L. 96–32, § 7(j), July 10, 1979, 93 Stat. 84; Pub. L. 96–76, title I, § 109(c), Sept. 29, 1979, 93 Stat. 580; Pub. L. 97–35, title XXVII, § 2757(d), Aug. 13, 1981, 95 Stat. 931; Pub. L. 99–92, § 8(f), Aug. 16, 1985, 99 Stat. 399; Pub. L. 100–607, title VII, § 713(i), Nov. 4, 1988, 102 Stat. 3161; Pub. L. 102–408, title II, § 208(b), Oct. 13, 1992, 106 Stat. 2075; Pub. L. 105–392, title I, § 133(e), Nov. 13, 1998, 112 Stat. 3577.)

REFERENCES IN TEXT

This subpart, referred to in subsec. (c)(1), probably should be "this part", to reflect the redesignation of subpart II of part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 133(e)(1)(A), added introductory provisions and struck out former introductory provisions which read as follows: "After September 30, 1996, and not later than December 31, 1999, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 297a of this title by each school as follows:".

Subsec. (a)(1). Pub. L. 105–392, § 133(e)(1)(B), substituted "on the date of termination of the fund" for "at the close of September 30, 1999,".

Subsec. (b). Pub. L. 105–392, § 133(e)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "After December 31, 1999, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1999, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a) of this section."

1992—Subsec. (a). Pub. L. 102–408, § 208(b)(2), substituted "1999" for "1994" in introductory provisions and in par. (1).

Pub. L. 102–408, § 208(b)(1), substituted "1996" for "1991" in introductory provisions.

Subsec. (b). Pub. L. 102–408, § 208(b)(2), substituted "1999" for "1994" in two places.

1988—Subsec. (a). Pub. L. 100–607, § 713(i)(1)(A), which directed substitution of "1994" for "1991" in text preceding par. (1), was executed by making the substitution for "1991" the second time appearing to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 100–607, § 713(i)(1)(B), substituted "1994" for "1991".

Subsec. (b). Pub. L. 100–607, § 713(i)(2), substituted "1994" for "1991" in two places.

1985—Subsecs. (a), (b). Pub. L. 99–92, § 8(f)(1), substituted "1991" for "1987" wherever appearing.

Subsec. (c). Pub. L. 99–92, § 8(f)(2), added subsec. (c).

1981—Pub. L. 97–35 substituted "1987" for "1983" wherever appearing.

1979—Subsec. (a). Pub. L. 96–76, § 109(c)(1), substituted "September 30, 1983, and not later than December 31, 1983" for "September 30, 1980, and not later than December 31, 1981". Prior to amendment, subsec. (a) referred to "December 31, 1980" rather than to "December 31, 1981" as cited in directory language of Pub. L. 96–76. See below for explanation of amendment by Pub. L. 96–32.

Pub. L. 96–32 substituted "December 31, 1980" for "September 30, 1977".

Subsec. (a)(1). Pub. L. 96–76, § 109(c)(2), substituted "1983" for "1980".

Subsec. (b). Pub. L. 96–76, § 109(c)(3), substituted "1983" for "1980" wherever appearing.

1975—Subsec. (a). Pub. L. 94–63, §§ 936(d), 941(h)(2), (i)(5), substituted "September 30, 1980" for "June 30, 1977" wherever appearing, struck out "of Health, Education, and Welfare" after "Secretary", and substituted references to section 835 of the Act for references to section 822, which had previously been translated as section 297a of this title, requiring no further translations in text as a result of renumbering of the Public Health Service Act.

Subsec. (b). Pub. L. 94–63, §§ 936(d), 941(h)(1), (4)(B), substituted "subpart" for "part", "September 30, 1980" for "June 30, 1977", and "December 31, 1980" for "September 30, 1977" and struck out provisions relating to payments from revolving fund established by section 297f(d) of this title.

1971—Pub. L. 92–158 substituted "1977" for "1975" wherever appearing.

Pub. L. 92–52 substituted "1975" for "1974" wherever appearing.

1968—Pub. L. 90–490 substituted "1974" for "1972" wherever appearing.

1966—Subsec. (a). Pub. L. 89–751, § 6(d)(1), (2), substituted "an agreement pursuant to section 297a(b) of this title" for "this part" in opening provisions, and in par. (1) substituted "such balance" for "the balance".

Subsec. (b). Pub. L. 89–751, § 6(d)(3), inserted "(other than so much of such fund as relates to payments from the revolving fund established by section 297f(d) of this title)".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–92 effective Oct. 1, 1985, see section 10(a) of Pub. L. 99–92, set out as a note under section 297a of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 936(d) of Pub. L. 94–63 effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as a note under section 297a of this title.

Amendment by section 941(h)(1), (2), (4)(B), (i)(1), (5) of Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 297a of this title.

[1] See References in Text note below.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 297f of this title as in effect prior to Nov. 3, 1966, see section 6(e)(1) of Pub. L. 89–751, set out as a note under section 297d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297d of this title.

§ 297f. Repealed. Pub. L. 94–63, title IX, § 936(e)(1), July 29, 1975, 89 Stat. 363

Section, act July 1, 1944, ch. 373, title VIII, § 827, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 917; amended Nov. 3, 1966, Pub. L. 89–751, § 6(a), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(g), 82 Stat. 785; July 9, 1971, Pub. L. 92–52, § 3(c), 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, § 6(d)(2), 85 Stat. 478, set out provisions relating to terms, conditions, limitations, manner of payment, etc., of loans to schools of nursing to capitalize student loan funds.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 905 of Pub. L. 94–63, set out as an Effective Date of 1975 Amendment note under section 297a of this title.

AVAILABILITY OF NURSE TRAINING REVOLVING FUND FOR PAYMENT OF OBLIGATIONS DEPOSITS INTO FUND; TRANSFER OF EXCESS AMOUNTS TO GENERAL FUND OF TREASURY AUTHORIZATION OF APPROPRIATIONS

Section 936(e)(2), (3) of Pub. L. 94–63 provided that:

''(2) The nurse training fund created within the Treasury by section 827(d)(1) of the Act [section 297f(d)(1) of this section] shall remain available to the Secretary of Health, Education, and Welfare [now Health and Human Services] for the purpose of meeting his responsibilities respecting participations in obligations acquired under section 827 of the Act [this section]. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 27[827]. If at any time the Secretary determines the moneys in the funds exceed the present and any reasonable prospective further requirements of such fund, such excess may be transferred to the general fund of the Treasury.

''(3) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 827(b) of the Act [section 297f(b) of this title] before the date of the enactment of this Act [July 29, 1975].''

CONVERSION OF FEDERAL CAPITAL CONTRIBUTION TO A LOAN UNDER SECTION 297f OF THIS TITLE

Pub. L. 89–751, § 6(e)(2), Nov. 3, 1966, 80 Stat. 1236, authorized the Secretary of Health, Education, and Welfare to convert a Federal capital contribution to a student loan fund of a particular institution, made under this subchapter, from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 297f of this title.

§ 297g. Modification of agreements; compromise, waiver or release

The Secretary may agree to modifications of agreements made under this subpart,[1] and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.[1]

(July 1, 1944, ch. 373, title VIII, § 840, formerly § 828, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 917; renumbered § 840 and amended Pub. L. 94–63, title IX, § 941(h)(1), (4)(C), (i)(1), July 29, 1975, 89 Stat. 365.)

REFERENCES IN TEXT

This subpart, referred to in text, probably should be ''this part'', to reflect the redesignation of subpart II of part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

AMENDMENTS

1975—Pub. L. 94–63, § 941(h)(1), (4)(C), substituted ''subpart'' for ''part'' wherever appearing and struck out ''or loans'' after ''agreements''.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–63 effective July 1, 1975, see section 942 of Pub. L. 94–63, set out as a note under section 297a of this title.

§ 297h. Repealed. Pub. L. 99–92, § 9(a)(1), Aug. 16, 1985, 99 Stat. 400

Section, act July 1, 1944, ch. 373, title VIII, § 841, formerly § 829, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 222(h), 82 Stat. 785; renumbered § 841 and amended July 29, 1975, Pub. L. 94–63, title IX, § 941(i)(1), (6), 89 Stat. 365, 366, related to transfers to the scholarship program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 10(a) of Pub. L. 99–92, set out as an Effective Date of 1985 Amendment note under section 297a of this title.

§ 297i. Procedures for appeal of terminations

In any case in which the Secretary intends to terminate an agreement with a school of nursing under this subpart,[1] the Secretary shall provide the school with a written notice specifying such intention and stating that the school may request a formal hearing with respect to such termination. If the school requests such a hearing within 30 days after the receipt of such notice, the Secretary shall provide such school with a hearing conducted by an administrative law judge.

(July 1, 1944, ch. 373, title VIII, § 842, as added Pub. L. 99–92, § 8(g), Aug. 16, 1985, 99 Stat. 399.)

REFERENCES IN TEXT

This subpart, referred to in text, probably should be ''this part'', to reflect the redesignation of subpart II of part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

PRIOR PROVISIONS

A prior section 297i, act July 1, 1944, ch. 373, title VIII, § 830, as added Nov. 18, 1971, Pub. L. 92–158, § 6(b)(2), 85 Stat. 477, relating to loan forgiveness, was transferred to and redesignated as subsec. (j) of section 823 of act July 1, 1944, which is classified to section 297b of this title, by Pub. L. 94–63, title IX, § 941(h)(5), July 29, 1975, 89 Stat. 365.

A prior section 297j, act July 1, 1944, ch. 373, title VIII, § 843, as added Nov. 4, 1988, Pub. L. 100–607, title VII, § 715, 102 Stat. 3162; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2616(a), 102 Stat. 4240; Aug. 16, 1989, Pub. L. 101–93, § 5(s), 103 Stat. 614, provided grant authority for scholarships for undergraduate education of professional nurses, prior to repeal by Pub. L. 102–531,

[1] See References in Text note below.

[1] See References in Text note below.

title III, § 313(a)(11), (c), Oct. 27, 1992, 106 Stat. 3507, effective immediately after enactment of Pub. L. 102–408, approved Oct. 13, 1992.

Another prior section 297j, act July 1, 1944, ch. 373, title VIII, § 845, formerly § 860, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 223(a), 82 Stat. 785; amended July 9, 1971, Pub. L. 92–52, § 4, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, § 7, 85 Stat. 478; renumbered § 845 and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 902(f), 937, 941(j)(1), (2), 89 Stat. 355, 363, 366; Sept. 29, 1979, Pub. L. 96–76, title I, § 110(a), (b), 93 Stat. 580; Aug. 13, 1981, Pub. L. 97–35, title XXVII, § 2758(a), (b), 95 Stat. 932, set forth provisions relating to scholarship grants to schools of nursing, prior to repeal by Pub. L. 99–92, § 9(a)(2), Aug. 16, 1985, 99 Stat. 400, eff. Oct. 1, 1985.

A prior section 297k, act July 1, 1944, ch. 373, title VIII, § 846, formerly § 861, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 223(a), 82 Stat. 786; renumbered § 846 and amended July 29, 1975, Pub. L. 94–63, title IX, §§ 941(j)(1), (3), 89 Stat. 366, related to transfers of funds to student loan program, prior to repeal by Pub. L. 97–35, title XXVII, § 2758(c), Aug. 13, 1981, 95 Stat. 932.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 10(a) of Pub. L. 99–92, set out as an Effective Date of 1985 Amendment note under section 297a of this title.

§ 297n. Loan repayment program

(a) In general

In the case of any individual—

(1) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

(2) who obtained (A) one or more loans from a loan fund established under subpart II,[1] or (B) any other educational loan for nurse training costs; and

(3) who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a rural health clinic, or in a public or nonprofit private health facility determined by the Secretary to have a critical shortage of nurses;

the Secretary shall make payments in accordance with subsection (b) of this section, for and on behalf of that individual, on the principal of and interest on any loan of that individual described in paragraph (2) of this subsection which is outstanding on the date the individual begins the service specified in the agreement described in paragraph (3) of this subsection.

(b) Manner of payments

The payments described in subsection (a) of this section shall be made by the Secretary as follows:

(1) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under subsection (a) of this section, the Secretary shall pay 30 percent of the principal of, and the interest on each loan of such individual described in subsection (a)(2) of this section which is outstanding on the date he began such practice.

(2) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 percent of the principal of, and the interest on each such loan.

(3) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 percent of the principal of, and the interest on each such loan.

(c) Payment by due date

Notwithstanding the requirement of completion of practice specified in subsection (b) of this section, the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then serving as described by subsection (a)(3) of this section, and that the borrower will continue to so serve for the period required (in the absence of this subsection) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 percent of the principal of any such loan shall be paid pursuant to this subsection.

(d) Breach of agreement

The Secretary may make payments under subsection (a) of this section on behalf of an individual only if the agreement under such subsection provides that section 298b–7(c)[1] of this title is applicable to the individual.

(e) Preferences regarding participants

In entering into agreements under subsection (a) of this section, the Secretary shall give preference—

(1) to qualified applicants with the greatest financial need; and

(2) to qualified applicants that, with respect to health facilities described in such subsection, agree to serve in such health facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.

(f) Definitions

For purposes of this section:

(1) The term ''community health center'' has the meaning given such term in section 254c(a)[1] of this title.

(2) The term ''migrant health center'' has the meaning given such term in section 254b(a)(1)[1] of this title.

(3) The term ''rural health clinic'' has the meaning given such term in section 1395x(aa)(2) of this title.

(g) Authorization of appropriations

For the purpose of payments under agreements entered into under subsection (a) of this section, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994.

(h) Breach of agreement

(1) In general

In the case of any program under this section under which an individual makes an

[1] See References in Text note below.

agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this section referred to as a ''nursing program''), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

(ii) is dismissed from the nursing program for disciplinary reasons; or

(iii) voluntarily terminates the nursing program.

(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

(2) Waiver or suspension of liability

In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such subsection if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

(3) Date certain for recovery

Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

(4) Availability

Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.

(July 1, 1944, ch. 373, title VIII, § 846, as added Pub. L. 102–408, title II, § 211(a)(3), Oct. 13, 1992, 106 Stat. 2078; amended Pub. L. 105–392, title I, § 133(d), Nov. 13, 1998, 112 Stat. 3576.)

REFERENCES IN TEXT

Subpart II, referred to in subsec. (a)(2), probably should be ''this part'' to reflect the redesignation of subpart II of former part B of this subchapter as part E of this subchapter by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562.

Section 298b–7(c) of this title, referred to in subsec. (d), was repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

Sections 254b and 254c of this title, referred to in subsec. (f)(1), (2), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

PRIOR PROVISIONS

A prior section 297n, act July 1, 1944, ch. 373, title VIII, § 847, as added Nov. 4, 1988, Pub. L. 100–607, title VII, § 716, 102 Stat. 3163; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2616(b), 102 Stat. 4240, established a demonstration program for student loans with respect to service in certain health care facilities in underserved areas, prior to repeal by Pub. L. 102–408, title II, § 210, Oct. 13, 1992, 106 Stat. 2078.

A prior section 846 of act July 1, 1944, was classified to section 297k of this title and was repealed by Pub. L. 97–35.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–392 added subsec. (h).

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

PART F—FUNDING

§ 297q. Funding

(a) Authorization of appropriations

For the purpose of carrying out parts B, C, and D of this subchapter (subject to section 297t(g) of this title), there are authorized to be appropriated $65,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(b) Allocations for fiscal years 1998 through 2002

(1) Nurse practitioners; nurse midwives

(A) Fiscal year 1998

Of the amount appropriated under subsection (a) of this section for fiscal year 1998, the Secretary shall reserve not less than $17,564,000 for making awards of grants and contracts under section 296m of this title as such section was in effect for fiscal year 1998.

(B) Fiscal years 1999 through 2002

Of the amount appropriated under subsection (a) of this section for fiscal year 1999 or any of the fiscal years 2000 through 2002, the Secretary, subject to subsection (d) of this section, shall reserve for the fiscal year involved, for making awards of grants and contracts under part B of this subchapter with respect to nurse practitioners and nurse midwives, not less than the percentage

constituted by the ratio of the amount appropriated under section 296m of this title as such section was in effect for fiscal year 1998 to the total of the amounts appropriated under this subchapter for such fiscal year. For purposes of the preceding sentence, the Secretary, in determining the amount that has been reserved for the fiscal year involved, shall include any amounts appropriated under subsection (a) of this section for the fiscal year that are obligated by the Secretary to continue in effect grants or contracts under section 296m of this title as such section was in effect for fiscal year 1998.

(2) Nurse anesthetists

(A) Fiscal year 1998

Of the amount appropriated under subsection (a) of this section for fiscal year 1998, the Secretary shall reserve not less than $2,761,000 for making awards of grants and contracts under section 297–1 of this title as such section was in effect for fiscal year 1998.

(B) Fiscal years 1999 through 2002

Of the amount appropriated under subsection (a) of this section for fiscal year 1999 or any of the fiscal years 2000 through 2002, the Secretary, subject to subsection (d) of this section, shall reserve for the fiscal year involved, for making awards of grants and contracts under part B of this subchapter with respect to nurse anesthetists, not less than the percentage constituted by the ratio of the amount appropriated under section 297–1 of this title as such section was in effect for fiscal year 1998 to the total of the amounts appropriated under this subchapter for such fiscal year. For purposes of the preceding sentence, the Secretary, in determining the amount that has been reserved for the fiscal year involved, shall include any amounts appropriated under subsection (a) of this section for the fiscal year that are obligated by the Secretary to continue in effect grants or contracts under section 297–1 of this title as such section was in effect for fiscal year 1998.

(c) Allocations after fiscal year 2002

(1) In general

For fiscal year 2003 and subsequent fiscal years, amounts appropriated under subsection (a) of this section for the fiscal year involved shall be allocated by the Secretary among parts B, C, and D of this subchapter (and programs within such parts) according to a methodology that is developed in accordance with paragraph (2). The Secretary shall enter into a contract with a public or private entity for the purpose of developing the methodology. The contract shall require that the development of the methodology be completed not later than February 1, 2002.

(2) Use of certain factors

The contract under paragraph (1) shall provide that the methodology under such paragraph will be developed in accordance with the following:

(A) The methodology will take into account the need for and the distribution of health services among medically underserved populations, as determined according to the factors that apply under section 254b(b)(3) of this title.

(B) The methodology will take into account the need for and the distribution of health services in health professional shortage areas, as determined according to the factors that apply under section 254e(b) of this title.

(C) The methodology will take into account the need for and the distribution of mental health services among medically underserved populations and in health professional shortage areas.

(D) The methodology will be developed in consultation with individuals in the field of nursing, including registered nurses, nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, nursing educators and educational institutions, nurse executives, pediatric nurse associates and practitioners, and women's health, obstetric, and neonatal nurses.

(E) The methodology will take into account the following factors with respect to the States:

(i) A provider population ratio equivalent to a managed care formula of 1/1,500 for primary care services.

(ii) The use of whole rather than fractional counts in determining the number of health care providers.

(iii) The counting of only employed health care providers in determining the number of health care providers.

(iv) The number of families whose income is less than 200 percent of the official poverty line (as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title).

(v) The rate of infant mortality and the rate of low-birthweight births.

(vi) The percentage of the general population constituted by individuals who are members of racial or ethnic minority groups, stated both by minority group and in the aggregate.

(vii) The percentage of the general population constituted by individuals who are of Hispanic ethnicity.

(viii) The number of individuals residing in health professional shortage areas, and the number of individuals who are members of medically underserved populations.

(ix) The percentage of the general population constituted by elderly individuals.

(x) The extent to which the populations served have a choice of providers.

(xi) The impact of care on hospitalizations and emergency room use.

(xii) The number of individuals who lack proficiency in speaking the English language.

(xiii) Such additional factors as the Secretary determines to be appropriate.

(3) Report to Congress

Not later than 30 days after the completion of the development of the methodology re-

quired in paragraph (1), the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the methodology and explaining the effects of the methodology on the allocation among parts B, C, and D of this subchapter (and programs within such parts) of amounts appropriated under subsection (a) of this section for the first fiscal year for which the methodology will be in effect. Such explanation shall include a comparison of the allocation for such fiscal year with the allocation made under this section for the preceding fiscal year.

(d) Use of methodology before fiscal year 2003

With respect to the fiscal years 1999 through 2002, if the report required in subsection (c)(3) of this section is submitted in accordance with such subsection not later than 90 days before the beginning of such a fiscal year, the Secretary may for such year implement the methodology described in the report (rather than implementing the methodology in fiscal year 2003), in which case subsection (b) of this section ceases to be in effect. The authority under the preceding sentence is subject to the condition that the fiscal year for which the methodology is implemented be the same fiscal year identified in such report as the fiscal year for which the methodology will first be in effect.

(e) Authority for use of additional factors in methodology

(1) In general

The Secretary shall make the determinations specified in paragraph (2). For any fiscal year beginning after the first fiscal year for which the methodology under subsection (c)(1) of this section is in effect, the Secretary may alter the methodology by including the information from such determinations as factors in the methodology.

(2) Relevant determinations

The determinations referred to in paragraph (1) are as follows:

(A) The need for and the distribution of health services among populations for which it is difficult to determine the number of individuals who are in the population, such as homeless individuals; migratory and seasonal agricultural workers and their families; individuals infected with the human immunodeficiency virus, and individuals who abuse drugs.

(B) In the case of a population for which the determinations under subparagraph (A) are made, the extent to which the population includes individuals who are members of racial or ethnic minority groups and a specification of the skills needed to provide health services to such individuals in the language and the educational and cultural context that is most appropriate to the individuals.

(C) Data, obtained from the Director of the Centers for Disease Control and Prevention, on rates of morbidity and mortality among various populations (including data on the rates of maternal and infant mortality and data on the rates of low-birthweight births of living infants).

(D) Data from the Health Plan Employer Data and Information Set, as appropriate.

(July 1, 1944, ch. 373, title VIII, § 841, as added Pub. L. 105–392, title I, § 123(5), Nov. 13, 1998, 112 Stat. 3569.)

REFERENCES IN TEXT

Section 296m of this title, referred to in subsec. (b)(1), was repealed and a new section 296m was enacted by Pub. L. 105–392, title I, § 123(1), (4), Nov. 13, 1998, 112 Stat. 3562, 3568.

Section 297–1 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

PRIOR PROVISIONS

A prior section 841 of act July 1, 1944, was classified to section 297h of this title prior to repeal by Pub. L. 99–92.

PART G—NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE

§ 297t. National Advisory Council on Nurse Education and Practice

(a) Establishment

The Secretary shall establish an advisory council to be known as the National Advisory Council on Nurse Education and Practice (in this section referred to as the ''Advisory Council'').

(b) Composition

(1) In general

The Advisory Council shall be composed of—

(A) not less than 21, nor more than 23 individuals, who are not officers or employees of the Federal Government, appointed by the Secretary without regard to the Federal civil service laws, of which—

(i) 2 shall be selected from full-time students enrolled in schools of nursing;

(ii) 2 shall be selected from the general public;

(iii) 2 shall be selected from practicing professional nurses; and

(iv) 9 shall be selected from among the leading authorities in the various fields of nursing, higher, secondary education, and associate degree schools of nursing, and from representatives of advanced education nursing groups (such as nurse practitioners, nurse midwives, and nurse anesthetists), hospitals, and other institutions and organizations which provide nursing services; and

(B) the Secretary (or the delegate of the Secretary (who shall be an ex officio member and shall serve as the Chairperson)).

(2) Appointment

Not later than 90 days after November 13, 1998, the Secretary shall appoint the members of the Advisory Council and each such member shall serve a 4 year term. In making such appointments, the Secretary shall ensure a fair balance between the nursing professions, a broad geographic representation of members and a balance between urban and rural mem-

bers. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. A majority of the members shall be nurses.

(3) Minority representation

In appointing the members of the Advisory Council under paragraph (1), the Secretary shall ensure the adequate representation of minorities.

(c) Vacancies

(1) In general

A vacancy on the Advisory Council shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(2) Filling unexpired term

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) Duties

The Advisory Council shall—

(1) provide advice and recommendations to the Secretary and Congress concerning policy matters arising in the administration of this subchapter, including the range of issues relating to the nurse workforce, education, and practice improvement;

(2) provide advice to the Secretary and Congress in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter, including the range of issues relating to nurse supply, education and practice improvement; and

(3) not later than 3 years after November 13, 1998, and annually thereafter, prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Council, including findings and recommendations made by the Council concerning the activities under this subchapter.

(e) Meetings and documents

(1) Meetings

The Advisory Council shall meet not less than 2 times each year. Such meetings shall be held jointly with other related entities established under this subchapter where appropriate.

(2) Documents

Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Council shall prepare and make available an agenda of the matters to be considered by the Advisory Council at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Council shall prepare and make available a summary of the meeting and any actions taken by the Council based upon the meeting.

(f) Compensation and expenses

(1) Compensation

Each member of the Advisory Council shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Council. All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Expenses

The members of the Advisory Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Council.

(g) Funding

Amounts appropriated under this subchapter may be utilized by the Secretary to support the nurse education and practice activities of the Council.

(h) FACA

The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.

(July 1, 1944, ch. 373, title VIII, § 845, as added Pub. L. 105–392, title I, § 123(5), Nov. 13, 1998, 112 Stat. 3572.)

REFERENCES IN TEXT

The Federal civil-service laws, referred to in subsec. (b)(1)(A), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

November 13, 1998, referred to in subsec. (b)(2), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 105–392, which enacted this part, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 845 of act July 1, 1944, was classified to section 297j of this title, prior to repeal by Pub. L. 99–92.

Prior sections 298 to 298b–1 were repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

Section, 298, act July 1, 1944, ch. 373, title VIII, § 851, formerly § 841, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 917; amended Pub. L. 89–751, § 3(b), Nov. 3, 1966, 80 Stat. 1230; Pub. L. 91–515, title VI, § 601(b)(2), Oct. 30, 1970, 84 Stat. 1311; Pub. L. 92–158, §§ 9, 13, Nov. 18, 1971, 85 Stat. 479, 480; renumbered § 851 and amended Pub. L. 94–63, title IX, § 941(k)(1), (2), July 29, 1975, 89 Stat. 366; Pub. L. 97–35, title XXVII, § 2759(a), Aug. 13, 1981, 95 Stat. 932; Pub. L. 99–92, § 9(d), Aug. 16, 1985, 99 Stat. 402; Pub. L. 100–607, title VII, § 721(a), Nov. 4, 1988, 102 Stat. 3165; Pub. L. 102–408, title II, § 212, Oct. 13, 1992, 106 Stat. 2079, related to Advisory Council on Nurse Education and Practice. See section 297t of this title.

Section 298a, act July 1, 1944, ch. 373, title VIII, § 852, formerly § 842, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 918; renumbered § 852 and amended Pub. L.

94–63, title IX, § 941(k)(1), July 29, 1975, 89 Stat. 366, directed Federal noninterference with administration of institutions.

Section 298b, act July 1, 1944, ch. 373, title VIII, § 853, formerly § 843, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 918; amended Pub. L. 89–290, § 5(b), Oct. 22, 1965, 79 Stat. 1058; Pub. L. 90–490, title II, §§ 203, 204, 213, 231, Aug. 16, 1968, 82 Stat. 780, 783, 787; Pub. L. 92–158, § 2(d)(1), (2), Nov. 18, 1971, 85 Stat. 467, 468; renumbered § 853 and amended Pub. L. 94–63, title IX, § 941(k)(1), (3), July 29, 1975, 89 Stat. 366, 367; Pub. L. 96–32, § 7(k), July 10, 1979, 93 Stat. 84; Pub. L. 97–35, title XXVII, § 2759(b), Aug. 13, 1981, 95 Stat. 932; Pub. L. 99–92, § 9(e), (f), Aug. 16, 1985, 99 Stat. 402; Pub. L. 102–408, title II, § 202(b), Oct. 13, 1992, 106 Stat. 2071, defined terms.

Section 298b–1, act July 1, 1944, ch. 373, title VIII, § 854, formerly § 844, as added Pub. L. 92–158, § 10, Nov. 18, 1971, 85 Stat. 479; renumbered § 854, Pub. L. 94–63, title IX, § 941(k)(1), July 29, 1975, 89 Stat. 366, authorized advance funding for grants, contracts, or other payments.

A prior section 298b–2, act July 1, 1944, ch. 373, title VIII, § 855, formerly § 845, as added Pub. L. 92–158, § 11, Nov. 18, 1971, 85 Stat. 479; renumbered § 855, Pub. L. 94–63, title IX, § 941(k)(1), July 29, 1975, 89 Stat. 366, which prohibited discrimination by schools on basis of sex, was renumbered section 810 of act July 1, 1944, by Pub. L. 105–392 and transferred to section 296g of this title.

Prior sections 298b–3 to 298b–5 were repealed by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

Section 298b–3, act July 1, 1944, ch. 373, title VIII, § 856, as added Pub. L. 94–63, title IX, § 941(k)(4), July 29, 1975, 89 Stat. 367; amended Pub. L. 97–35, title XXVII, § 2759(c), Aug. 13, 1981, 95 Stat. 932; Pub. L. 100–607, title VII, § 721(b)(2), Nov. 4, 1988, 102 Stat. 3165, related to delegation of authority to administer programs.

Section 298b–4, act July 1, 1944, ch. 373, title VIII, § 857, as added Pub. L. 97–414, § 8(m), Jan. 4, 1983, 96 Stat. 2061, authorized use of funds to provide technical assistance.

Section 298b–5, act July 1, 1944, ch. 373, title VIII, § 858, formerly § 804, as added Pub. L. 88–581, § 2, Sept. 4, 1964, 78 Stat. 911; amended Pub. L. 92–158, §§ 2(d)(3), 13, Nov. 18, 1971, 85 Stat. 468, 480; Pub. L. 94–63, title IX, § 941(c), July 29, 1975, 89 Stat. 364; renumbered § 858 and amended Pub. L. 99–92, § 9(c)(1), Aug. 16, 1985, 99 Stat. 400; Pub. L. 99–129, title II, § 207(e)(1)–(3), Oct. 22, 1985, 99 Stat. 529, described conditions for United States recovery for construction assistance.

A prior section 298b–6, act July 1, 1944, ch. 373, title VIII, § 859, as added Nov. 4, 1988, Pub. L. 100–607, title VII, § 722, 102 Stat. 3165; amended Oct. 13, 1992, Pub. L. 102–408, title II, § 213, 106 Stat. 2080, directed Secretary to provide for evaluations of projects carried out pursuant to this subchapter and submit reports to Congress summarizing evaluations, and made one percent of amount appropriated each fiscal year available to carry out section, prior to repeal by Pub. L. 104–66, title I, § 1061(c), Dec. 21, 1995, 109 Stat. 719.

A prior section 298b–7, act July 1, 1944, ch. 373, title VIII, § 860, as added Pub. L. 102–408, title II, § 209, Oct. 13, 1992, 106 Stat. 2075; amended Pub. L. 102–531, title III, § 313(a)(10), Oct. 27, 1992, 106 Stat. 3507; Pub. L. 103–43, title XX, § 2014(g), June 10, 1993, 107 Stat. 217, set forth certain generally applicable provisions, prior to repeal by Pub. L. 105–392, title I, § 123(1), Nov. 13, 1998, 112 Stat. 3562.

A prior section 298c, act July 1, 1944, ch. 373, title VIII, § 860, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 223(a), 82 Stat. 785; amended July 9, 1971, Pub. L. 92–52, § 4, 85 Stat. 145; Nov. 18, 1971, Pub. L. 92–158, § 7, 85 Stat. 478, which related to scholarship grants, was renumbered section 845 of act July 1, 1944, by Pub. L. 94–63 and transferred to section 297j of this title and subsequently repealed.

Another prior section 298c, act July 1, 1944, ch. 373, title VIII, § 861, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1236, stated the purposes of opportunity grants for nursing education and authorized appropriations of $3,000,000, $5,000,000, and $7,000,000 for fiscal years ending June 30, 1967, 1968, and 1969, respectively, to be available for payments to institutions until close of fiscal year succeeding fiscal year for which appropriated, prior to the reorganization and amendment of this subchapter by Pub. L. 90–490.

A prior section 298c–1, act July 1, 1944, ch. 373, title VIII, § 861, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 223(a), 82 Stat. 786, related to transfers to student loan program, was renumbered section 846 of act July 1, 1944, by Pub. L. 94–63 and transferred to section 297k of this title and subsequently repealed.

Another prior section 298c–1, act July 1, 1944, ch. 373, title VIII, § 862, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1237, prescribed amount of nursing educational opportunity grant and provided for its annual determination, prior to the reorganization and amendment of this subchapter by Pub. L. 90–490.

Sections 298c–2 to 298c–6 were omitted in the reorganization and amendment of this subchapter by Pub. L. 90–490, title II, § 223, Aug. 16, 1968, 82 Stat. 785.

Section 298c–2, act July 1, 1944, ch. 373, title VIII, § 863, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1237, related to duration of a nursing educational opportunity grant.

Section 298c–3, act July 1, 1944, ch. 373, title VIII, § 864, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1238, related to selection of recipients of nursing educational opportunity grants.

Section 298c–4, act July 1, 1944, ch. 373, title VIII, § 865, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1238, related to allotment of nursing educational opportunity grant funds among States.

Section 298c–5, act July 1, 1944, ch. 373, title VIII, § 866, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1238, related to allocation of allotted funds to schools of nursing.

Section 298c–6, act July 1, 1944, ch. 373, title VIII, § 867, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1239, related to agreements with schools of nursing.

A prior section 298c–7, act July 1, 1944, ch. 373, title VIII, § 868, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1239; amended Nov. 18, 1971, Pub. L. 92–158, § 8, 85 Stat. 478; July 29, 1975, Pub. L. 94–63, title IX, § 902(g), 89 Stat. 355, authorized grants and contracts to encourage full utilization of educational talent for nursing profession and authorized appropriations from fiscal year ending June 30, 1972 through fiscal year ending June 30, 1975 for implementation, prior to repeal by Pub. L. 94–63, title IX, §§ 905, 931(b), July 29, 1975, 89 Stat. 355, 362, effective July 1, 1975.

A prior section 298c–8, act July 1, 1944, ch. 373, title VIII, § 869, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1240, defined ''academic year'', prior to repeal by Pub. L. 94–63, title IX, §§ 941(j)(4), 942, July 29, 1975, 89 Stat. 366, 367, effective July 1, 1975.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 297q of this title.

SUBCHAPTER VII—AGENCY FOR HEALTH CARE POLICY AND RESEARCH

PRIOR PROVISIONS

A prior subchapter VII, related to education, research, training, and demonstrations in heart disease, cancer, stroke, and related diseases and consisted of sections 299 to 299j, prior to repeal by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 242b, 242*l* of this title.

PART A—ESTABLISHMENT AND GENERAL DUTIES

§ 299. Establishment

(a) In general

There is established within the Service an agency to be known as the Agency for Health Care Policy and Research.

(b) Purpose

The purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice (including the prevention of diseases and other health conditions) and in the organization, financing, and delivery of health care services.

(c) Appointment of Administrator

There shall be at the head of the Agency an official to be known as the Administrator for Health Care Policy and Research. The Administrator shall be appointed by the Secretary. The Secretary, acting through the Administrator, shall carry out the authorities and duties established in this subchapter.

(July 1, 1944, ch. 373, title IX, § 901, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2189; amended Pub. L. 102–410, § 2(a), Oct. 13, 1992, 106 Stat. 2094.)

PRIOR PROVISIONS

A prior section 299, act July 1, 1944, ch. 373, title IX, § 900, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 926; amended Oct. 30, 1970, Pub. L. 91–515, title I, § 102, 84 Stat. 1297, set forth Congressional declaration of purpose of this subchapter to encourage and assist regional cooperative arrangements among medical schools, research institutions, and hospitals for research, training and medical data exchange, and to improve quality and capacity of health manpower and facilities available throughout the nation, prior to repeal by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495.

A prior section 901 of act July 1, 1944, was classified to section 299a of this title prior to repeal by Pub. L. 99–117.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–410 inserted ''(including the prevention of diseases and other health conditions)'' after ''improvements in clinical practice''.

TRANSITIONAL AND SAVINGS PROVISIONS

Section 6103(f) of Pub. L. 101–239 provided that:

''(1) TRANSFER OF PERSONNEL, ASSETS, AND LIABILITIES.—Personnel of the Department of Health and Human Services employed on the date of the enactment of this Act [Dec. 19, 1989] in connection with the functions vested in the Administrator for Health Care Policy and Research pursuant to the amendments made by this section [enacting this section and sections 299a to 299c–6 and 1320b–12 of this title, amending sections 242b, 242k, 242*l*, 242m, 254c, 288, 1395y, 1395*ll*, and 11111 of this title, repealing sections 242c and 242n of this title, and amending provisions set out as a note under section 11137 of this title], and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds, of such Department arising from or employed, held, used, or available on such date, or to be made available after such date, in connection with such functions shall be transferred to the Administrator for appropriate allocation. Unexpended funds transferred under this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

''(2) SAVINGS PROVISIONS.—With respect to functions vested in the Administrator for Health Care Policy and Research pursuant to the amendments made by this section, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, of the Department of Health and Human Services that have been issued, made, granted, or allowed to become effective in the performance of such functions, and that are effective on the date of the enactment of this Act [Dec. 19, 1989], shall continue in effect according to their terms unless changed pursuant to law.''

EX. ORD. NO. 13017. ADVISORY COMMISSION ON CONSUMER PROTECTION AND QUALITY IN HEALTH CARE INDUSTRY

Ex. Ord. No. 13017, Sept. 5, 1996, 61 F.R. 47659, as amended by Ex. Ord. No. 13040, Mar. 25, 1997, 62 F.R. 14773; Ex. Ord. No. 13056, July 21, 1997, 62 F.R. 39415, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. *Establishment*. (a) There is established the Advisory Commission on Consumer Protection and Quality in the Health Care Industry (the ''Commission''). The Commission shall be composed of not more than 34 members to be appointed by the President. The members will be consumers, institutional health care providers, health care professionals, other health care workers, health care insurers, health care purchasers, State and local government representatives, and experts in health care quality, financing, and administration.

(b) The Secretary of Health and Human Services and the Secretary of Labor shall serve as Co-Chairs of the Commission. The Co-Chairs shall report through the Vice President to the President.

SEC. 2. *Functions*. (a) The Commission shall advise the President on changes occurring in the health care system and recommend such measures as may be necessary to promote and assure health care quality and value, and protect consumers and workers in the health care system. In particular, the Commission shall:

(1) Review the available data in the area of consumer information and protections for those enrolled in health care plans and make such recommendations as may be necessary for improvements;

(2) Review existing and planned work that defines, measures, and promotes quality of health care, and help build further consensus on approaches to assure and promote quality of care in a changing delivery system; and

(3) Collect and evaluate data on changes in availability of treatment and services, and make such recommendations as may be necessary for improvements.

(b) For the purpose of carrying out its functions, the Commission may hold hearings, establish subcommittees, and convene and act at such times and places as the Commission may find advisable.

SEC. 3. *Reports*. The Commission shall make a preliminary report to the President by January 31, 1998. A final report shall be submitted to the President by March 30, 1998.

SEC. 4. *Administration*. (a) To the extent permitted by law, the heads of executive departments and agencies, and independent agencies (collectively ''agencies'') shall provide the Commission, upon request, with such information as it may require for the purposes of carrying out its functions.

(b) Members of the Commission may receive compensation for their work on the Commission not to exceed the daily rate specified for Level IV of the Executive Schedule (5 U.S.C. 5315). While engaged in the work of the Commission, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707) to the extent funds are available for such purposes.

(c) To the extent permitted by law and subject to the availability of appropriations, the Department of Health and Human Services shall provide the Commission with administrative services, funds, facilities, staff, and other support services necessary for the performance of the Commission's functions. The Secretary of Health and Human Services shall perform the administrative functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), with respect to the Commission.

SEC. 5. *General Provision*. The Commission shall terminate 30 days after submitting its final report, but not later than 2 years from the date of this order, unless extended by the President.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299a, 299a–2, 299c, 299c–2 of this title.

§ 299a. General authorities and duties

(a) In general

In carrying out section 299(b) of this title, the Administrator shall conduct and support research, demonstration projects, evaluations, training, guideline development, and the dissemination of information, on health care services and on systems for the delivery of such services, including activities with respect to—

(1) the effectiveness, efficiency, and quality of health care services;

(2) subject to subsection (d)[1] of this section, the outcomes of health care services and procedures;

(3) clinical practice, including primary care and practice-oriented research;

(4) health care technologies, facilities, and equipment;

(5) health care costs, productivity, and market forces;

(6) health promotion and disease prevention;

(7) health statistics and epidemiology; and

(8) medical liability.

(b) Requirements with respect to rural areas and underserved populations

In carrying out subsection (a) of this section, the Administrator shall undertake and support research, demonstration projects, and evaluations with respect to—

(1) the delivery of health care services in rural areas (including frontier areas); and

(2) the health of low-income groups, minority groups, and the elderly.

(c) Health services training grants

The Administrator may provide training grants in the field of health services research related to activities authorized under subsection (a) of this section, to include pre- and post-doctoral fellowships and training programs, young investigator awards, and other programs and activities as appropriate.

(d) Multidisciplinary centers

The Administrator may provide financial assistance to public or nonprofit private entities for meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, demonstration projects, evaluations, training, policy analysis, and demonstrations respecting the matters referred to in subsection (a) of this section.

(e) Relation to certain authorities regarding social security

Activities authorized in this section may include, and shall be appropriately coordinated with, experiments, demonstration projects, and other related activities authorized by the Social Security Act [42 U.S.C. 301 et seq.] and the Social Security Amendments of 1967. Activities under subsection (a)(2) of this section that affect the programs under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] shall be carried out consistent with section 1142 of such Act [42 U.S.C. 1320b–12].

(July 1, 1944, ch. 373, title IX, § 902, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2189; amended Pub. L. 101–639, § 3(d), Nov. 28, 1990, 104 Stat. 4603; Pub. L. 102–410, § 2(b), Oct. 13, 1992, 106 Stat. 2094.)

REFERENCES IN TEXT

Subsection (d) of this section, referred to in subsec. (a)(2), was redesignated subsection (e) by Pub. L. 102–410, § 2(b)(1), Oct. 13, 1992, 106 Stat. 2094.

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of this title. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Social Security Amendments of 1967, referred to in subsec. (e), is Pub. L. 90–248, Jan. 2, 1968, 81 Stat. 821, as amended. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 299a, act July 1, 1944, ch. 373, title IX, § 901, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 926; amended Oct. 15, 1968, Pub. L. 90–574, title I, §§ 101, 102, 107, 82 Stat. 1005, 1006; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(F), 84 Stat. 352; Oct. 30, 1970, Pub. L. 91–515, title I, § 103, 84 Stat. 1298; June 18, 1973, Pub. L. 93–45, title I, § 110, 87 Stat. 93, authorized appropriations for grants and contracts to carry out purposes of this subchapter and set forth extent of and limitations on grants, prior to repeal by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495.

A prior section 902 of act July 1, 1944, was classified to section 299b of this title prior to repeal by Pub. L. 99–117.

AMENDMENTS

1992—Subsecs. (c) to (e). Pub. L. 102–410 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1990—Subsec. (c). Pub. L. 101–639 substituted "subsection (a)" for "subsection (b)".

REDUCING ADMINISTRATIVE HEALTH CARE COSTS

Pub. L. 103–43, title XIX, § 1909, June 10, 1993, 107 Stat. 205, provided that: "The Secretary of Health and Human Services, acting through the Agency for Health Care Policy and Research and, to the extent possible, in consultation with the Health Care Financing Administration, may fund research to develop a text-based standardized billing process, through the utilization of text-based information retrieval and natural language processing techniques applied to automatic coding and analysis of textual patient discharge summaries and other text-based electronic medical records, within a

[1] See References in Text note below.

parallel general purpose (shared memory) high performance computing environment. The Secretary shall determine whether such a standardized approach to medical billing, through the utilization of the text-based hospital discharge summary as well as electronic patient records can reduce the administrative billing costs of health care delivery.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299b–2, 299b–3 of this title.

§ 299a–1. Dissemination

(a) In general

The Administrator shall—

(1) promptly publish, make available, and otherwise disseminate, in a form understandable and on as broad a basis as practicable so as to maximize its use, the results of research, demonstration projects, and evaluations conducted or supported under this subchapter and the guidelines, standards, and review criteria developed under this subchapter;

(2) promptly make available to the public data developed in such research, demonstration projects, and evaluations;

(3) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on research, demonstration projects, and evaluations with respect to health care to public and private entities and individuals engaged in the improvement of health care delivery and the general public, and undertake programs to develop new or improved methods for making such information available; and

(4) as appropriate, provide technical assistance to State and local government and health agencies and conduct liaison activities to such agencies to foster dissemination.

(b) Prohibition against restrictions

Except as provided in subsection (c) of this section, the Administrator may not restrict the publication or dissemination of data from, or the results of, projects conducted or supported under this subchapter.

(c) Limitation on use of certain information

No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this subchapter may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

(d) Certain interagency agreement

The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of subsection (a)(3) of this section.

(e) Required interagency agreement

The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of section 286d of this title.

(July 1, 1944, ch. 373, title IX, § 903, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2190; amended Pub. L. 102–410, § 3, Oct. 13, 1992, 106 Stat. 2094; Pub. L. 103–43, title XIV, § 1422(a), June 10, 1993, 107 Stat. 172.)

PRIOR PROVISIONS

A prior section 903 of act July 1, 1944, was classified to section 299c of this title prior to repeal by Pub. L. 99–117.

AMENDMENTS

1993—Subsec. (e). Pub. L. 103–43 amended heading and text of subsec. (e) generally. Prior to amendment, text related to establishment at the National Library of Medicine of an information center on health services research and on selected technology assessments and clinical practice guidelines, duties of the Administrator to ensure electronic and convenient collection and maintenance of information concerning clinical practice guidelines and to develop and publish criteria for inclusion of practice guidelines and technology assessments in the database, and requirement of an interagency agreement with the Director of the National Library of Medicine. See section 286d of this title.

1992—Subsec. (e). Pub. L. 102–410 added subsec. (e).

CONSTRUCTION

Enactment of subsec. (e) of this section by Pub. L. 102–410 and amendment of subsec. (e) of this section by Pub. L. 103–43 not to be construed as terminating the information center on health care technologies and health care technology assessment established under section 299a–2 of this title, as in effect on the day before Oct. 13, 1992, with such center to be considered the center established in and subject to provisions of section 286d of this title, see section 1422(b) of Pub. L. 103–43, set out as a note under section 286d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299c–5 of this title.

§ 299a–2. Health care technology and technology assessment

(a) In general

In carrying out section 299(b) of this title, the Administrator shall promote the development and application of appropriate health care technology assessments—

(1) by identifying needs in, and establishing priorities for, the assessment of specific health care technologies;

(2) by developing and evaluating criteria and methodologies for health care technology assessment;

(3) by conducting and supporting research on the development and diffusion of health care technology;

(4) by conducting and supporting research on assessment methodologies;

(5) by promoting education, training, and technical assistance in the use of health care technology assessment methodologies and results; and

(6) by conducting assessments and reassessments of existing and new health care technologies.

(b) Specific assessments

(1) In general

In carrying out section 299(b) of this title, the Administrator shall conduct and support

specific assessments of health care technologies.

(2) Consideration of certain factors

In carrying out paragraph (1), the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the legal, social, and ethical implications, and appropriate uses of such technologies, including consideration of geographic factors. In carrying out such paragraph, the Administrator shall also consider the cost effectiveness of such technologies where cost information is available and reliable.

(c) Agenda and priorities

(1) Establishment of priorities

In accordance with paragraph (2), the Administrator, in consultation with the Advisory Council established under section 299c of this title, shall establish an annual list of technology assessments under consideration by the Agency, including those assessments performed at the request of the Health Care Financing Administration and the Department of Defense and those assessments performed under subsections (d) and (f) of this section.

(2) Public notice

The Administrator, in consultation with the Advisory Council, shall publish the list established in paragraph (1) annually in the Federal Register.

(d) Conduct of assessments

(1) Recommendations with respect to health care technology

The Administrator shall make recommendations to the Secretary with respect to whether specific health care technologies should be reimbursable under federally financed health programs, including recommendations with respect to any conditions and requirements under which any such reimbursements should be made.

(2) Considerations of certain factors

In making recommendations respecting health care technologies, the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the appropriate uses of such technologies. The Administrator shall also consider the cost effectiveness of such technologies where cost information is available and reliable.

(3) Additional assessments

The Administrator may conduct technology assessments in addition to those assessments performed at the request of the Administrator of the Health Care Financing Administration or of the Secretary of Defense.

(4) Criteria

The Administrator shall develop criteria for determining the priority of assessments performed under this subsection. Such criteria shall include—

(A) the prevalence of the health condition for which the technology aims to prevent, diagnose, treat and clinically manage;

(B) variations in current practice;

(C) the economic burden posed by the prevention, diagnosis, treatment, and clinical management of the health condition, including the impact on publicly-funded programs;

(D) aggregate cost of the use of technology;

(E) the morbidity and mortality associated with the health condition; and

(F) the potential of an assessment to improve health outcomes or affect costs associated with the prevention, diagnosis, or treatment of the condition.

(5) Consultations

In carrying out this subsection, the Administrator shall cooperate and consult with the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency.

(e) Description of process

Not later than January 1, 1994, the Administrator shall develop and publish a description of the methodology used to establish priorities for technology assessment and the process used to conduct its technology assessments under this section.

(f) Program of innovative assessments

(1) In general

The Administrator may make grants to, or enter cooperative agreements or contracts with, entities described in paragraph (2) for the establishment of collaborative arrangements for the purpose of conducting assessments of experimental, emerging, existing, or potentially outmoded health care technologies, and for related activities. Such assessments may include controlled clinical trials, large simple trials, and other methodologies that can be conducted in partnership between the public and private sectors or among multiple government agencies.

(2) Eligible entities

The entities referred to in paragraph (1) are entities determined to be appropriate by the Administrator, which entities may include academic medical centers, research institutions, nonprofit professional organizations, public or private third party payers, other governmental agencies, and consortia of appropriate research entities established for the purpose of conducting technology assessments.

(3) Use of award

A grant, cooperative agreement, or contract under paragraph (1) may be expended for data collection, data analysis, protocol development, report development, dissemination and evaluation, and other activities determined to be appropriate by the Administrator. Such funds shall not be used for direct services.

(4) Application for award

To be eligible to receive a grant, cooperative agreement, or contract under paragraph (1), an entity shall prepare and submit to the Administrator an application, at such time, in such form, and containing such information as the Administrator may require.

(5) Interagency memoranda of understanding

In carrying out paragraph (1), the Administrator may enter into memoranda of under-

standing with the heads of other Federal agencies.

(July 1, 1944, ch. 373, title IX, § 904, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2191; amended Pub. L. 102–410, § 4(a), Oct. 13, 1992, 106 Stat. 2095; Pub. L. 103–43, title XX, § 2013(1), June 10, 1993, 107 Stat. 214.)

PRIOR PROVISIONS

A prior section 904 of act July 1, 1944, was classified to section 299d of this title prior to repeal by Pub. L. 99–117.

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–43 added pars. (1) and (2), substituted ''Additional assessments'' for ''In general'' as heading of former par. (1) and redesignated it as (3), redesignated former par. (2) as (4), and added par. (5).

1992—Subsec. (a)(6). Pub. L. 102–410, § 4(a)(1), added par. (6).

Subsec. (b)(2). Pub. L. 102–410, § 4(a)(2), struck out ''cost-effectiveness,'' before ''legal, social, and ethical implications'' and inserted at end ''In carrying out such paragraph, the Administrator shall also consider the cost effectiveness of such technologies where cost information is available and reliable.''

Subsec. (c). Pub. L. 102–410, § 4(a)(3), amended subsec. (c) generally, substituting provisions relating to establishment of annual list of technology assessments under consideration for provisions relating to establishment of an information center on health care technologies and health care technology assessment at National Library of Medicine.

Subsec. (d). Pub. L. 102–410, § 4(a)(4), amended subsec. (d) generally, substituting provisions relating to conduct of assessments and criteria for determining priority of assessments performed for provisions relating to recommendations and consideration of factors with respect to health care technologies.

Subsecs. (e), (f). Pub. L. 102–410, § 4(a)(5), added subsecs. (e) and (f).

CONSTRUCTION

Enactment of subsec. (e) of this section 299a–1 of this title by Pub. L. 102–410 and enactment of section 286d of this title and amendment of subsec. (e) of section 299a–1 of this title by Pub. L. 103–43 not to be construed as terminating the information center on health care technologies and health care technology assessment established under this section, as in effect on the day before Oct. 13, 1992, with such center to be considered to be the center established in and subject to provisions of section 286d of this title, see section 1422(b) of Pub. L. 103–43, set out as a note under section 286d of this title.

REPORT REGARDING INNOVATIVE ASSESSMENTS

Section 4(b) of Pub. L. 102–410 provided that, not later than Jan. 1, 1994, Administrator for Health Care Policy and Research was to submit to Congress, a report concerning the program established in 42 U.S.C. 299a–2(f), including the plan of such Administrator for implementing the program.

CONTRACT FOR TEMPORARY ASSISTANCE TO SECRETARY OF HEALTH AND HUMAN SERVICES WITH RESPECT TO HEALTH CARE TECHNOLOGY ASSESSMENT

Section 6103(d)(2) of Pub. L. 101–239 provided that:

''(A) The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into a contract—

''(i) to develop and recommend to the Secretary priorities for the assessment of specific health care technologies under section 904 of the Public Health Service Act [42 U.S.C. 299a–2] (as added by subsection (a) of this section); and

''(ii) to assist the Administrator for Health Care Policy and Research, and the Director of the National Library of Medicine, in establishing the information center required under subsection (c)(1) of such section 904.

''(B) In carrying out section 904(c)(1) of the Public Health Service Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall, as appropriate, provide for the transfer to the Secretary of any information and materials developed by the council on health care technology under section 309(c)(1)(A) of the Public Health Service Act [former section 242n(c)(1)(A) of this title] (as such section was in effect on the day before the effective date of this section [Dec. 19, 1989]).

''(C) The Secretary of Health and Human Services shall ensure that the contract under subparagraph (A) specifies that the activities described in clauses (i) and (ii) of such subparagraph shall be completed not later than 1 year after the date on which the Secretary enters into the contract.

''(D) For the purpose of carrying out the contract under subparagraph (A), there is authorized to be appropriated $300,000 for fiscal year 1990.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299b–3, 299c–5 of this title.

§ 299a–3. Demonstration program regarding centers for education and research on therapeutics

(a) In general

The Secretary, acting through the Administrator and in consultation with the Commissioner of Food and Drugs, shall establish a demonstration program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in subsection (b) of this section.

(b) Required activities

The activities referred to in subsection (a) of this section are the following:

(1) The conduct of state-of-the-art clinical and laboratory research for the following purposes:

(A) To increase awareness of—

(i) new uses of drugs, biological products, and devices;

(ii) ways to improve the effective use of drugs, biological products, and devices; and

(iii) risks of new uses and risks of combinations of drugs and biological products.

(B) To provide objective clinical information to the following individuals and entities:

(i) Health care practitioners or other providers of health care goods or services.

(ii) Pharmacy benefit managers.

(iii) Health maintenance organizations or other managed health care organizations.

(iv) Health care insurers or governmental agencies.

(v) Consumers.

(C) To improve the quality of health care while reducing the cost of health care through—

(i) the appropriate use of drugs, biological products, or devices; and

(ii) the prevention of adverse effects of drugs, biological products, and devices and

the consequences of such effects, such as unnecessary hospitalizations.

(2) The conduct of research on the comparative effectiveness and safety of drugs, biological products, and devices.

(3) Such other activities as the Secretary determines to be appropriate, except that the grant may not be expended to assist the Secretary in the review of new drugs.

(c) Application for grant

A grant under subsection (a) of this section may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(d) Peer review

A grant under subsection (a) of this section may be made only if the application for the grant has undergone appropriate technical and scientific peer review.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1998, and $3,000,000 for each of fiscal years 1999 through 2002.

(July 1, 1944, ch. 373, title IX, § 905, as added Pub. L. 105–115, title IV, § 409, Nov. 21, 1997, 111 Stat. 2371.)

EFFECTIVE DATE

Section effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as an Effective Date of 1997 Amendment note under section 321 of Title 21, Food and Drugs.

PART B—FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE

§ 299b. Establishment of office

There is established within the Agency an office to be known as the Office of the Forum for Quality and Effectiveness in Health Care. The office shall be headed by a director, who shall be appointed by the Administrator. The Administrator shall carry out this part acting through the Director.

(July 1, 1944, ch. 373, title IX, § 911, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2192; amended Pub. L. 102–410, § 5(b), Oct. 13, 1992, 106 Stat. 2097.)

PRIOR PROVISIONS

A prior section 299b, act July 1, 1944, ch. 373, title IX, § 902, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 927; amended Oct. 15, 1968, Pub. L. 90–574, title I, § 103, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 104, 111(b), 84 Stat. 1299, 1301, defined terms for purposes of this subchapter, prior to repeal by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495.

AMENDMENTS

1992—Pub. L. 102–410 inserted at end ''The Administrator shall carry out this part acting through the Director.''

§ 299b–1. Duties

(a) Establishment of forum program

The Administrator shall establish a program to be known as the Forum for Quality and Effectiveness in Health Care. For the purpose of promoting the quality, appropriateness, and effectiveness of health care, the Administrator, using the process set forth in section 299b–2 of this title, shall arrange for the development and periodic review and updating of—

(1) clinically relevant guidelines that may be used by physicians, educators, and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically; and

(2) standards of quality, performance measures, and medical review criteria through which health care providers and other appropriate entities may assess or review the provision of health care and assure the quality of such care.

(b) Certain requirements

Guidelines, standards, performance measures, and review criteria under subsection (a) of this section shall—

(1) be based on the best available research and professional judgment regarding the effectiveness and appropriateness of health care services and procedures;

(2) be presented in formats appropriate for use by physicians, health care practitioners, providers, medical educators, and medical review organizations and in formats appropriate for use by consumers of health care;

(3) include treatment-specific or condition-specific practice guidelines for clinical treatments and conditions in forms appropriate for use in clinical practice, for use in educational programs, and for use in reviewing quality and appropriateness of medical care; and[1]

(4) include information on risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition; and

(5) include information on the costs of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition, where cost information is available and reliable.

(c) Authority for contracts

In carrying out this part, the Administrator may enter into contracts with public or nonprofit private entities.

(d) Date certain for initial guidelines and standards

The Administrator, by not later than January 1, 1991, shall assure the development of an initial set of guidelines, standards, performance measures, and review criteria under subsection (a) of this section that includes not less than 3 clinical treatments or conditions described in section 1142(a)(3) of the Social Security Act [42 U.S.C. 1320b–12(a)(3)].

(e) Relationship with medicare program

To assure an appropriate reflection of the needs and priorities of the program under title

[1] So in original. The word ''and'' probably should not appear.

XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], activities under this part that affect such program shall be conducted consistent with section 1142 of such Act [42 U.S.C. 1320b–12].

(f) Development of certain guidelines and standards

Not later than January 1, 1996, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria, are developed under subsection (a)(1) of this section that address the prevention of not fewer than three conditions that account for significant national health expenditures. In carrying out this subsection the Administrator shall consult with the United States Preventive Services Task Force and other recognized experts in the field of disease prevention.

(July 1, 1944, ch. 373, title IX, § 912, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2192; amended Pub. L. 102–410, §§ 5(a)(1), (c)(1), 6(b), Oct. 13, 1992, 106 Stat. 2096, 2097, 2100.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–410, § 5(c)(1)(A), struck out ‘‘, acting through the Director,’’ after ‘‘The Administrator’’ and substituted ‘‘Administrator’’ for ‘‘Director’’ after ‘‘health care, the’’.

Subsec. (b)(4), (5). Pub. L. 102–410, § 5(a)(1), added pars. (4) and (5).

Subsec. (c). Pub. L. 102–410, § 5(c)(1)(B), substituted ‘‘Administrator’’ for ‘‘Director’’.

Subsec. (f). Pub. L. 102–410, § 6(b), added subsec. (f).

STUDY AND REPORT ON METHODS FOR COLLECTING AND ANALYZING DATA

Section 5(a)(2) of Pub. L. 102–410 directed Administrator for Health Care Policy and Research to conduct or support a study to develop methods for collecting and analyzing primary and secondary data to be used in generating cost estimates of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or the health condition to be included in guideline documents and to submit to Congress, not later than June 1, 1994, a report concerning such study.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299b–2, 299b–3, 1320b–12 of this title.

§ 299b–2. Process for development of guidelines and standards

(a) Development through contracts and panels

The Administrator shall—

(1) enter into contracts with public and nonprofit private entities for the purpose of developing and periodically reviewing and updating the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title; and

(2) convene panels of appropriately qualified experts (including practicing physicians with appropriate expertise) and health care consumers for the purpose of—

(A) developing and periodically reviewing and updating the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title; and

(B) reviewing the guidelines, standards, performance measures, and review criteria developed under contracts under paragraph (1).

(b) Authority for additional panels

The Administrator may convene panels of appropriately qualified experts (including practicing physicians with appropriate expertise) and health care consumers for the purpose of—

(1) developing the standards and criteria described in section 299b–3(b) of this title; and

(2) providing advice to the Administrator and the Director with respect to any other activities carried out under this part or under section 299a(a)(2) of this title.

(c) Selection of panel members

The Administrator shall select the chairpersons and the members of the panels convened as well as other participants in the guideline process under this section. In selecting individuals to serve on panels convened under this section, the Administrator shall consult with a broad range of interested individuals and organizations, including organizations representing physicians in the general practice of medicine and organizations representing physicians in specialties and subspecialties pertinent to the purposes of the panel involved. The Administrator shall seek to appoint physicians reflecting a variety of practice settings. In making such selections, the Administrator shall ensure that a balance is maintained between individuals selected from academic settings and individuals selected without full-time academic appointments. At least two other members of such panels shall be individuals who do not derive their primary source of revenue directly from the performance of procedures discussed in the guideline. The Administrator shall ensure that at least one participant in the guideline process shall have expertise in epidemiology as well as familiarity with the clinical condition or treatment in question. The Administrator shall also ensure that at least one participant in the guideline process shall have expertise in health services research or health economics as well as familiarity with the clinical condition or treatment in question.

(July 1, 1944, ch. 373, title IX, § 913, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2193; amended Pub. L. 102–410, § 5(c)(2), (f)(1)(A), Oct. 13, 1992, 106 Stat. 2097, 2098.)

AMENDMENTS

1992—Subsecs. (a), (b). Pub. L. 102–410, § 5(c)(2)(A), (B), substituted ‘‘Administrator’’ for ‘‘Director’’ in introductory provisions.

Subsec. (c). Pub. L. 102–410, § 5(f)(1)(A), inserted after subsec. designation ‘‘The Administrator shall select the chairpersons and the members of the panels convened as well as other participants in the guideline process under this section.’’ and inserted at end ‘‘In making such selections, the Administrator shall ensure that a balance is maintained between individuals selected from academic settings and individuals selected without full-time academic appointments. At least two other members of such panels shall be individuals who

do not derive their primary source of revenue directly from the performance of procedures discussed in the guideline. The Administrator shall ensure that at least one participant in the guideline process shall have expertise in epidemiology as well as familiarity with the clinical condition or treatment in question. The Administrator shall also ensure that at least one participant in the guideline process shall have expertise in health services research or health economics as well as familiarity with the clinical condition or treatment in question.''

Pub. L. 102–410, § 5(c)(2)(C), substituted ''Administrator'' for ''Director'' in two places.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 5(f)(1)(B) of Pub. L. 102–410 provided that: ''The amendments made by subparagraph (A) [amending this section] shall apply only with respect to panels convened under section 913 of the Public Health Service Act [this section] on or after the date of enactment of this Act [Oct. 13, 1992].''

STUDY OF PROCESS

Section 5(f)(2) of Pub. L. 102–410 directed Administrator for Health Care Policy and Research to submit to Congress, not later than June 1, 1995, study and report on process described in this section for development of guidelines, standards, and review criteria, which was to address optimal methods for setting priorities for guideline topics, different methods for generating guidelines, comparing cost of producing guidelines and validity and utility of guidelines produced, and methods for assessing quality of practice guidelines, including evaluation of validity, reliability, and impact of guidelines.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299b–1, 299b–3, 1320b–12 of this title.

§ 299b–3. Additional requirements

(a) Program agenda

(1) In general

The Administrator shall provide for an agenda for the development of the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title, including—

(A) with respect to the guidelines, identifying specific diseases, disorders, and other health conditions for which the guidelines are to be developed and those that are to be given priority in the development of the guidelines; and

(B) with respect to the standards, performance measures, and review criteria, identifying specific aspects of health care for which the standards, performance measures, and review criteria are to be developed and those that are to be given priority in the development of the standards, performance measures, and review criteria.

(2) Consideration of certain factors in establishing priorities

(A) Factors considered by the Administrator in establishing priorities for purposes of paragraph (1) shall include consideration of the extent to which the guidelines, standards, performance measures, and review criteria involved can be expected—

(i) to improve methods for disease prevention;

(ii) to improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;

(iii) to reduce clinically significant variations among physicians in the particular services and procedures utilized in making diagnoses and providing treatments; and

(iv) to reduce clinically significant variations in the outcomes of health care services and procedures.

(B) In providing for the agenda required in paragraph (1), including the priorities, the Administrator shall consult with the Administrator of the Health Care Financing Administration and otherwise act consistent with section 1320b–12(b)(3) of this title.

(C) The Administrator shall develop and publish a methodology for establishing priorities for guideline topics. Such methodology may include the considerations described in section 299a–2(d)(2) of this title or this paragraph, and other considerations determined by the Administrator to be appropriate. Using such methodology, the Administrator shall establish and publish annually in the Federal Register a list of guideline topics under consideration.

(b) Standards and criteria

(1) Process for development, review, and updating

The Administrator shall establish standards and criteria to be utilized by the recipients of contracts under section 299b–2 of this title, and by the expert panels convened under such section, with respect to the development and periodic review and updating of the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title.

(2) Award of contracts

The Administrator shall establish standards and criteria to be utilized for the purpose of ensuring that contracts entered into for the development or periodic review or updating of the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title will be entered into only with appropriately qualified entities.

(3) Certain requirements for standards and criteria

The Administrator shall ensure that the standards and criteria established under paragraphs (1) and (2) specify that—

(A) appropriate consultations with interested individuals and organizations are to be conducted in the development of the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title; and

(B) such development may be accomplished through the adoption, with or without modification, of guidelines, standards, performance measures, and review criteria that—

(i) meet the requirements of this part; and

(ii) are developed by entities independently of the program established in this part.

(4) Improvements of standards and criteria

The Administrator shall conduct and support research with respect to improving the

standards and criteria developed under this subsection.

(c) Dissemination

The Administrator shall promote and support the dissemination of the guidelines, standards, performance measures, and review criteria described in section 299b–1(a) of this title. Such dissemination shall be carried out through organizations representing health care providers, organizations representing health care consumers, peer review organizations, accrediting bodies, and other appropriate entities.

(d) Pilot testing

The Administrator may conduct or support pilot testing of the guidelines, standards, performance measures, and review criteria developed under section 299b–1(a) of this title. Any such pilot testing may be conducted prior to, or concurrently with, their dissemination under subsection (c) of this section.

(e) Evaluations

The Administrator shall conduct and support evaluations of the extent to which the guidelines, standards, performance standards, and review criteria developed under section 299b–1 of this title have had an effect on the clinical practice of medicine. Evaluations shall be developed prior to the completion and release of the guideline, so that baseline data concerning practice patterns and health care costs may be obtained as part of the evaluation.

(f) Recommendations to Administrator

The Director shall make recommendations to the Administrator on activities that should be carried out under section 299a(a)(2) of this title and under section 1320b–12 of this title, including recommendations of particular research projects that should be carried out with respect to—

(1) evaluating the outcomes of health care services and procedures;

(2) developing the standards and criteria required in subsection (b) of this section; and

(3) promoting the utilization of the guidelines, standards, performance standards, and review criteria developed under section 299b–1(a) of this title.

(July 1, 1944, ch. 373, title IX, § 914, as added Pub. L. 101–239, title VI, § 6103(a), Dec. 19, 1989, 103 Stat. 2193; amended Pub. L. 102–410, §§ 5(c)(3), 6(a), 7, Oct. 13, 1992, 106 Stat. 2097, 2099, 2100; Pub. L. 103–43, title XX, § 2013(2), June 10, 1993, 107 Stat. 215.)

AMENDMENTS

1993—Subsec. (a)(2)(C). Pub. L. 103–43 substituted ''section 299a–2(d)(2)'' for ''section 299a–2(c)(2)''.

1992—Subsec. (a)(2)(A). Pub. L. 102–410, § 6(a), added cls. (i) and (ii), redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively, and struck out former cl. (i) which read as follows: ''to improve methods of prevention, diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;''.

Subsec. (a)(2)(C). Pub. L. 102–410, § 7(1), added subpar. (C).

Subsecs. (b) to (d). Pub. L. 102–410, § 5(c)(3)(A)–(C), substituted ''Administrator'' for ''Director'' wherever appearing.

Subsec. (e). Pub. L. 102–410, §§ 5(c)(3)(D), 7(2), substituted ''Administrator'' for ''Director'' and inserted at end ''Evaluations shall be developed prior to the completion and release of the guideline, so that baseline data concerning practice patterns and health care costs may be obtained as part of the evaluation.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 299b–2, 1320b–12 of this title.

PART C—GENERAL PROVISIONS

§ 299c. Advisory Council for Health Care Policy, Research, and Evaluation

(a) Establishment

There is established an advisory council to be known as the National Advisory Council for Health Care Policy, Research, and Evaluation.

(b) Duties

(1) In general

The Council shall advise the Secretary and the Administrator with respect to activities to carry out the purpose of the Agency under section 299(b) of this title.

(2) Certain recommendations

Activities of the Council under paragraph (1) shall include making recommendations to the Administrator regarding priorities for a national agenda and strategy for—

(A) the conduct of research, demonstration projects, and evaluations with respect to health care, including clinical practice and primary care;

(B) the development and application of appropriate health care technology assessments;

(C) the development and periodic review and updating of guidelines for clinical practice, standards of quality, performance measures, and medical review criteria with respect to health care; and

(D) the conduct of research on outcomes of health care services and procedures.

(c) Membership

(1) In general

The Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Council shall be voting members, other than officials designated under paragraph (3)(B) as ex officio members of the Council.

(2) Appointed members

The Secretary shall appoint to the Council 17 appropriately qualified representatives of the public who are not officers or employees of the United States. The Secretary shall ensure that the appointed members of the Council, as a group, are representative of professions and entities concerned with, or affected by, activities under this subchapter and under section 1320b–12 of this title. Of such members—

(A) 8 shall be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care;

(B) 3 shall be individuals distinguished in the practice of medicine;

(C) 2 shall be individuals distinguished in the health professions;

(D) 2 shall be individuals distinguished in the fields of business, law, ethics, economics, and public policy; and

(E) 2 shall be individuals representing the interests of consumers of health care.

(3) Ex officio members

The Secretary shall designate as ex officio members of the Council—

(A) the Director of the National Institutes of Health, the Director of the Centers for Disease Control, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), the Chief Medical Officer of the Department of Veterans Affairs; and

(B) such other Federal officials as the Secretary may consider appropriate.

(d) Terms

(1) In general

Except as provided in paragraph (2), members of the Council appointed under subsection (c)(2) of this section shall serve for a term of 3 years.

(2) Staggered rotation

Of the members first appointed to the Council under subsection (c)(2) of this section, the Secretary shall appoint 6 members to serve for a term of 3 years, 6 members to serve for a term of 2 years, and 5 members to serve for a term of 1 year.

(3) Service beyond term

A member of the Council appointed under subsection (c)(2) of this section may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) Vacancies

If a member of the Council appointed under subsection (c)(2) of this section does not serve the full term applicable under subsection (d) of this section, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) Chair

The Administrator shall, from among the members of the Council appointed under subsection (c)(2) of this section, designate an individual to serve as the chair of the Council.

(g) Meetings

The Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Administrator or the chair.

(h) Compensation and reimbursement of expenses

(1) Appointed members

Members of the Council appointed under subsection (c)(2) of this section shall receive compensation for each day (including travel-time) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

(2) Ex officio members

Officials designated under subsection (c)(3) of this section as ex officio members of the Council may not receive compensation for service on the Council in addition to the compensation otherwise received for duties carried out as officers of the United States.

(i) Staff

The Administrator shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

(j) Duration

Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law.

(July 1, 1944, ch. 373, title IX, § 921, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2199; amended Pub. L. 102–410, § 8, Oct. 13, 1992, 106 Stat. 2100.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (h)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (j), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5.

PRIOR PROVISIONS

A prior section 299c, act July 1, 1944, ch. 373, title IX, § 903, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 927; amended Oct. 15, 1968, Pub. L. 90–574, title I, § 104, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 105, 111(b), 84 Stat. 1299, 1301, authorized Secretary to make planning grants and set forth requirements for grant applications, prior to repeal by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495.

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–410, § 8(1), (2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to establishment of subcouncil on outcomes and guidelines and designation of its membership.

Subsec. (e). Pub. L. 102–410, § 8(2), (3), redesignated subsec. (f) as (e) and substituted ''subsection (d)'' for ''subsection (e)''. Former subsec. (e) redesignated (d).

Subsecs. (f) to (k). Pub. L. 102–410, § 8(2), redesignated subsecs. (g) to (k) as (f) to (j), respectively. Former subsec. (f) redesignated (e).

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299a–2 of this title.

§ 299c–1. Peer review with respect to grants and contracts

(a) Requirement of review

(1) In general

Appropriate technical and scientific peer review shall be conducted with respect to each application for a grant, cooperative agreement, or contract under this subchapter.

(2) Reports to Administrator

Each peer review group to which an application is submitted pursuant to paragraph (1) shall report its finding and recommendations

respecting the application to the Administrator in such form and in such manner as the Administrator shall require.

(b) Approval as precondition of awards

The Administrator may not approve an application described in subsection (a)(1) of this section unless the application is recommended for approval by a peer review group established under subsection (c) of this section.

(c) Establishment of peer review groups

(1) In general

The Administrator shall establish such technical and scientific peer review groups as may be necessary to carry out this section. Such groups shall be established without regard to the provisions of title 5 that govern appointments in the competitive service, and without regard to the provisions of chapter 51, and subchapter III of chapter 53, of such title that relate to classification and pay rates under the General Schedule.

(2) Membership

The members of any peer review group established under this section shall be appointed from among individuals who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group. Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees.

(3) Duration

Notwithstanding section 14(a) of the Federal Advisory Committee Act, peer review groups established under this section shall continue in existence until otherwise provided by law.

(d) Categories of review

(1) In general

With respect to technical and scientific peer review under this section, there shall be two categories of peer review groups as follows:

(A) One category of such groups shall, subject to subparagraph (B), review applications with respect to research, demonstration projects, or evaluations.

(B) The other category of such groups shall review applications with respect to dissemination activities or the development of research agendas (including conferences, workshops, and meetings). If the purpose of a proposal presented in an application is a matter described in the preceding sentence, the application shall be reviewed by the groups referred to in such sentence, notwithstanding that the proposal involves research, demonstration projects, or evaluations.

(2) Authority for procedural adjustments in certain cases

In the case of applications described in subsection (a)(1) of this section for financial assistance whose direct costs will not exceed $50,000, the Administrator may make appropriate adjustments in the procedures otherwise established by the Administrator for the conduct of peer review under this section. Such adjustments may be made for the purpose of encouraging the entry of individuals into the field of research, for the purpose of encouraging clinical practice-oriented research, and for such other purposes as the Administrator may determine to be appropriate.

(e) Regulations

The Secretary shall issue regulations for the conduct of peer review under this section.

(July 1, 1944, ch. 373, title IX, § 922, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2201; amended Pub. L. 101–508, title IV, § 4118(f)(2)(F), Nov. 5, 1990, 104 Stat. 1388–70; Pub. L. 102–410, § 5(d), Oct. 13, 1992, 106 Stat. 2098.)

REFERENCES IN TEXT

The provisions of title 5 that govern appointments in the competitive service, referred to in subsec. (c)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (c)(3), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5.

AMENDMENTS

1992—Subsec. (c)(2). Pub. L. 102–410, § 5(d)(1), struck out ''who are not officers or employees of the United States and'' after ''from among individuals'' and inserted at end ''Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees.''

Subsec. (d)(1). Pub. L. 102–410, § 5(d)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''With respect to technical and scientific peer review under this section, such review of applications with respect to research, demonstration projects, or evaluations (other than of dissemination activities) shall be conducted by different peer review groups than the peer review groups that conduct such review of applications with respect to research, demonstration projects, or evaluations of dissemination activities or the development of research agendas (including conferences, workshops, and meetings).''

1990—Subsec. (d)(1). Pub. L. 101–508 inserted ''(other than of dissemination activities)'' after ''evaluations'' and ''research, demonstration projects, or evaluations of'' after ''applications with respect to'', the latter being executed by inserting such words after the second reference to ''applications with respect to'' to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 4118(f)(2)(F) of Pub. L. 101–508 provided that the amendment made by that section is effective as if included in the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239.

§ 299c–2. Certain provisions with respect to development, collection, and dissemination of data

(a) Standards with respect to utility of data

(1) In general

With respect to data developed or collected by any entity for the purpose described in section 299(b) of this title, the Administrator shall, in order to assure the utility, accuracy,

and sufficiency of such data for all interested entities, establish guidelines for uniform methods of developing and collecting such data. Such guidelines shall include specifications for the development and collection of data on the outcomes of health care services and procedures.

(2) Relationship with medicare program

In any case where guidelines under paragraph (1) may affect the administration of the program under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], the guidelines shall be in the form of recommendations to the Secretary for such program.

(b) Statistics

The Administrator shall—

(1) take such action as may be necessary to assure that statistics developed under this subchapter are of high quality, timely, and comprehensive, as well as specific, standardized, and adequately analyzed and indexed; and

(2) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

(c) Authority regarding certain requests

Upon the request of a public or nonprofit private entity, the Administrator may tabulate and analyze statistics under arrangements under which such entity will pay the cost of the service provided. Amounts appropriated to the Administrator from payments made under such arrangements shall be available to the Administrator for obligation until expended.

(July 1, 1944, ch. 373, title IX, § 923, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2202; amended Pub. L. 102–410, § 5(e), Oct. 12, 1992, 106 Stat. 2098.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–410 added subsec. (c).

§ 299c–3. Additional provisions with respect to grants and contracts

(a) Financial conflicts of interest

With respect to projects for which awards of grants, cooperative agreements, or contracts are authorized to be made under this subchapter, the Administrator shall by regulation define—

(1) the specific circumstances that constitute financial interests in such projects that will, or may be reasonably expected to, create a bias in favor of obtaining results in the projects that are consistent with such interests; and

(2) the actions that will be taken by the Administrator in response to any such interests identified by the Administrator.

(b) Requirement of application

The Administrator may not, with respect to any program under this subchapter authorizing the provision of grants, cooperative agreements, or contracts, provide any such financial assistance unless an application for the assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out the program involved.

(c) Provision of supplies and services in lieu of funds

(1) In general

Upon the request of an entity receiving a grant, cooperative agreement, or contract under this subchapter, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the entity in carrying out the project involved and, for such purpose, may detail to the entity any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in funds

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of the financial assistance involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Administrator. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(d) Applicability of certain provisions with respect to contracts

Contracts may be entered into under this part without regard to section 3324(a) and (b) of title 31 and section 5 of title 41.

(July 1, 1944, ch. 373, title IX, § 924, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2202; amended Pub. L. 102–410, § 9, Oct. 13, 1992, 106 Stat. 2100.)

CODIFICATION

In subsec. (d), ''section 3324(a) and (b) of title 31'' substituted for reference to section 3648 of the Revised Statutes (31 U.S.C. 529) on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Pub. L. 102–410 added subsec. (a) and redesignated former subsecs. (a) to (c) as (b) to (d), respectively.

§ 299c–4. Certain administrative authorities

(a) Deputy administrator and other officers and employees

(1) Deputy administrator

The Administrator may appoint a deputy administrator for the Agency.

(2) Other officers and employees

The Administrator may appoint and fix the compensation of such officers and employees as may be necessary to carry out this subchapter. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Facilities

The Secretary, in carrying out this subchapter—

(1) may acquire, without regard to section 34 of title 40, by lease or otherwise through the Administrator of General Services, buildings or portions of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed 10 years; and

(2) may acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary.

(c) Provision of financial assistance

The Administrator, in carrying out this subchapter, may make grants to, and enter into cooperative agreements with, public and nonprofit private entities and individuals, and when appropriate, may enter into contracts with public and private entities and individuals.

(d) Utilization of certain personnel and resources

(1) Department of Health and Human Services

The Administrator, in carrying out this subchapter, may utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, and provide technical assistance and advice.

(2) Other agencies

The Administrator, in carrying out this subchapter, may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, or of any foreign government, with or without reimbursement of such agencies.

(e) Consultants

The Secretary, in carrying out this subchapter, may secure, from time to time and for such periods as the Administrator deems advisable but in accordance with section 3109 of title 5, the assistance and advice of consultants from the United States or abroad.

(f) Experts

(1) In general

The Secretary may, in carrying out this subchapter, obtain the services of not more than 50 experts or consultants who have appropriate scientific or professional qualifications. Such experts or consultants shall be obtained in accordance with section 3109 of title 5, except that the limitation in such section on the duration of service shall not apply.

(2) Travel expenses

(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a), 5724a(c), and 5726(c) of title 5.

(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless and until the expert agrees in writing to complete the entire period of assignment, or one year, whichever is shorter, unless separated or reassigned for reasons that are beyond the control of the expert or consultant and that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

(g) Voluntary and uncompensated services

The Administrator, in carrying out this subchapter, may accept voluntary and uncompensated services.

(July 1, 1944, ch. 373, title IX, § 925, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2203; amended Pub. L. 104–201, div. A, title XVII, § 1723(a)(3)(B), Sept. 23, 1996, 110 Stat. 2759.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a)(2), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

1996—Subsec. (f)(2)(A). Pub. L. 104–201 substituted ''5724a(a), 5724a(c)'' for ''5724a(a)(1), 5724a(a)(3)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of Title 5, Government Organization and Employees.

§ 299c–5. Funding

(a) Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated $115,000,000 for fiscal year 1993, $145,000,000 for fiscal year 1994, and $175,000,000 for fiscal year 1995.

(b) Evaluations

In addition to amounts available pursuant to subsection (a) of this section for carrying out this subchapter, there shall be made available for such purpose, from the amounts made available pursuant to section 238j of this title (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section 238j of this title to be made available.

(c) Information center

For purposes of carrying out the activities under section 299a–1(e) of this title, there are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

(d) Health care technology assessment

For the purpose of carrying out technology assessment activities under section 299a–2(d) of this title, there are authorized to be appro-

priated $2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

(e) Program of innovative assessments

For purposes of establishing the program of innovative assessments under section 299a–2(f) of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 and 1995.

(July 1, 1944, ch. 373, title IX, § 926, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2204; amended Pub. L. 101–381, title I, § 102(7), Aug. 18, 1990, 104 Stat. 586; Pub. L. 102–410, § 10, Oct. 13, 1992, 106 Stat. 2101; Pub. L. 103–43, title XX, § 2010(b)(8), June 10, 1993, 107 Stat. 214.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–43 substituted ''section 238j'' for ''section 300aaa–10'' in two places.

1992—Subsec. (a). Pub. L. 102–410, § 10(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''For the purpose of carrying out this subchapter, there are authorized to be appropriated $35,000,000 for fiscal year 1990, $50,000,000 for fiscal year 1991, and $70,000,000 for fiscal year 1992.''

Subsecs. (c) to (e). Pub. L. 102–410, § 10(2), added subsecs. (c) to (e).

1990—Subsec. (b). Pub. L. 101–381 made technical amendment to references to section 300aaa–10 of this title wherever appearing to reflect renumbering of corresponding section of original act.

§ 299c–6. Definitions

For purposes of this subchapter:

(1) The term ''Administrator'' means the Administrator for Health Care Policy and Research.

(2) The term ''Agency'' means the Agency for Health Care Policy and Research.

(3) The term ''Council'' means the National Advisory Council on Health Care Policy, Research, and Evaluation.

(4) The term ''Director'' means the Director of the Office of the Forum for Quality and Effectiveness in Health Care.

(July 1, 1944, ch. 373, title IX, § 927, as added Pub. L. 101–239, title VI, § 6103(c), Dec. 19, 1989, 103 Stat. 2204.)

PRIOR PROVISIONS

Prior sections 299d to 299j were repealed by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495.

Section 299d, act July 1, 1944, ch. 373, title IX, § 904, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 928; amended Oct. 15, 1968, Pub. L. 90–574, title I, § 104, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 106, 111(b), 84 Stat. 1299, 1301, authorized Secretary to make grants for establishment and operation of regional medical programs and set forth requirements for grant applications.

Section 299e, act July 1, 1944, ch. 373, title IX, § 905, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 929; amended Oct. 15, 1968, Pub. L. 90–574, title I, § 105, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 107(a), 111(b), title VI, § 601(b)(2), (4), 84 Stat. 1299, 1301, 1311; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695, provided for establishment of a National Advisory Council on Regional Medical Programs and its functions.

Section 299f, act July 1, 1944, ch. 373, title IX, § 906, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 930; amended Oct. 30, 1970, Pub. L. 91–515, title I, § 111(b), 84 Stat. 1301, authorized Secretary to establish rules and regulations covering terms of approval of grant applications and coordination of programs.

Section 299g, act July 1, 1944, ch. 373, title IX, § 907, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 930; amended Oct. 30, 1970, Pub. L. 91–515, title I, §§ 108, 111(b), 84 Stat. 1300, 1301, directed Secretary to compile a list of facilities equipped and staffed to provide most advanced methods for diagnosing and treating certain diseases and illnesses.

Section 299h, act July 1, 1944, ch. 373, title IX, § 908, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 930, called for a report to the President and the Congress on or before June 30, 1967, by Surgeon General concerning activities under this subchapter with required statements, appraisals, and recommendations.

Section 299i, act July 1, 1944, ch. 373, title IX, § 909, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 930; amended Oct. 30, 1970, Pub. L. 91–515, title I, §§ 109, 111(b), 84 Stat. 1300, 1301; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695, provided for recordkeeping by grant recipients and for accessibility of records for audit and examination.

Section 299j, act July 1, 1944, ch. 373, title IX, § 910, as added Oct. 15, 1968, Pub. L. 90–574, title I, § 106, 82 Stat. 1005; amended Oct. 30, 1970, Pub. L. 91–515, title I, § 110, 84 Stat. 1300, related to grants and contracts for multiprogram services, costs of special projects, and support of research, studies, investigations, training, and demonstrations.

SUBCHAPTER VIII—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 300z–5 of this title.

§ 300. Project grants and contracts for family planning services

(a) Authority of Secretary

The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). To the extent practical, entities which receive grants or contracts under this subsection shall encourage familiy[1] participation in projects assisted under this subsection.

(b) Factors determining awards; establishment and preservation of rights of local and regional entities

In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance. Local and regional entities shall be assured the right to apply for direct grants and contracts under this section, and the Secretary shall by regulation fully provide for and protect such right.

(c) Reduction of grant amount

The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may

[1] So in original. Probably should be ''family''.

reduce the amount of such grant by the fair market value of any supplies or equipment furnished the grant recipient by the Secretary. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment on which the reduction of such grant is based. Such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(d) Authorization of appropriations

For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; $111,500,000 for the fiscal year ending June 30, 1973, $111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $115,000,000 for fiscal year 1976; $115,000,000 for the fiscal year ending September 30, 1977; $136,400,000 for the fiscal year ending September 30, 1978; $200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; $264,500,000 for the fiscal year ending September 30, 1981; $126,510,000 for the fiscal year ending September 30, 1982; $139,200,000 for the fiscal year ending September 30, 1983; $150,830,000 for the fiscal year ending September 30, 1984; and $158,400,000 for the fiscal year ending September 30, 1985.

(July 1, 1944, ch. 373, title X, § 1001, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1506; amended Pub. L. 92–449, title III, § 301, Sept. 30, 1972, 86 Stat. 754; Pub. L. 93–45, title I, § 111(a), June 18, 1973, 87 Stat. 93; Pub. L. 94–63, title II, §§ 202(a), 204(a), (b), title VII, § 701(d), July 29, 1975, 89 Stat. 306–308, 352; Pub. L. 95–83, title III, § 305(a), Aug. 1, 1977, 91 Stat. 388; Pub. L. 95–613, § 1(a)(1), (b)(1), Nov. 8, 1978, 92 Stat. 3093; Pub. L 97–35, title IX, § 931(a)(1), (b)(1), Aug. 13, 1981, 95 Stat. 570; Pub. L. 97–414, §§ 8(n), 9(a), Jan. 4, 1983, 96 Stat. 2061, 2064; Pub. L. 98–512, § 3(a), Oct. 19, 1984, 98 Stat. 2409; Pub. L. 98–555, § 9, Oct. 30, 1984, 98 Stat. 2857.)

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–555 added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 98–512 inserted provisions authorizing appropriations for the fiscal year ending Sept. 30, 1985.

Subsec. (d). Pub. L. 98–555 redesignated former subsec. (c) as (d).

1983—Subsec. (c). Pub. L. 97–414, § 8(n), substituted a semicolon for a comma after ''1981''.

Pub. L. 97–414, § 9(a), amended directory language of Pub. L. 97–35, § 931(a)(1), to correct a typographical error and did not involve any change in text. See 1981 Amendment note below.

1981—Subsec. (a). Pub. L. 97–35, § 931(b)(1), inserted provisions relating to family participation in projects.

Subsec. (c). Pub. L. 97–35, § 931(a)(1), as amended by Pub. L. 97–414, § 9(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1978—Subsec. (a). Pub. L. 95–613, § 1(a)(1), inserted provisions relating to infertility services and services for adolescents.

Subsec. (c). Pub. L. 95–613, § 1(b)(1), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979, 1980, and 1981.

1977—Subsec. (c). Pub. L. 95–83 substituted provision authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year 1977.

1975—Subsec. (a). Pub. L. 94–63, § 204(a), inserted provision relating to scope of family planning projects to be offered.

Subsec. (b). Pub. L. 94–63, § 204(b), inserted provision relating to direct grants and contracts for local and regional entities.

Subsec. (c). Pub. L. 94–63, §§ 202(a), 701(d), inserted provisions authorizing appropriations for fiscal years ending June 30, 1975, 1976, and 1977.

1973—Subsec. (c). Pub. L. 93–45 inserted provisions authorizing appropriations for fiscal year ending June 30, 1974.

1972—Subsec. (c). Pub. L. 92–449 increased appropriations authorization for fiscal year ending June 30, 1973, to $111,500,000 from $90,000,000.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by sections 202(a) and 204(a), (b) of 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.

STUDY AS TO DISCRIMINATION BY SCHOOLS OF MEDICINE, NURSING, OR OSTEOPATHY AGAINST APPLICANTS BECAUSE OF RELUCTANCE OR WILLINGNESS TO PARTICIPATE IN ABORTIONS OR STERILIZATIONS; REPORT NOT LATER THAN FEBRUARY 1, 1978

Pub. L. 95–215, § 7, Dec. 19, 1977, 91 Stat. 1507, required Secretary of Health, Education, and Welfare to conduct a study and report to specific committees of Congress not later than Feb. 1, 1978, as to whether schools of medicine, nursing, or osteopathy discriminate against applicants because of applicant's reluctance or unwillingness to participate in performance of abortions or sterilizations contrary to religious beliefs or moral convictions.

CONGRESSIONAL DECLARATION OF PURPOSE

Section 2 of Pub. L. 91–572 provided that: ''It is the purpose of this Act [see Short Title of 1970 Amendment note set out under section 201 of this title]—

''(1) to assist in making comprehensive voluntary family planning services readily available to all persons desiring such services;

''(2) to coordinate domestic population and family planning research with the present and future needs of family planning programs;

''(3) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

''(4) to enable public and nonprofit private entities to plan and develop comprehensive programs of family planning services;

''(5) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

''(6) to evaluate and improve the effectiveness of family planning service programs and of population research;

''(7) to assist in providing trained manpower needed to effectively carry out programs of population research and family planning services; and

''(8) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population research and family planning, through which the Secretary of Health, Education, and Welfare [now Health and Human Services] (hereafter in this Act referred to as the 'Secretary') shall carry out the purposes of this Act.''

THE TITLE X ''GAG RULE''

Memorandum of President of the United States, Jan. 22, 1993, 58 F.R. 7455, provided:

Memorandum for the Secretary of Health and Human Services

Title X of the Public Health Services Act [42 U.S.C. 300 et seq.] provides Federal funding for family plan-

ning clinics to provide services for low-income patients. The Act specifies that Title X funds may not be used for the performance of abortions, but places no restrictions on the ability of clinics that receive Title X funds to provide abortion counseling and referrals or to perform abortions using non-Title X funds. During the first 18 years of the program, medical professionals at Title X clinics provided complete, uncensored information, including nondirective abortion counseling. In February 1988, the Department of Health and Human Services adopted regulations, which have become known as the ''Gag Rule,'' prohibiting Title X recipients from providing their patients with information, counseling, or referrals concerning abortion. Subsequent attempts by the Bush Administration to modify the Gag Rule and ensuing litigation have created confusion and uncertainty about the current legal status of the regulations.

The Gag Rule endangers women's lives and health by preventing them from receiving complete and accurate medical information and interferes with the doctor-patient relationship by prohibiting information that medical professionals are otherwise ethically and legally required to provide to their patients. Furthermore, the Gag Rule contravenes the clear intent of a majority of the members of both the United States Senate and House of Representatives, which twice passed legislation to block the Gag Rule's enforcement but failed to override Presidential vetoes.

For these reasons, you have informed me that you will suspend the Gag Rule pending the promulgation of new regulations in accordance with the ''notice and comment'' procedures of the Administrative Procedure Act [5 U.S.C. 551 et seq.]. I hereby direct you to take that action as soon as possible. I further direct that, within 30 days, you publish in the Federal Register new proposed regulations for public comment.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247c–1, 256b, 256d, 300a–1, 300a–4, 300ff–52 of this title.

§ 300a. Formula grants to States for family planning services

(a) Authority of Secretary; prerequisites

The Secretary is authorized to make grants, from allotments made under subsection (b) of this section, to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) Factors determining amount of State allotments

The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) "State" defined

For the purposes of this section, the term ''State'' includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) Authorization of appropriations

For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973.

(July 1, 1944, ch. 373, title X, § 1002, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1506; amended Pub. L. 94–484, title IX, § 905(b)(1), Oct. 12, 1976, 90 Stat. 2325.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94–484 defined ''State'' to include Northern Mariana Islands.

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.

STUDY OF STATE DELIVERY OF SERVICES; REPORT TO CONGRESS

Pub. L. 97–35, title IX, § 931(c), Aug. 13, 1981, 95 Stat. 570, directed Secretary of Health and Human Services to conduct a study of possible ways of State delivery of services for which assistance is authorized by title X of the Public Health Service Act [this subchapter] and to report to Congress on results of such study 18 months after Aug. 13, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300a–1 of this title.

§ 300a–1. Training grants and contracts; authorization of appropriations

(a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contract with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 300 or 300a of this title.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $3,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975; $4,000,000 for fiscal year ending 1976; $5,000,000 for the fiscal year ending September 30, 1977; $3,000,000 for the fiscal year ending September 30, 1978; $3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; $4,100,000 for the fiscal year ending September 30, 1981; $2,920,000 for the fiscal year ending September 30, 1982; $3,200,000 for the fiscal year ending September 30, 1983; $3,500,000 for the fiscal year ending September 30, 1984; and $3,500,000 for the fiscal year ending September 30, 1985.

(July 1, 1944, ch. 373, title X, § 1003, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1507; amended Pub. L. 93–45, title I, § 111(b), June 18, 1973, 87 Stat. 93; Pub. L. 94–63, title II, § 202(b), title VII, § 701(d), July 29, 1975, 89 Stat. 306, 352; Pub. L. 95–83, title III, § 305(b), Aug. 1, 1977, 91 Stat. 389; Pub. L. 95–613, § 1(b)(2), Nov. 8, 1978, 92 Stat. 3093; Pub. L. 97–35, title IX, § 931(a)(2), Aug. 13, 1981, 95 Stat. 570; Pub. L. 97–414, §§ 8(n), 9(a), Jan. 4, 1983, 96 Stat. 2061, 2064; Pub. L. 98–512, § 3(b), Oct. 19, 1984, 98 Stat. 2410.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–512 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1985.

1983—Subsec. (b). Pub. L. 97–414, § 8(n), substituted a semicolon for a comma after ''1981''.

Pub. L. 97–414, § 9(a), amended directory language of Pub. L. 97–35, § 931(a)(2), to correct a typographical error and did not involve any change in text. See 1981 Amendment note below.

1981—Subsec. (b). Pub. L. 97–35, as amended by Pub. L. 97–414, § 9(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1978—Subsec. (b). Pub. L. 95–613 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979, 1980, and 1981.

1977—Subsec. (b). Pub. L. 95–83 substituted provision authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year 1977.

1975—Subsec. (b). Pub. L. 94–63 inserted provisions authorizing appropriations for fiscal years ending June 30, 1975, 1976, and 1977.

1973—Subsec. (b). Pub. L. 93–45 inserted provisions authorizing appropriations for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(b) of 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.

§ 300a–2. Conduct, etc., of research activities

The Secretary may—

(1) conduct, and

(2) make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for,

research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

(July 1, 1944, ch. 373, title X, § 1004, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1507; amended Pub. L. 93–45, title I, § 111(c), June 18, 1973, 87 Stat. 93; Pub. L. 94–63, title II, § 202(c), title VII, § 701(d), July 29, 1975, 89 Stat. 306, 352; Pub. L. 95–83, title III, § 305(c), Aug. 1, 1977, 91 Stat. 389; Pub. L. 95–613, § 1(b)(3), Nov. 8, 1978, 92 Stat. 3093; Pub. L. 96–32, § 1(a), July 10, 1979, 93 Stat. 82; Pub. L. 97–35, title IX, § 931(b)(2), Aug. 13, 1981, 95 Stat. 570.)

AMENDMENTS

1981—Pub. L. 97–35 redesignated existing subsec. (a) as entire section, and struck out subsec. (b) which related to authorization and availability of appropriations.

1979—Subsec. (b)(1). Pub. L. 95–613, as amended by Pub. L. 96–32, substituted ''$120,800,000'' for ''$3,600,000'' as authorized appropriation for fiscal year ending Sept. 30, 1980.

1978—Subsec. (b)(1). Pub. L. 95–613 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979, 1980, and 1981.

1977—Subsec. (b). Pub. L. 95–83 in par. (1) substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year 1977, and in par. (2) prohibited use of funds for administration of this section.

1975—Subsec. (a). Pub. L. 94–63, § 202(c), revised structure of provisions, inserted authorization for Secretary to conduct research, and struck out authority for grants and contracts in research training in specified fields.

Subsec. (b). Pub. L. 94–63, §§ 202(c), 701(d), revised structure of provisions and substituted provisions relating to authorization of appropriations for fiscal years 1976 and 1977 and availability of appropriated funds, for provisions authorizing appropriations for fiscal years ending June 30, 1971, through fiscal year ending June 30, 1975.

1973—Subsec. (b). Pub. L. 93–45 inserted provisions authorizing appropriations for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 1(b) of Pub. L. 96–32 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as of November 8, 1978.''

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(c) of 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.

§ 300a–3. Informational and educational materials development grants and contracts; authorization of appropriations

(a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $2,000,000 for fiscal year 1976; $2,500,000 for the fiscal year ending September 30, 1977; $600,000 for the fiscal year ending September 30, 1978; $700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; $926,000 for the fiscal year ending September 30, 1981; $570,000 for the fiscal year ending September 30, 1982; $600,000 for the fiscal year ending September 30, 1983; $670,000 for the fiscal year ending September 30, 1984; and $700,000 for the fiscal year ending September 30, 1985.

(July 1, 1944, ch. 373, title X, § 1005, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1507; amended Pub. L. 93–45, title I, § 111(d), June 18, 1973, 87 Stat. 93; Pub. L. 94–63, title II, § 202(d), title VII, § 701(d), July 29, 1975, 89 Stat. 307, 352; Pub. L. 95–83, title III, § 305(d), Aug. 1, 1977, 91 Stat. 389; Pub. L. 95–613, § 1(b)(4), Nov. 8, 1978, 92 Stat. 3093; Pub. L. 97–35, title IX, § 931(a)(3), Aug. 13, 1981, 95 Stat. 570; Pub. L. 97–414, §§ 8(n), 9(a), Jan. 4, 1983, 96 Stat. 2061, 2064; Pub. L. 98–512, § 3(c), Oct. 19, 1984, 98 Stat. 2410.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–512 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1985.

1983—Subsec. (b). Pub. L. 97–414, § 8(n), substituted a semicolon for a comma after ''1981''.

Pub. L. 97–414, § 9(a), amended directory language of Pub. L. 97–35, § 931(a)(3), to correct typographical error and did not involve any change in text. See 1981 Amendment note below.

1981—Subsec. (b). Pub. L. 97–35, as amended by Pub. L. 97–414, § 9(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1978—Subsec. (b). Pub. L. 95–613 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979, 1980, and 1981.

1977—Subsec. (b). Pub. L. 95–83 substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year 1977.

1975—Subsec. (b). Pub. L. 94–63 inserted provisions authorizing appropriations for fiscal years ending June 30, 1975, 1976, and 1977.

1973—Subsec. (b). Pub. L. 93–45 inserted provisions authorizing appropriations for fiscal year ending June 30, 1974.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 202(d) of 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300a–4 of this title.

§ 300a–4. Grants and contracts

(a) Promulgation of regulations governing execution; amount of grants

Grants and contracts made under this subchapter shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant under any section of this subchapter shall be determined by the Secretary; except that no grant under any such section for any program or project for a fiscal year beginning after June 30, 1975, may be made for less than 90 per centum of its costs (as determined under regulations of the Secretary) unless the grant is to be made for a program or project for which a grant was made (under the same section) for the fiscal year ending June 30, 1975, for less than 90 per centum of its costs (as so determined), in which case a grant under such section for that program or project for a fiscal year beginning after that date may be made for a percentage which shall not be less than the percentage of its costs for which the fiscal year 1975 grant was made.

(b) Payment of grants

Grants under this subchapter shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) Prerequisites; "low-income family" defined

A grant may be made or contract entered into under section 300 or 300a of this title for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term ''low-income family'' shall be defined by the Secretary in accordance with such criteria as he may prescribe so as to insure that economic status shall not be a deterrent to participation in the programs assisted under this subchapter.

(d) Suitability of informational or educational materials

(1) A grant may be made or a contract entered into under section 300 or 300a–3 of this title only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this subchapter and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

(2) In the case of any grant or contract under section 300 of this title, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individuals broadly representative of the population or community to which the materials are to be made available.

(July 1, 1944, ch. 373, title X, § 1006, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1507; amended Pub. L. 94–63, title II, § 204(c), (d), July 29, 1975, 89 Stat. 308; Pub. L. 95–613, § 1(a)(2), Nov. 8, 1978, 92 Stat. 3093.)

AMENDMENTS

1978—Pub. L. 95–613 added subsec. (d).

1975—Subsec. (a). Pub. L. 94–63, § 204(c), inserted provisions relating to amount of grants authorized pursuant to sections of this subchapter.

Subsec. (c). Pub. L. 94–63, § 204(d), inserted provision relating to economic status as part of the criteria to be included within definition of ''low-income family''.

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.

§ 300a–5. Voluntary participation by individuals; participation not prerequisite for eligibility or receipt of other services and information

The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this subchapter (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

(July 1, 1944, ch. 373, title X, § 1007, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1508.)

§ 300a–6. Prohibition against funding programs using abortion as family planning method

None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning.

(July 1, 1944, ch. 373, title X, § 1008, as added Pub. L. 91–572, § 6(c), Dec. 24, 1970, 84 Stat. 1508.)

§ 300a–6a. Repealed. Pub. L. 105–362, title VI, § 601(a)(1)(G), Nov. 10, 1998, 112 Stat. 3285

Section, act July 1, 1944, ch. 373, title X, § 1009, as added Pub. L. 94–63, title II, § 203(a), July 29, 1975, 89 Stat. 307; amended Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 104–66, title I, § 1062(c), Dec. 21, 1995, 109 Stat. 720, related to plans and reports concerning family planning services.

§ 300a–7. Sterilization or abortion

(a) Omitted

(b) Prohibition of public officials and public authorities from imposition of certain requirements contrary to religious beliefs or moral convictions

The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6000 et seq.] by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedures or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

(c) Discrimination prohibition

(1) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6000 et seq.] after June 18, 1973, may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

(2) No entity which receives after July 12, 1974, a grant or contract for biomedical or behavioral research under any program administered by the Secretary of Health and Human Services may—

(A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(B) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting any such service or activity.

(d) Individual rights respecting certain requirements contrary to religious beliefs or moral convictions

No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health and Human Services if his performance or assistance in the performance of such part of such program or activity would be contrary to his religious beliefs or moral convictions.

(e) Prohibition on entities receiving Federal grant, etc., from discriminating against applicants for training or study because of refusal of applicant to participate on religious or moral grounds

No entity which receives, after September 29, 1979, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act [42 U.S.C. 201 et seq.], the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.], or the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.] may deny admission or otherwise discriminate against any applicant (including applicants for internships and residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's religious beliefs or moral convictions.

(Pub. L. 93–45, title IV, § 401, June 18, 1973, 87 Stat. 95; Pub. L. 93–348, title II, § 214, July 12, 1974, 88 Stat. 353; Pub. L. 96–76, title II, § 208, Sept. 29, 1979, 93 Stat. 583; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (b), (c)(1), and (e), is act July 1, 1944, ch. 373, 58 Stat.

682, as amended, which is classified generally to this chapter (§ 201 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Community Mental Health Centers Act, referred to in subsecs. (b), (c)(1), and (e), is title II of Pub. L. 88–164, as added Pub. L. 94–63, title III, § 303, July 29, 1975, 89 Stat. 309, and amended, which was classified principally to subchapter III (§ 2689 et seq.) of chapter 33 of this title prior to its repeal by Pub. L. 97–35, title IX, § 902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560.

The Developmental Disabilities Services and Facilities Construction Act, referred to in subsecs. (b) and (c)(1), is title I of Pub. L. 88–164, as added by Pub. L. 94–103, Oct. 4, 1975, 89 Stat. 496, and amended. Title I of Pub. L. 88–164, as amended generally by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, is known as the Developmental Disabilities Assistance and Bill of Rights Act and is classified generally to chapter 75 (§ 6000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (e), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, which is classified generally to chapter 75 (§ 6000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of this title and Tables.

CODIFICATION

Section was enacted as part of Health Programs Extension Act of 1973, and not as part of Public Health Services Act which comprises this chapter.

Subsec. (a) of this section amended section 601 of Pub. L. 91–296, which is set out as an Availability of Appropriations note under section 201 of this title.

AMENDMENTS

1979—Subsec. (e). Pub. L. 96–76 added subsec. (e).

1974—Subsec. (c). Pub. L. 93–348, § 214, designated existing provisions as par. (1), redesignated pars. (1) and (2) of such provisions as subpars. (A) and (B), and added par. (2).

Subsec. (d). Pub. L. 93–348, § 214(b), added subsec. (d).

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsecs. (c)(2) and (d), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 300a–8. Penalty for United States, etc., officer or employee coercing or endeavoring to coerce procedure upon beneficiary of Federal program

Any—

(1) officer or employee of the United States,

(2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or

(3) person who receives, under any program receiving Federal financial assistance, compensation for services,

who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Pub. L. 94–63, title II, § 205, July 29, 1975, 89 Stat. 308.)

CODIFICATION

Section was enacted as part of the Family Planning and Population Research Act of 1975, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

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

SUBCHAPTER VIII–A—ADOLESCENT PREGNANCIES

PART A—GRANT PROGRAM

§§ 300a–21 to 300a–28. Repealed. Pub. L. 97–35, title IX, § 955(b), title XXI, § 2193(f), Aug. 13, 1981, 95 Stat. 592, 828

Section 300a–21, Pub. L. 95–626, title VI, § 601, Nov. 10, 1978, 92 Stat. 3595, set forth Congressional findings and declaration of purpose with respect to grant program.

Section 300a–22, Pub. L. 95–626, title VI, § 602, Nov. 10, 1978, 92 Stat. 3595; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, defined terms ''Secretary'', ''eligible person'', ''eligible grant recipient'', ''core services'', ''supplemental services'', ''adolescent parent''.

Section 300a–23, Pub. L. 95–626, title VI, § 603, Nov. 10, 1978, 92 Stat. 3596, set forth authority to make grants.

Section 300a–24, Pub. L. 95–626, title VI, § 604, Nov. 10, 1978, 92 Stat. 3597, set forth authorized uses for grants.

Section 300a–25, Pub. L. 95–626, title VI, § 605, Nov. 10, 1978, 92 Stat. 3597, set forth provisions respecting priorities, amounts, and duration of grants.

Section 300a–26, Pub. L. 95–626, title VI, § 606, Nov. 10, 1978, 92 Stat. 3598, set forth application, etc., requirements for grant approval.

Section 300a–27, Pub. L. 95–626, title VI, § 607, Nov. 10, 1978, 92 Stat. 3601; Pub. L. 97–35, title XXI, § 2193(a)(2), Aug. 13, 1981, 95 Stat. 827, authorized appropriations from fiscal year ending Sept. 30, 1979, through fiscal year ending Sept. 30, 1982.

Section 300a–28, Pub. L. 95–626, title VI, § 608, Nov. 10, 1978, 92 Stat. 3601, set forth prohibition respecting use of funds to pay for performance of abortion.

See section 300z et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 955(b) of Pub. L. 97–35 provided that the repeal of sections 300a–21 to 300a–28 of this title is effective Oct. 1, 1981.

For effective date, savings, and transitional provisions relating to the repeal of sections 321a–21 to 321a–28 of this title by section 2193(f) of Pub. L. 97–35, and relating to the amendment of section 300a–27 of this title by section 2193(a)(2) of Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

STUDY OF ADOLESCENT PREGNANCY; REPORT NOT LATER THAN NOVEMBER 10, 1979

Pub. L. 95–626, title VIII, § 801, Nov. 10, 1978, 92 Stat. 3602, which provided for a study of the problem of adolescent pregnancies and the effectiveness of existing programs and a report, was repealed by section 955(b) of Pub. L. 97–35.

§ 300a–29. Omitted

CODIFICATION

Section, Pub. L. 95–626, title III, § 301, Nov. 10, 1978, 92 Stat. 3590, provided that grants or contracts made under this subchapter would be considered to have been made under this chapter for the purposes of sections 300*l*–2(e) and 300m–3(c)(6) of this title.

PART B—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

§ 300a–41. Repealed. Pub. L. 97–35, title IX, § 955(b), title XXI, § 2193(f), Aug. 13, 1981, 95 Stat. 592, 828

Section, Pub. L. 95–626, title VII, § 701, Nov. 10, 1978, 92 Stat. 3601; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, related to improving coordination of Federal and State policies and programs.

EFFECTIVE DATE OF REPEAL

Section 955(b) of Pub. L. 97–35 provided that the repeal of this section is effective Oct. 1, 1981.

For effective date, savings, and transitional provisions relating to the repeal of this section by section 2193(f) of Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

SUBCHAPTER IX—GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

AMENDMENTS

1976—Pub. L. 94–278, title IV, § 403(b)(3), Apr. 22, 1976, 90 Stat. 409, substituted ''GENETIC DISEASES'' for ''GENETIC BLOOD DISORDERS'' and inserted ''HEMOPHILIA PROGRAMS'' in subchapter heading.

1974—Pub. L. 93–270, § 3(b), Apr. 22, 1974, 88 Stat. 92, inserted ''SUDDEN INFANT DEATH SYNDROME'' in subchapter heading.

1972—Pub. L. 92–414, § 4(1), Aug. 29, 1972, 86 Stat. 652, substituted ''GENETIC BLOOD DISORDERS'' for ''SICKLE CELL ANEMIA PROGRAM'' as subchapter heading and designated former subchapter heading as part A, substituting ''Programs'' for ''Program''.

PART A—GENETIC DISEASES

AMENDMENTS

1976—Pub. L. 94–278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407, substituted ''Genetic Diseases'' for ''Sickle Cell Anemia Programs'' in part A heading.

§ 300b. Repealed. Pub. L. 97–35, title XXI, § 2193(b)(1), Aug. 13, 1981, 95 Stat. 827

Section, act July 1, 1944, ch. 373, title XI, § 1101, as added Apr. 22, 1976, Pub. L. 94–278, title IV, § 403(a), 90 Stat. 407; amended Nov. 10, 1978, Pub. L. 95–626, title II, § 205(b), (d)(2), (e), 92 Stat. 3583, 3584; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Aug. 13, 1981, Pub. L. 97–35, title XXI, § 2193(a)(1)(B), 95 Stat. 826; Jan. 4, 1983, Pub. L. 97–414, § 8(*o*), 96 Stat. 2061, related to testing, counseling, information and education programs.

A prior section 300b, act July 1, 1944, ch. 373, title XI, § 1101, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 137; amended Aug. 29, 1972, Pub. L. 92–414, § 4(2), 86 Stat. 652, authorized Secretary to make grants and enter contracts with public and nonprofit private entities with respect to establishment of voluntary sickle cell anemia screening and counseling programs and to develop and disseminate informational and educational materials relating to sickle cell anemia, prior to the general amendment of this part by Pub. L. 94–278.

EFFECTIVE DATE OF 1981 AMENDMENT AND REPEAL, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to the amendment and repeal of this section by Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

§ 300b–1. Research project grants and contracts

In carrying out section 241 of this title, the Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) basic or applied research leading to the understanding, diagnosis, treatment, and control of genetic diseases, (2) planning, establishing, demonstrating, and developing special programs for the training of genetic counselors, social and behavioral scientists, and other health professionals, (3) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of genetic processes, the inheritance patterns of genetic diseases, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases, and (4) the development of counseling and testing programs and other programs for the diagnosis, control, and treatment of genetic diseases. In making grants and entering into contracts for projects described in clause (1) of the preceding sentence, the Secretary shall give priority to applications for such grants or contracts which are submitted for research on sickle cell anemia and for research on Cooley's anemia.

(July 1, 1944, ch. 373, title XI, § 1102, as added Pub. L. 94–278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 408.)

PRIOR PROVISIONS

A prior section 300b–1, act July 1, 1944, ch. 373, title XI, § 1102, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 138, authorized Secretary to make grants and enter contracts with public and private entities and individuals for projects concerned with research, research training in diagnosis, treatment and control of sickle cell anemia, informational and educational programs with respect to sickle cell anemia and development of counseling and testing programs, prior to the general amendment of this part by Pub. L. 94–278 and is covered by this section.

EFFECTIVE DATE

Section 403(c) of Pub. L. 94–278 provided that: ''The amendments made by subsections (a) and (b) [see section 401 of Pub. L. 94–278, set out as a Short Title of 1976 Amendment note under section 201 of this title] shall take effect July 1, 1976.''

SHORT TITLE OF 1976 AMENDMENT

For short title of title IV of Pub. L. 94–278, which enacted this part, omitted former part B of this subchapter, redesignated former parts C and D of this subchapter as parts B and C of this subchapter, respectively, as the ''National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act'', see section 401 of Pub. L. 94–278, set out as a note under section 201 of this title.

CONGRESSIONAL DECLARATION OF PURPOSE

Section 402 of Pub. L. 94–278, as amended by Pub. L. 95–626, title II, § 205(a), Nov. 10, 1978, 92 Stat. 3583, provided that: ''In order to preserve and protect the health and welfare of all citizens, it is the purpose of this title [see section 401 of Pub. L. 94–278, set out as a Short Title of 1976 Amendment note under section 201 of this title] to establish a national program to provide for basic and applied research, research training, testing, counseling, and information and education programs with respect to genetic diseases, and genetic conditions, such as Sickle Cell anemia, Cooley's Anemia, Tay–Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, muscular dystrophy, and genetic conditions leading to mental retardation or genetically caused mental disorders.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300b–3 of this title.

§ 300b–2. Voluntary participation by individuals

The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

(July 1, 1944, ch. 373, title XI, § 1103, as added Pub. L. 94–278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 408.)

PRIOR PROVISIONS

A prior section 300b–2, act July 1, 1944, ch. 373, title XI, § 1103, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 138; amended Aug. 29, 1972, Pub. L. 92–414, § 4(3), 86 Stat. 652, was identical to this section, prior to the general amendment of this part by Pub. L. 94–278.

§ 300b–3. Application; special consideration to prior sickle cell anemia grant recipients

(a) Manner of submission; contents

A grant or contract under this part may be made upon application submitted to the Secretary at such time, in such manner, and containing and accompanied by such information, as the Secretary may require, including assurances for an evaluation whether performed by the applicant or by the Secretary. Such grant or contract may be made available on less than a statewide or regional basis. Each applicant shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding testing, diagnosis, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) gives informed consent to be released, or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for community representation where appropriate in the development and operation of voluntary genetic testing or counseling programs funded by a grant or contract under this part; and

(4) establish fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds paid to the applicant under this part.

(b) Considerations for grants and contracts under section 300b–1 of this title

In making grants and entering into contracts for any fiscal year under section 241 of this title for projects described in section 300b–1 of this title the Secretary shall give special consideration to applications from entities that received grants from, or entered into contracts with, the Secretary for the preceding fiscal year for the conduct of comprehensive sickle cell centers or sickle cell screening and education clinics.

(July 1, 1944, ch. 373, title XI, § 1104, as added Pub. L. 94–278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 408; amended Pub. L. 95–626, title II, § 205(c), Nov. 10, 1978, 92 Stat. 3584; Pub. L. 97–35, title XXI, § 2193(b)(2), (3), Aug. 13, 1981, 95 Stat. 827.)

PRIOR PROVISIONS

A prior section 300b–3, act July 1, 1944, ch. 373, title XI, § 1104, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 138; amended Aug. 29, 1972, Pub. L. 92–414, § 4(3), 86 Stat. 652, authorized grants to be made upon application to Secretary and required supervision of programs by applicant, confidentiality of test results, medical records and other information obtained from treated person, community representation in programs, assurances by applicant that priority will be given to persons of child bearing years, and demonstration by applicant of proper fiscal control and accounting procedures, prior to the general amendment of this part by Pub. L. 94–278 and is covered by this section.

AMENDMENTS

1981—Subsec. (a)(4), (5). Pub. L. 97–35, § 2193(b)(2), redesignated par. (5) as (4). Former par. (4), which related to testing and counseling requirements, was struck out.

Subsec. (b). Pub. L. 97–35, § 2193(b)(3), struck out subsec. (b) which related to grants and contracts under section 300b of this title. Former subsec. (c) was redesignated (b) and, as so redesignated, struck out reference to section 300b of this title.

Subsec. (c). Pub. L. 97–35, § 2193(b)(3), redesignated subsec. (c) as (b).

Subsec. (d). Pub. L. 97–35, § 2193(b)(3), struck out subsec. (d) which related to procedures applicable to grants, etc., under section 300b of this title.

1978—Subsec. (a). Pub. L. 95–626, § 205(c)(1), inserted requirement that application contain assurances for an evaluation whether performed by applicant or by Secretary and that grant or contract be made available on less than a statewide or regional basis.

Subsec. (d). Pub. L. 95–626, § 205(c)(2), added subsec. (d).

EFFECTIVE DATE OF 1981 AMENDMENT, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to amendment by Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

§ 300b–4. Public Health Service facilities

The Secretary shall establish a program within the Service to provide voluntary testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. Services under such program shall be made available through facilities of the Service to persons requesting such services, and the program shall provide appropriate publicity of the availability and voluntary nature of such services.

(July 1, 1944, ch. 373, title XI, § 1105, as added Pub. L. 94–278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 409.)

PRIOR PROVISIONS

A prior section 300b–4, act July 1, 1944, ch. 373, title XI, § 1105, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 139, authorized Secretary to establish a program within the Public Health Service with respect to sickle cell anemia with such program to be made available through facilities of Public Health Service, prior to the general amendment of this part by Pub. L. 94–278 and is covered by this section.

§ 300b–5. Repealed. Pub. L. 97–35, title XXI, § 2193(b)(4), Aug. 13, 1981, 95 Stat. 827

Section, act July 1, 1944, ch. 373, title XI, § 1106, as added Apr. 22, 1976, Pub. L. 94–278, title IV, § 403(a), 90 Stat. 409, related to an annual report to President and Congress on administration of this part.

A prior section 300b–5, act July 1, 1944, ch. 373, title XI, § 1106, as added May 16, 1972, Pub. L. 92–294, § 3(c), 86 Stat. 139; amended Aug. 29, 1972, Pub. L. 92–414, § 4(3), 86 Stat. 652, was identical to this section, prior to the general amendment of this part by Pub. L. 94–278.

EFFECTIVE DATE OF REPEAL, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to repeal by Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

§ 300b–6. Applied technology

The Secretary, acting through an identifiable administrative unit, shall—

(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

(2) on the basis of the assessments and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

In carrying out this section, the Secretary may, from funds allotted for use under section 702(a) of this title, make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).

(July 1, 1944, ch. 373, title XI, § 1107, as added Pub. L. 95–626, title II, § 205(d)(1), Nov. 10, 1978, 92 Stat. 3584; amended Pub. L. 97–35, title XXI, § 2193(b)(5), Aug. 13, 1981, 95 Stat. 827.)

AMENDMENTS

1981—Pub. L. 97–35 substituted provisions relating to allotments under section 702(a) of this title for provisions relating to appropriations under section 300b(b) of this title.

EFFECTIVE DATE OF 1981 AMENDMENT, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to amendment by Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

§§ 300c to 300c–4. Omitted

CODIFICATION

Sections 300c to 300c–4 were omitted in the general amendment of this part by Pub. L. 94–278, title IV, § 403(a), Apr. 22, 1976, 90 Stat. 407.

Section 300c, act July 1, 1944, ch. 373, title XI, § 1111, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 650, authorized Secretary to make grants and enter contracts with public and private entities for establishment of screening, treatment, and counseling programs with respect to Cooley's Anemia.

Section 300c–1, act July 1, 1944, ch. 373, title XI, § 1112, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 651, required that any participation by an individual in any Cooley's Anemia programs should be on a purely voluntary basis.

Section 300c–2, act July 1, 1944, ch. 373, title XI, § 1113, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 651, provided for making of grant upon application to Secretary and listed certain requirements to be met by applicant.

Section 300c–3, act July 1, 1944, ch. 373, title XI, § 1114, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 652, authorized Secretary to establish a program with Public Health Service to provide for screening, counseling, and treatment with respect to Cooley's Anemia.

Section 300c–4, act July 1, 1944, ch. 373, title XI, § 1115, as added Aug. 29, 1972, Pub. L. 92–414, § 3, 86 Stat. 652, provided for Secretary's submission of a report to President for transmittal to Congress annually.

PART B—SUDDEN INFANT DEATH SYNDROME

AMENDMENTS

1976—Pub. L. 94–278, title IV, § 403(b)(2), Apr. 22, 1976, 90 Stat. 409, redesignated part C heading as part B.

§ 300c–11. Repealed. Pub. L. 97–35, title XXI, § 2193(b)(1), Aug. 13, 1981, 95 Stat. 827

Section, act July 1, 1944, ch. 373, title XI, § 1121, as added Apr. 22, 1974, Pub. L. 93–270, § 3(a), 88 Stat. 91; amended Apr. 22, 1976, Pub. L. 94–278, title IV, § 403(b)(1), 90 Stat. 409; S. Res. 4, Feb. 4, 1977; Aug. 1, 1977, Pub. L. 95–83, title III, § 306(a), 91 Stat. 389; Dec. 19, 1977, Pub. L. 95–215, § 8(a), 91 Stat. 1507; Nov. 8, 1978, Pub. L. 95–613, § 2, 92 Stat. 3094; Dec. 12, 1979, Pub. L. 96–142, title II, § 202, 93 Stat. 1070; H. Res. 549, Mar. 25, 1980; Aug. 13, 1981, Pub. L. 97–35, title XXI, § 2193(a)(1)(C), 95 Stat. 827, related to sudden infant death syndrome counseling, information, educational, and statistical programs.

EFFECTIVE DATE OF 1981 AMENDMENT AND REPEAL, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to the amendment and repeal of this section by Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

§ 300c–12. Sudden infant death syndrome research and research reports

(a) Adequate amounts for identification and prevention progress

From the sums appropriated to the National Institute of Child Health and Human Development, the Secretary shall assure that there are applied to research of the type described in subparagraphs (A) and (B) of subsection (b)(1) of this section such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risk of sudden infant death syndrome and prevention of sudden infant death syndrome.

(b) Reports to Congressional committees; contents: data as to applications and funds for specific and general research, summary of findings and plan for taking advantage of research leads and findings

(1) Not later than ninety days after the close of the fiscal year ending September 30, 1979, and

of each fiscal year thereafter, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives specific information for such fiscal year on—

(A) the (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under this chapter for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds; and

(B) the (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under this chapter for research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, (ii) relationship of the high-risk pregnancy and high-risk infancy research to sudden infant death syndrome, (iii) total amount requested under such applications, (iv) number of such applications for which funds were provided in such fiscal year, and (v) total amount of such funds.

(2) Each report submitted under paragraph (1) of this subsection shall—

(A) contain a summary of the findings of intramural and extramural research supported by the National Institute of Child Health and Human Development relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of such paragraph (1), and the plan of such Institute for taking maximum advantage of such research leads and findings; and

(B) provide an estimate of the need for additional funds over each of the next five fiscal years for grants and contracts under this chapter for research activities described in such subparagraphs.

(c) Reports to Congressional committees; current and past estimates for research

Within five days after the Budget is transmitted by the President to the Congress for each fiscal year after fiscal year 1980, the Secretary shall transmit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives an estimate of the amounts requested for the National Institute of Child Health and Human Development and any other Institutes of the National Institutes of Health, respectively, for research relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of subsection (b)(1) of this section, and a comparison of such amounts with the amounts requested for the preceding fiscal year.

(July 1, 1944, ch. 373, title XI, § 1122, as added Pub. L. 96–142, title II, § 202, Dec. 12, 1979, 93 Stat. 1072; amended Pub. L. 99–158, § 3(a)(6), Nov. 20, 1985, 99 Stat. 879; Pub. L. 103–437, § 15(a)(1), Nov. 2, 1994, 108 Stat. 4591.)

AMENDMENTS

1994—Subsecs. (b)(1), (c). Pub. L. 103–437 substituted ''Energy and Commerce'' for ''Interstate and Foreign Commerce''.

1985—Subsec. (a). Pub. L. 99–158 struck out ''under section 289d of this title'' before '', the Secretary''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

PART C—HEMOPHILIA PROGRAMS

AMENDMENTS

1976—Pub. L. 94–278, title IV, § 403(b)(2), Apr. 22, 1976, 90 Stat. 409, redesignated part D heading as part C.

§ 300c–21. Repealed. Pub. L. 97–35, title XXI, § 2193(b)(1), Aug. 13, 1981, 95 Stat. 827

Section, act July 1, 1944, ch. 373, title XI, § 1131, as added July 29, 1975, Pub. L. 94–63, title VI, § 606, 89 Stat. 350; amended Aug. 1, 1977, Pub. L. 95–83, title III, § 306(b), 91 Stat. 389; Nov. 10, 1978, Pub. L. 95–626, title II, § 206(a), 92 Stat. 3584; Aug. 13, 1981, Pub. L. 97–35, title XXI, § 2193(a)(1)(D), 95 Stat. 827, related to comprehensive hemophilia diagnostic and treatment centers.

EFFECTIVE DATE OF 1981 AMENDMENT AND REPEAL, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to the amendment and repeal of this section by Pub. L. 97–35, see section 2194 of Pub. L. 97–35, set out as a note under section 701 of this title.

§ 300c–22. Blood-separation centers

(a) Grants and contracts with public and nonprofit private entities for projects to develop and expand existing facilities; definitions

The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects to develop and expand, within existing facilities, blood-separation centers to separate and make available for distribution blood components to providers of blood services and manufacturers of blood fractions. For purposes of this section—

(1) the term ''blood components'' means those constituents of whole blood which are used for therapy and which are obtained by physical separation processes which result in licensed products such as red blood cells, platelets, white blood cells, AHF-rich plasma, fresh-frozen plasma, cryoprecipitate, and single unit plasma for infusion; and

(2) the term ''blood fractions'' means those constituents of plasma which are used for therapy and which are obtained by licensed fractionation processes presently used in manufacturing which result in licensed products such as normal serum albumin, plasma, protein fraction, prothrombin complex, fibrinogen, AHF concentrate, immune serum globulin, and hyperimmune globulins.

(b) Grants for alleviation of insufficient supplies of blood fractions

In the event the Secretary finds that there is an insufficient supply of blood fractions avail-

able to meet the needs for treatment of persons suffering from hemophilia, and that public and other nonprofit private centers already engaged in the production of blood fractions could alleviate such insufficiency with assistance under this subsection, he may make grants not to exceed $500,000 to such centers for the purposes of alleviating the insufficiency.

(c) Approval of application as prerequisite for grant or contract; form, manner of submission, and contents of application

No grant or contract may be made under subsection (a) or (b) of this section unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

(d) Nonapplicability of statutory provisions to contracts

Contracts may be entered into under subsection (a) of this section without regard to section 3324(a) and (b) of title 31 and section 5 of title 41.

(e) Authorization of appropriations

For the purpose of making payments under grants and contracts under subsections (a) and (b) of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1976, $5,000,000 for the fiscal year ending September 30, 1977, $3,450,000 for the fiscal year ending September 30, 1978, $2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,500,000 for the fiscal year ending September 30, 1981.

(July 1, 1944, ch. 373, title XI, § 1132, as added Pub. L. 94–63, title VI, § 606, July 29, 1975, 89 Stat. 351; amended Pub. L. 95–83, title III, § 306(c), Aug. 1, 1977, 91 Stat. 389; Pub. L. 95–626, title II, § 206(b), Nov. 10, 1978, 92 Stat. 3584.)

CODIFICATION

In subsec. (d), ''section 3324(a) and (b) of title 31'' substituted for reference to section 3648 of the Revised Statutes (31 U.S.C. 529) on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1978—Subsec. (e). Pub. L. 95–626 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979, 1980, and 1981.

1977—Subsec. (e). Pub. L. 95–83 substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year 1977.

EFFECTIVE DATE

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

RICKY RAY HEMOPHILIA RELIEF FUND

Pub. L. 105–369, Nov. 12, 1998, 112 Stat. 3368, provided that:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Ricky Ray Hemophilia Relief Fund Act of 1998'.

''(b) TABLE OF CONTENTS.—[Omitted.]

''TITLE I—HEMOPHILIA RELIEF FUND

''SEC. 101. RICKY RAY HEMOPHILIA RELIEF FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the 'Ricky Ray Hemophilia Relief Fund', which shall be administered by the Secretary of the Treasury.

''(b) INVESTMENT OF AMOUNTS IN FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on and proceeds from any such investment shall be credited to and become part of the Fund.

''(c) AVAILABILITY OF FUND.—Amounts in the Fund shall be available only for disbursement by the Secretary of Health and Human Services under section 103.

''(d) TERMINATION.—The Fund shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act [Nov. 12, 1998]. If all of the amounts in the Fund have not been expended by the end of the 5-year period, investments of amounts in the Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Fund, and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund to carry out this title $750,000,000.

''SEC. 102. COMPASSIONATE PAYMENT RELATING TO INDIVIDUALS WITH BLOOD-CLOTTING DISORDERS AND HIV.

''(a) IN GENERAL.—If the conditions described in subsection (b) are met and if there are sufficient amounts in the Fund to make each payment, the Secretary shall make a single payment of $100,000 from the Fund to any individual who has an HIV infection and who is described in one of the following paragraphs:

''(1) The individual has any form of blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time during the period beginning on July 1, 1982, and ending on December 31, 1987.

''(2) The individual—

''(A) is the lawful spouse of an individual described in paragraph (1); or

''(B) is the former lawful spouse of an individual described in paragraph (1) and was the lawful spouse of the individual at any time after a date, within the period described in such subparagraph, on which the individual was treated as described in such paragraph and through medical documentation can assert reasonable certainty of transmission of HIV from individual described in paragraph (1).

''(3) The individual acquired the HIV infection through perinatal transmission from a parent who is an individual described in paragraph (1) or (2).

''(b) CONDITIONS.—The conditions described in this subsection are, with respect to an individual, as follows:

''(1) SUBMISSION OF MEDICAL DOCUMENTATION OF HIV INFECTION.—The individual submits to the Secretary written medical documentation that the individual has an HIV infection.

''(2) PETITION.—A petition for the payment is filed with the Secretary by or on behalf of the individual.

''(3) DETERMINATION.—The Secretary determines, in accordance with section 103(b), that the petition meets the requirements of this title.

''SEC. 103. DETERMINATION AND PAYMENT.

''(a) ESTABLISHMENT OF FILING PROCEDURES.—The Secretary of Health and Human Services shall establish procedures under which individuals may submit petitions for payment under this title. The procedures shall include a requirement that each petition filed under this Act include written medical documentation that the relevant individual described in section 102(a)(1) has (or had) a blood-clotting disorder, such as hemophilia, and was treated as described in such section.

''(b) DETERMINATION.—For each petition filed under this title, the Secretary shall determine whether the petition meets the requirements of this title.

''(c) PAYMENT.—

''(1) IN GENERAL.—To the extent there are sufficient amounts in the Fund to cover each payment, the Secretary shall pay, from the Fund, each petition that the Secretary determines meets the requirements of this title in the order received.

''(2) PAYMENTS IN CASE OF DECEASED INDIVIDUALS.—

''(A) IN GENERAL.—In the case of an individual referred to in section 102(a) who is deceased at the time that payment is made under this section on a petition filed by or on behalf of the individual, the payment shall be made as follows:

''(i) If the individual is survived by a spouse who is living at the time of payment, the payment shall be made to such surviving spouse.

''(ii) If the individual is not survived by a spouse described in clause (i), the payment shall be made in equal shares to all children of the individual who are living at the time of the payment.

''(iii) If the individual is not survived by a person described in clause (i) or (ii), the payment shall be made in equal shares to the parents of the individual who are living at the time of the payment.

''(iv) If the individual is not survived by a person described in clause (i), (ii), or (iii), the payment shall revert back to the Fund.

''(B) FILING OF PETITION BY SURVIVOR.—If an individual eligible for payment under section 102(a) dies before filing a petition under this title, a survivor of the individual may file a petition for payment under this title on behalf of the individual if the survivor may receive payment under subparagraph (A).

''(C) DEFINITIONS.—For purposes of this paragraph:

''(i) The term 'spouse' means an individual who was lawfully married to the relevant individual at the time of death.

''(ii) The term 'child' includes a recognized natural child, a stepchild who lived with the relevant individual in a regular parent-child relationship, and an adopted child.

''(iii) The term 'parent' includes fathers and mothers through adoption.

''(3) TIMING OF PAYMENT.—The Secretary may not make a payment on a petition under this title before the expiration of the 120-day period beginning on the date of the enactment of this Act [Nov. 12, 1998] or after the expiration of the 5-year period beginning on the date of the enactment of this Act.

''(d) ACTION ON PETITIONS.—The Secretary shall complete the determination required by subsection (b) regarding a petition not later than 120 days after the date the petition is filed under this title.

''(e) HUMANITARIAN NATURE OF PAYMENT.—This Act does not create or admit any claim of or on behalf of the individual against the United States or against any officer, employee, or agent thereof acting within the scope of employment or agency that relate to an HIV infection arising from treatment with antihemophilic factor, at any time during the period beginning on July 1, 1982, and ending on December 31, 1987. A payment under this Act shall, however, when accepted by or on behalf of the individual, be in full satisfaction of all such claims by or on behalf of that individual.

''(f) ADMINISTRATIVE COSTS NOT PAID FROM FUND.—No costs incurred by the Secretary in carrying out this title may be paid from the Fund or set off against, or otherwise deducted from, any payment made under subsection (c)(1).

''(g) TERMINATION OF DUTIES OF SECRETARY.—The duties of the Secretary under this section shall cease when the Fund terminates.

''(h) TREATMENT OF PAYMENTS UNDER OTHER LAWS.—A payment under subsection (c)(1) to an individual—

''(1) shall be treated for purposes of the Internal Revenue Code of 1986 as damages described in section 104(a)(2) of such Code;

''(2) shall not be included as income or resources for purposes of determining the eligibility of the individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits, and such benefits shall not be secondary to, conditioned upon reimbursement from, or subject to any reduction because of receipt of, any such payment; and

''(3) shall not be treated as a third party payment or payment in relation to a legal liability with respect to such benefits and shall not be subject (whether by subrogation or otherwise) to recovery, recoupment, reimbursement, or collection with respect to such benefits (including the Federal or State governments or any entity that provides such benefits under a contract).

''(i) REGULATORY AUTHORITY.—The Secretary may issue regulations necessary to carry out this title.

''(j) TIME OF ISSUANCE OF PROCEDURES.—The Secretary shall, through the promulgation of appropriate regulations, guidelines, or otherwise, first establish the procedures to carry out this title not later than 120 days after the date of the enactment of this Act [Nov. 12, 1998].

''SEC. 104. LIMITATION ON TRANSFER OF RIGHTS AND NUMBER OF PETITIONS.

''(a) RIGHTS NOT ASSIGNABLE OR TRANSFERABLE.—Any right under this title shall not be assignable or transferable.

''(b) ONE PETITION WITH RESPECT TO EACH VICTIM.—With respect to each individual described in paragraph (1), (2), or (3) of section 102(a), the Secretary may not make payment with respect to more than one petition filed in respect to an individual.

''SEC. 105. TIME LIMITATION.

''The Secretary may not make any payment with respect to any petition filed under this title unless the petition is filed within 3 years after the date of the enactment of this Act [Nov. 12, 1998].

''SEC. 106. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.

''A payment made under section 103(c)(1) shall not be considered as any form of compensation, or reimbursement for a loss, for purposes of imposing liability on the individual receiving the payment, on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments. A payment under this title shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

''SEC. 107. LIMITATION ON AGENT AND ATTORNEY FEES.

''Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this title, more than 5 percent of a payment made under this title on the petition. Any such representative who violates this section shall be fined not more than $50,000.

''SEC. 108. DEFINITIONS.

''For purposes of this title:

''(1) The term 'AIDS' means acquired immune deficiency syndrome.

''(2) The term 'Fund' means the Ricky Ray Hemophilia Relief Fund.

''(3) The term 'HIV' means human immunodeficiency virus.

''(4) Unless otherwise provided, the term 'Secretary' means Secretary of Health and Human Services.

''TITLE II—TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE SSI PROGRAM

''SEC. 201. TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS.

''(a) PRIVATE PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of—

''(A) medical assistance under title XIX of the Social Security Act [section 1396 et seq. of this title]; or

''(B) supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of this title].

''(2) PRIVATE PAYMENTS DESCRIBED.—The payments described in this subsection are—

''(A) payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96–C–5024 (N.D. Ill.); and

''(B) payments made pursuant to a release of all claims in a case—

''(i) that is entered into in lieu of the class settlement referred to in subparagraph (A); and

''(ii) that is signed by all affected parties in such case on or before the later of—

''(I) December 31, 1997; or

''(II) the date that is 270 days after the date on which such release is first sent to the persons (or the legal representative of such persons) to whom the payment is to be made.

''(b) GOVERNMENT PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of this title].

''(2) GOVERNMENT PAYMENTS DESCRIBED.—The payments described in this subsection are payments made from the Fund established pursuant to section 101 of this Act.''

SUBCHAPTER X—TRAUMA CARE

PART A—GENERAL AUTHORITY AND DUTIES OF SECRETARY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300d–31, 300d–32 of this title.

§ 300d. Establishment

(a) In general

The Secretary shall, with respect to trauma care—

(1) conduct and support research, training, evaluations, and demonstration projects;

(2) foster the development of appropriate, modern systems of such care through the sharing of information among agencies and individuals involved in the study and provision of such care;

(3) provide to State and local agencies technical assistance; and

(4) sponsor workshops and conferences.

(b) Grants, cooperative agreements, and contracts

The Secretary may make grants, and enter into cooperative agreements and contracts, for the purpose of carrying out subsection (a) of this section.

(c) Administration

The Administrator of the Health Resources and Services Administration shall ensure that this subchapter is administered by the Division of Trauma and Emergency Medical Systems within such Administration. Such Division shall be headed by a director appointed by the Secretary from among individuals who are knowledgeable by training or experience in the development and operation of trauma and emergency medical systems.

(July 1, 1944, ch. 373, title XII, § 1201, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2916; amended Pub. L. 103–183, title VI, § 601(a), Dec. 14, 1993, 107 Stat. 2238; Pub. L. 104–146, § 12(b), May 20, 1996, 110 Stat. 1373.)

PRIOR PROVISIONS

A prior section 300d, act July 1, 1944, ch. 373, title XII, § 1201, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 594; amended Oct. 12, 1976, Pub. L. 94–484, title IX, § 905(b)(1), 90 Stat. 2325; Oct. 21, 1976, Pub. L. 94–573, §§ 2, 14(2), 90 Stat. 2709, 2718, defined terms applicable to this subchapter, prior to repeal by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

A prior section 1201 of act July 1, 1944, ch. 373, title XII, formerly § 1205, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 597, was classified to section 300d–4 of this title prior to repeal by Pub. L. 99–117, § 12(e), Oct. 7, 1985, 99 Stat. 495.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–146, in introductory provisions, substituted ''The Secretary shall,'' for ''The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall,''.

1993—Subsec. (a). Pub. L. 103–183, § 601(a)(1), in introductory provisions inserted '', acting through the Administrator of the Health Resources and Services Administration,'' after ''Secretary''.

Subsec. (c). Pub. L. 103–183, § 601(a)(2), added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

CONGRESSIONAL STATEMENT OF FINDINGS

Section 2 of Pub. L. 101–590 provided that: ''The Congress finds that—

''(1) the Federal Government and the governments of the States have established a history of cooperation in the development, implementation, and monitoring of integrated, comprehensive systems for the provision of emergency medical services throughout the United States;

''(2) physical trauma is the leading cause of death of Americans between the ages of 1 and 44 and is the third leading cause of death in the general population of the United States;

''(3) physical trauma in the United States results in an aggregate annual cost of $180,000,000,000 in medical expenses, insurance, lost wages, and property damage;

''(4) barriers to the provision of prompt and appropriate emergency medical services exist in many areas of the United States;

''(5) few States and communities have developed and implemented trauma care systems;

''(6) many trauma centers have incurred substantial uncompensated costs in providing trauma care, and

such costs have caused many such centers to cease participation in trauma care systems; and

''(7) the number of incidents of physical trauma in the United States is a serious medical and social problem, and the number of deaths resulting from such incidents can be substantially reduced by improving the trauma-care components of the systems for the provision of emergency medical services in the United States.''

§ 300d–1. Repealed. Pub. L. 103–183, title VI, § 601(b)(1), Dec. 14, 1993, 107 Stat. 2238; Pub. L. 105–392, title IV, § 401(a)(1)(A), Nov. 13, 1998, 112 Stat. 3587

Section, act July 1, 1944, ch. 373, title XII, § 1202, as added Nov. 16, 1990, Pub. L. 101–590, § 3, 104 Stat. 2916, provided for establishment, membership, duties, etc., of Advisory Council on Trauma Care Systems.

A prior section 300d–1, act July 1, 1944, ch. 373, title XII, § 1202, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 595; amended Oct. 21, 1976, Pub. L. 94–573, § 3, 90 Stat. 2709; Dec. 12, 1979, Pub. L. 96–142, title I, § 103, 93 Stat. 1067, set forth provisions relating to grants and contracts for feasibility studies and planning, prior to repeal by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

§ 300d–2. Clearinghouse on Trauma Care and Emergency Medical Services

(a) Establishment

The Secretary shall by contract provide for the establishment and operation of a National Clearinghouse on Trauma Care and Emergency Medical Services (hereafter in this section referred to as the ''Clearinghouse'').

(b) Duties

The Clearinghouse shall—

(1) foster the development of appropriate, modern trauma care and emergency medical services (including the development of policies for the notification of family members of individuals involved in medical emergencies) through the sharing of information among agencies and individuals involved in planning, furnishing, and studying such services and care;

(2) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing trauma care and emergency medical services and, in so doing, give special consideration of the unique needs of rural areas;

(3) provide technical assistance relating to trauma care and emergency medical services to State and local agencies; and

(4) sponsor workshops and conferences on trauma care and emergency medical services.

(c) Fees and assessments

A contract entered into by the Secretary under this section may provide that the Clearinghouse charge fees or assessments in order to defray, and beginning with fiscal year 1992, to cover, the costs of operating the Clearinghouse.

(July 1, 1944, ch. 373, title XII, § 1202, formerly § 1203, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2917; renumbered § 1202, Pub. L. 103–183, title VI, § 601(b)(2), Dec. 14, 1993, 107 Stat. 2238; amended Pub. L. 105–392, title IV, § 401(a)(1)(A), Nov. 13, 1998, 112 Stat. 3587.)

PRIOR PROVISIONS

A prior section 300d–2, act July 1, 1944, ch. 373, title XII, § 1203, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 596; amended Oct. 21, 1976, Pub. L. 94–573, § 4, 90 Stat. 2710; Nov. 10, 1978, Pub. L. 95–626, title II, § 210(a), 92 Stat. 3588; July 10, 1979, Pub. L. 96–32, § 7(*l*), 93 Stat. 84, set forth provisions relating to grants and contracts for establishing and initial operation of emergency medical services systems, prior to repeal by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

A prior section 1202 of act July 1, 1944, was classified to section 300d–1 of this title prior to repeal by Pub. L. 103–183.

Another prior section 1202 of act July 1, 1944, was classified to section 300d–6 of this title prior to repeal by Pub. L. 99–117.

AMENDMENTS

1998—Pub. L. 105–392 made technical correction to directory language of Pub. L. 103–183, § 601(b)(2), which renumbered this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

§ 300d–3. Establishment of programs for improving trauma care in rural areas

(a) In general

The Secretary may make grants to public and nonprofit private entities for the purpose of carrying out research and demonstration projects with respect to improving the availability and quality of emergency medical services in rural areas—

(1) by developing innovative uses of communications technologies and the use of new communications technology;

(2) by developing model curricula for training emergency medical services personnel, including first responders, emergency medical technicians, emergency nurses and physicians, and paramedics—

(A) in the assessment, stabilization, treatment, preparation for transport, and resuscitation of seriously injured patients, with special attention to problems that arise during long transports and to methods of minimizing delays in transport to the appropriate facility; and

(B) in the management of the operation of the emergency medical services system;

(3) by making training for original certification, and continuing education, in the provision and management of emergency medical services more accessible to emergency medical personnel in rural areas through telecommunications, home studies, providing teachers and training at locations accessible to such personnel, and other methods;

(4) by developing innovative protocols and agreements to increase access to prehospital care and equipment necessary for the transportation of seriously injured patients to the appropriate facilities; and

(5) by evaluating the effectiveness of protocols with respect to emergency medical services and systems.

(b) Special consideration for certain rural areas

In making grants under subsection (a) of this section, the Secretary shall give special consid-

eration to any applicant for the grant that will provide services under the grant in any rural area identified by a State under section 300d–14(c)(1) of this title.

(c) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(July 1, 1944, ch. 373, title XII, § 1203, formerly § 1204, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2918; renumbered § 1203 and amended Pub. L. 103–183, title VI, § 601(b)(2), (f)(1), Dec. 14, 1993, 107 Stat. 2238, 2239; Pub. L. 105–392, title IV, § 401(a)(1), Nov. 13, 1998, 112 Stat. 3587.)

PRIOR PROVISIONS

A prior section 300d–3, act July 1, 1944, ch. 373, title XII, § 1204, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 597; amended Oct. 21, 1976, Pub. L. 94–573, § 5, 90 Stat. 2711; Nov. 10, 1978, Pub. L. 95–626, title II, § 210(b), 92 Stat. 3588; Dec. 12, 1979, Pub. L. 96–142, title I, § 104(a), (b), 93 Stat. 1067, 1068, set forth provisions relating to grants and contracts for expansion and improvements, prior to repeal by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

A prior section 1203 of act July 1, 1994, was renumbered section 1202 and is classified to section 300d–2 of this title.

A prior section 300d–4, act July 1, 1944, ch. 373, title XII, § 1201, formerly § 1205, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 597; amended Oct. 21, 1976, Pub. L. 94–573, § 6, 90 Stat. 2713, renumbered § 1201 and amended Aug. 13, 1981, Pub. L. 97–35, title IX, § 902(d)(1), (3), 95 Stat. 560, authorized Secretary to make grants and enter into contracts to support research in emergency medical techniques, methods, devices, and delivery, prior to repeal by Pub. L. 99–117, § 12(e), Oct. 7, 1985, 99 Stat. 495.

A prior section 300d–5, act July 1, 1944, ch. 373, title XII, § 1206, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 598; amended Oct. 21, 1976, Pub. L. 94–573, §§ 7, 14(2), 90 Stat. 2713, 2718; Nov. 10, 1978, Pub. L. 95–626, title II, § 210(c), 92 Stat. 3588; Dec. 12, 1979, Pub. L. 96–142, title I, § 104(c), 93 Stat. 1068, set forth general provisions respecting grants and contracts, prior to repeal by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

A prior section 300d–6, act July 1, 1944, ch. 373, title XII, § 1202, formerly § 1207, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 602; amended Oct. 21, 1976, Pub. L. 94–573, § 8, 90 Stat. 2714; Nov. 10, 1978, Pub. L. 95–626, title II, § 210(d), 92 Stat. 3588; Dec. 12, 1979, Pub. L. 96–142, title I, § 105, 93 Stat. 1068; renumbered § 1202 and amended Aug. 13, 1981, Pub. L. 97–35, title IX, § 902(d)(1), (4), 95 Stat. 560, authorized appropriations for purposes of this subchapter, prior to repeal by Pub. L. 99–117, § 12(e), Oct. 7, 1985, 99 Stat. 495.

Prior sections 300d–7 to 300d–9 were repealed by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

Section 300d–7, act July 1, 1944, ch. 373, title XII, § 1208, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 602; amended Oct. 12, 1976, Pub. L. 94–484, title VIII, § 801(b), 90 Stat. 2322; Oct. 21, 1976, Pub. L. 94–573, § 9, 90 Stat. 2715, set forth provisions relating to administration of emergency medical services administrative unit.

Section 300d–8, act July 1, 1944, ch. 373, title XII, § 1209, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 602; amended Oct. 21, 1976, Pub. L. 94–573, § 10, 90 Stat. 2716; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695; Dec. 12, 1979, Pub. L. 96–142, title I, § 106, 93 Stat. 1069, related to Interagency Committee on Emergency Medical Services.

Section 300d–9, act July 1, 1944, ch. 373, title XII, § 1210, as added Nov. 16, 1973, Pub. L. 93–154, § 2(a), 87 Stat. 603; amended Oct. 21, 1976, Pub. L. 94–573, § 11, 90 Stat. 2717, related to annual report to Congress.

AMENDMENTS

1998—Pub. L. 105–392, § 401(a)(1), made technical corrections to directory language of Pub. L. 103–183, § 601(b)(2), which renumbered this section, and to directory language of Pub. L. 103–183, § 601(f)(1). See 1993 Amendment note below.

1993—Subsec. (c). Pub. L. 103–183, § 601(f)(1), as amended by Pub. L. 105–392, § 401(a)(1)(B), inserted ''determines to be necessary to carry out this section'' before period at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d–32 of this title.

PART B—FORMULA GRANTS WITH RESPECT TO MODIFICATIONS OF STATE PLANS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300d–31, 300d–32 of this title.

§ 300d–11. Establishment of program

(a) Requirement of allotments for States

The Secretary shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 300d–18 of this title. The Secretary shall make payments, as grants, each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 300d–17 of this title.

(b) Purpose

Except as provided in section 300d–33[1] of this title, the Secretary may not make payments under this part for a fiscal year unless the State involved agrees that, with respect to the trauma care component of the State plan for the provision of emergency medical services, the payments will be expended only for the purpose of developing, implementing, and monitoring the modifications to such component described in section 300d–13 of this title.

(July 1, 1944, ch. 373, title XII, § 1211, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2919.)

REFERENCES IN TEXT

Section 300d–33 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–183, title VI, § 601(e), Dec. 14, 1993, 107 Stat. 2239.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–12, 300d–13, 300d–14, 300d–15, 300d–16, 300d–17, 300d–18, 300d–19, 300d–20, 300d–21, 300d–22, 300d–32 of this title.

[1] See References in Text note below.

§ 300d–12. Requirement of matching funds for fiscal years subsequent to first fiscal year of payments

(a) Non-Federal contributions

(1) In general

The Secretary may not make payments under section 300d–11(a) of this title unless the State involved agrees, with respect to the costs described in paragraph (2), to make available non-Federal contributions (in cash or in kind under subsection (b)(1) of this section) toward such costs in an amount equal to—

(A) for the second fiscal year of such payments to the State, not less than $1 for each $1 of Federal funds provided in such payments for such fiscal year; and

(B) for any subsequent fiscal year of such payments to the State, not less than $3 for each $1 of Federal funds provided in such payments for such fiscal year.

(2) Program costs

The costs referred to in paragraph (1) are—

(A) the costs to be incurred by the State in carrying out the purpose described in section 300d–11(b) of this title; or

(B) the costs of improving the quality and availability of emergency medical services in rural areas of the State.

(3) Initial year of payments

The Secretary may not require a State to make non-Federal contributions as a condition of receiving payments under section 300d–11(a) of this title for the first fiscal year of such payments to the State.

(b) Determination of amount of non-Federal contribution

With respect to compliance with subsection (a) of this section as a condition of receiving payments under section 300d–11(a) of this title—

(1) a State may make the non-Federal contributions required in such subsection in cash or in kind, fairly evaluated, including plant, equipment, or services;

(2) the Secretary may not, in making a determination of the amount of non-Federal contributions, include amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government; and

(3) the Secretary shall, in making such a determination, include only non-Federal contributions in excess of the amount of non-Federal contributions made by the State during fiscal year 1990 toward—

(A) the costs of providing trauma care in the State; and

(B) the costs of improving the quality and availability of emergency medical services in rural areas of the State.

(July 1, 1944, ch. 373, title XII, § 1212, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2919; amended Pub. L. 103–183, title VI, § 601(f)(2), Dec. 14, 1993, 107 Stat. 2239.)

AMENDMENTS

1993—Subsec. (a)(2)(A). Pub. L. 103–183 substituted ''section 300d–11(b)'' for ''section 300d–11(c)''.

§ 300d–13. Requirements with respect to carrying out purpose of allotments

(a) Trauma care modifications to State plan for emergency medical services

With respect to the trauma care component of a State plan for the provision of emergency medical services, the modifications referred to in section 300d–11(b) of this title are such modifications to the State plan as may be necessary for the State involved to ensure that the plan provides for access to the highest possible quality of trauma care, and that the plan—

(1) specifies that the modifications required pursuant to paragraphs (2) through (10) will be implemented by the principal State agency with respect to emergency medical services or by the designee of such agency;

(2) specifies any public or private entity that will designate trauma care regions and trauma centers in the State;

(3) subject to subsection (b) of this section, contains standards and requirements for the designation of level I and level II trauma centers, and in the case of rural areas level III trauma centers (including trauma centers with specified capabilities and expertise in the care of the pediatric trauma patient), by such entity, including standards and requirements for—

(A) the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury;

(B) the resources and equipment needed by such centers; and

(C) the availability of rehabilitation services for trauma patients;

(4) subject to subsection (b) of this section, contains standards and requirements for the implementation of regional trauma care systems, including standards and guidelines (consistent with the provisions of section 1395dd of this title) for medically directed triage and transportation of trauma patients (including patients injured in rural areas) prior to care in designated trauma centers;

(5) subject to subsection (b) of this section, contains standards and requirements for medically directed triage and transport of severely injured children to designated trauma centers with specified capabilities and expertise in the care of the pediatric trauma patient;

(6) specifies procedures for the evaluation of designated trauma centers (including trauma centers described in paragraph (5)) and trauma care systems;

(7) provides for the establishment and collection of data from each designated trauma center in the State of a central data reporting and analysis system—

(A) to identify the number of severely injured trauma patients within regional trauma care systems in the State;

(B) to identify the cause of the injury and any factors contributing to the injury;

(C) to identify the nature and severity of the injury;

(D) to monitor trauma patient care (including prehospital care) in each designated

trauma center within regional trauma care systems in the State (including relevant emergency-department discharges and rehabilitation information) for the purpose of evaluating the diagnosis, treatment and treatment outcome of such trauma patients;

(E) to identify the total amount of uncompensated trauma care expenditures for each fiscal year by each designated trauma center in the State; and

(F) to identify patients transferred within a regional trauma system, including reasons for such transfer;

(8) provides for the use of procedures by paramedics and emergency medical technicians to assess the severity of the injuries incurred by trauma patients;

(9) provides for appropriate transportation and transfer policies to ensure the delivery of patients to designated trauma centers and other facilities within and outside of the jurisdiction of such system, including policies to ensure that only individuals appropriately identified as trauma patients are transferred to designated trauma centers, and provides for periodic reviews of the transfers and the auditing of such transfers that are determined to be appropriate;

(10) conducts public education activities concerning injury prevention and obtaining access to trauma care; and

(11) with respect to the requirements established in this subsection, provides for coordination and cooperation between the State and any other State with which the State shares any standard metropolitan statistical area.

(b) Certain standards with respect to trauma care centers and systems

(1) In general

The Secretary may not make payments under section 300d–11(a) of this title for a fiscal year unless the State involved agrees that, in carrying out paragraphs (3) through (5) of subsection (a) of this section, the State will adopt standards for the designation of trauma centers, and for triage, transfer, and transportation policies, and that the State will, in adopting such standards—

(A) take into account national standards concerning such;

(B) consult with medical, surgical, and nursing speciality groups, hospital associations, emergency medical services State and local directors, concerned advocates and other interested parties;

(C) conduct hearings on the proposed standards after providing adequate notice to the public concerning such hearing; and

(D) beginning in fiscal year 1992, take into account the model plan described in subsection (c) of this section.

(2) Quality of trauma care

The highest quality of trauma care shall be the primary goal of State standards adopted under this subsection.

(3) Approval by Secretary

The Secretary may not make payments under section 300d–11(a) of this title to a State if the Secretary determines that—

(A) in the case of payments for fiscal year 1991 and subsequent fiscal years, the State has not taken into account national standards, including those of the American College of Surgeons, the American College of Emergency Physicians and the American Academy of Pediatrics, in adopting standards under this subsection; or

(B) in the case of payments for fiscal year 1992 and subsequent fiscal years, the State has not, in adopting such standards, taken into account the model plan developed under subsection (c) of this section.

(c) Model trauma care plan

Not later than 1 year after November 16, 1990, the Secretary shall develop a model plan for the designation of trauma centers and for triage, transfer and transportation policies that may be adopted for guidance by the State. Such plan shall—

(1) take into account national standards, including those of the American College of Surgeons, American College of Emergency Physicians and the American Academy of Pediatrics;

(2) take into account existing State plans;

(3) be developed in consultation with medical, surgical, and nursing speciality groups, hospital associations, emergency medical services State directors and associations, and other interested parties; and

(4) include standards for the designation of rural health facilities and hospitals best able to receive, stabilize, and transfer trauma patients to the nearest appropriate designated trauma center, and for triage, transfer, and transportation policies as they relate to rural areas.

Standards described in paragraph (4) shall be applicable to all rural areas in the State, including both non-metropolitan areas and frontier areas that have populations of less than 6,000 per square mile.

(d) Rule of construction with respect to number of designated trauma centers

With respect to compliance with subsection (a) of this section as a condition of the receipt of a grant under section 300d–11(a) of this title, such subsection may not be construed to specify the number of trauma care centers designated pursuant to such subsection.

(July 1, 1944, ch. 373, title XII, § 1213, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2920; amended Pub. L. 103–183, title VI, § 601(f)(3), Dec. 14, 1993, 107 Stat. 2239; Pub. L. 105–392, title IV, § 401(b)(4), Nov. 13, 1998, 112 Stat. 3587.)

AMENDMENTS

1998—Subsec. (a)(8). Pub. L. 105–392 substituted ''provides for'' for ''provides for for''.

1993—Subsec. (a)(4). Pub. L. 103–183, § 601(f)(3)(A), substituted ''section 1395dd of this title)'' for ''section 1395dd of this title''.

Subsec. (a)(8), (9). Pub. L. 103–183, § 601(f)(3)(B), substituted ''provides for'' for ''to provide'' wherever appearing.

Subsec. (a)(10). Pub. L. 103–183, § 601(f)(3)(C), substituted ''conducts'' for ''to conduct''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183,

see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–11, 300d–14, 300d–31, 300d–41, 300w–3 of this title.

§ 300d–14. Requirement of submission to Secretary of trauma plan and certain information

(a) Trauma plan

(1) In general

For fiscal year 1991 and subsequent fiscal years, the Secretary may not make payments under section 300d–11(a) of this title unless, subject to paragraph (2), the State involved submits to the Secretary the trauma care component of the State plan for the provision of emergency medical services.

(2) Interim plan or description of efforts

For fiscal year 1991, if a State has not completed the trauma care component of the State plan described in paragraph (1), the State may provide, in lieu of a completed such component, an interim component or a description of efforts made toward the completion of the component.

(b) Information received by State reporting and analysis system

The Secretary may not make payments under section 300d–11(a) of this title for a fiscal year unless the State involved agrees that the State will, not less than once each year, provide to the Secretary the information received by the State pursuant to section 300d–13(a)(7) of this title.

(c) Availability of emergency medical services in rural areas

The Secretary may not make payments under section 300d–11(a) of this title for a fiscal year unless—

(1) the State involved identifies any rural area in the State for which—

(A) there is no system of access to emergency medical services through the telephone number 911;

(B) there is no basic life-support system; or

(C) there is no advanced life-support system; and

(2) the State submits to the Secretary a list of rural areas identified pursuant to paragraph (1) or, if there are no such areas, a statement that there are no such areas.

(July 1, 1944, ch. 373, title XII, § 1214, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2922.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–3, 300d–17 of this title.

§ 300d–15. Restrictions on use of payments

(a) In general

The Secretary may not, except as provided in subsection (b) of this section, make payments under section 300d–11(a) of this title for a fiscal year unless the State involved agrees that the payments will not be expended—

(1) subject to section 300d–33[1] of this title, for any purpose other than developing, implementing, and monitoring the modifications required by section 300d–11(b) of this title to be made to the State plan for the provision of emergency medical services.[2]

(2) to make cash payments to intended recipients of services provided pursuant to such section;

(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical or communication equipment, ambulances, or aircraft;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(b) Exception

If the Secretary finds that the purpose described in section 300d–11(b) of this title cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in subsection (a)(3) of this section.

(July 1, 1944, ch. 373, title XII, § 1215, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2923.)

REFERENCES IN TEXT

Section 300d–33 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 103–183, title VI, § 601(e), Dec. 14, 1993, 107 Stat. 2239.

§ 300d–16. Requirement of reports by States

(a) In general

The Secretary may not make payments under section 300d–11(a) of this title for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States) to be necessary for—

(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments; and

(2) determining whether the payments were expended in accordance with the purpose of the program involved.

(b) Availability to public of reports

The Secretary may not make payments under section 300d–11(a) of this title unless the State involved agrees that the State will make copies of the report described in subsection (a) of this section available for public inspection.

(c) Evaluations by Comptroller General

The Comptroller General of the United States shall evaluate the expenditures by States of payments under section 300d–11(a) of this title in order to assure that expenditures are consistent with the provisions of this part, and not later than December 1, 1994, prepare and submit to the Committee on Energy and Commerce of the

[1] See References in Text note below.

[2] So in original. The period probably should be a semicolon.

House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning such evaluation.

(July 1, 1944, ch. 373, title XII, § 1216, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2923; amended Pub. L. 103–183, title VI, § 601(c), Dec. 14, 1993, 107 Stat. 2238; Pub. L. 104–316, title I, § 122(d), Oct. 19, 1996, 110 Stat. 3837.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316 struck out ''and the Comptroller General of the United States'' after ''with the States'' in introductory provisions.

1993—Subsec. (c). Pub. L. 103–183 substituted ''1994'' for ''1993''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300d–17. Requirement of submission of application containing certain agreements and assurances

The Secretary may not make payments under section 300d–11(a) of this title to a State for a fiscal year unless—

(1) the State submits to the Secretary an application for the payments containing agreements in accordance with this part;

(2) the agreements are made through certification from the chief executive officer of the State;

(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(4) the application contains the plan provisions and the information required to be submitted to the Secretary pursuant to section 300d–14 of this title; and

(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(July 1, 1944, ch. 373, title XII, § 1217, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2924.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–11, 300d–18, 300d–32 of this title.

§ 300d–18. Determination of amount of allotment

(a) Minimum allotment

Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 300d–11(a) of this title for a State for a fiscal year shall be the greater of—

(1) the amount determined under subsection (b)(1) of this section; and

(2) $250,000 in the case of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 in the case of each of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) Determination under formula

(1) In general

The amount referred to in subsection (a)(1) of this section for a State for a fiscal year is the sum of—

(A) an amount determined under paragraph (2); and

(B) an amount determined under paragraph (3).

(2) Amount relating to population

The amount referred to in subparagraph (A) of paragraph (1) for a State for a fiscal year is the product of—

(A) an amount equal to 80 percent of the amounts appropriated under section 300d–32(a) of this title for the fiscal year and available for allotment under section 300d–11(a) of this title; and

(B) a percentage equal to the quotient of—

(i) an amount equal to the population of the State; divided by

(ii) an amount equal to the population of all States.

(3) Amount relating to square mileage

The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

(A) an amount equal to 20 percent of the amounts appropriated under section 300d–32(a) of this title for the fiscal year and available for allotment under section 300d–11(a) of this title; and

(B) a percentage equal to the quotient of—

(i) an amount equal to the lesser of 266,807 and the amount of the square mileage of the State; divided by

(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

(c) Disposition of certain funds appropriated for allotments

(1) In general

Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 300d–11(a) of this title for the fiscal year (other than any State referred to in paragraph (2)(C)).

(2) Type of amounts

The amounts referred to in paragraph (1) are any amounts made available pursuant to 300d–32(b)(3) of this title that are not paid under section 300d–11(a) of this title to a State as a result of—

(A) the failure of the State to submit an application under section 300d–17 of this title;

(B) the failure, in the determination of the Secretary, of the State to prepare within a reasonable period of time such application in compliance with such section; or

(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made for the State.

(3) Amount

The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

(B) the percentage determined under subsection (b)(2) of this section for the State.

(July 1, 1944, ch. 373, title XII, § 1218, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2924.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–11, 300d–32 of this title.

§ 300d–19. Failure to comply with agreements

(a) Repayment of payments

(1) Requirement

The Secretary may, in accordance with subsection (b) of this section, require a State to repay any payments received by the State pursuant to section 300d–11(a) of this title that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under such section.

(2) Offset of amounts

If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against any amount due to be paid to the State under section 300d–11(a) of this title.

(b) Opportunity for hearing

Before requiring repayment of payments under subsection (a)(1) of this section, the Secretary shall provide to the State an opportunity for a hearing.

(July 1, 1944, ch. 373, title XII, § 1219, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2925.)

§ 300d–20. Prohibition against certain false statements

(a) In general

(1) False statements or representations

A person may not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under section 300d–11(a) of this title.

(2) Concealing or failing to disclose information

A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under section 300d–11(a) of this title may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

(b) Criminal penalty for violation of prohibition

Any person who violates a prohibition established in subsection (a) of this section may for each violation be fined in accordance with title 18, or imprisoned for not more than 5 years, or both.

(July 1, 1944, ch. 373, title XII, § 1220, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2925.)

§ 300d–21. Technical assistance and provision by Secretary of supplies and services in lieu of grant funds

(a) Technical assistance

The Secretary shall, without charge to a State receiving payments under section 300d–11(a) of this title, provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program carried out pursuant to section 300d–11(b) of this title. The Secretary may provide such technical assistance directly, through contract, or through grants.

(b) Provision by Secretary of supplies and services in lieu of grant funds

(1) In general

Upon the request of a State receiving payments under section 300d–11(a) of this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out section 300d–11(b) of this title and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Reduction in payments

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments to the State under section 300d–11(a) of this title by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch. 373, title XII, § 1221, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2926.)

PRIOR PROVISIONS

A prior section 300d–21, act July 1, 1944, ch. 373, title XII, § 1221, as added Oct. 21, 1976, Pub. L. 94–573, § 14(3), 90 Stat. 2718; amended Dec. 12, 1979, Pub. L. 96–142, title I, § 107(a)–(c), 93 Stat. 1069, related to programs for burn, trauma, and poison injuries, prior to repeal by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561, effective Oct. 1, 1981.

§ 300d–22. Report by Secretary

Not later than October 1, 1995, the Secretary shall report to the appropriate committees of Congress on the activities of the States carried out pursuant to section 300d–11 of this title. Such report shall include an assessment of the extent to which Federal and State efforts to develop systems of trauma care and to designate trauma centers have reduced the incidence of mortality, and the incidence of permanent disability, resulting from trauma. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to trauma care.

(July 1, 1944, ch. 373, title XII, § 1222, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2926; amended Pub. L. 103–183, title VI, § 601(d), Dec. 14, 1993, 107 Stat. 2238.)

AMENDMENTS

1993—Pub. L. 103–183 substituted ''1995'' for ''1992'' and inserted after first sentence ''Such report shall include an assessment of the extent to which Federal and State efforts to develop systems of trauma care and to designate trauma centers have reduced the incidence of mortality, and the incidence of permanent disability, resulting from trauma.''

PART C—GENERAL PROVISIONS REGARDING PARTS A AND B

§ 300d–31. Definitions

For purposes of this part and parts A and B of this subchapter:

(1) Designated trauma center

The term ''designated trauma center'' means a trauma center designated in accordance with the modifications to the State plan described in section 300d–13 of this title.

(2) State plan regarding emergency medical services

The term ''State plan'', with respect to the provision of emergency medical services, means a plan for a comprehensive, organized system to provide for the access, response, triage, field stabilization, transport, hospital stabilization, definitive care, and rehabilitation of patients of all ages with respect to emergency medical services.

(3) State

The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) Trauma

The term ''trauma'' means an injury resulting from exposure to a mechanical force.

(5) Trauma care component of State plan

The term ''trauma care component'', with respect to components of the State plan for the provision of emergency medical services, means a plan for a comprehensive health care system, within rural and urban areas of the State, for the prompt recognition, prehospital care, emergency medical care, acute surgical and medical care, rehabilitation, and outcome evaluation of seriously injured patients.

(July 1, 1944, ch. 373, title XII, § 1231, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2926; amended Pub. L. 102–321, title VI, § 602(2), July 10, 1992, 106 Stat. 436; Pub. L. 103–183, title VI, § 601(f)(4), Dec. 14, 1993, 107 Stat. 2239.)

AMENDMENTS

1993—Par. (3). Pub. L. 103–183 substituted ''Puerto Rico,'' for ''Puerto Rico;''.

1992—Pub. L. 102–321 substituted ''this part and parts A and B of this subchapter'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective July 10, 1992, with provision for programs providing financial assistance, see section 801(b), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d–61 of this title.

§ 300d–32. Funding

(a) Authorization of appropriations

For the purpose of carrying out parts A and B of this subchapter, there are authorized to be appropriated $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

(b) Allocation of funds by Secretary

(1) General authority

For the purpose of carrying out part A of this subchapter, the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year under subsection (a) of this section.

(2) Rural grants

For the purpose of carrying out section 300d–3[1] of this title, the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year under subsection (a) of this section.

(3) Formula grants

(A) For the purpose of making allotments under section 300d–11(a) of this title, the Secretary shall, subject to subsection (c) of this section, make available 80 percent of the amounts appropriated for a fiscal year pursuant to subsection (a) of this section.

(B) Amounts paid to a State under section 300d–11(a) of this title for a fiscal year shall, for the purposes for which the amounts were paid, remain available for obligation until the end of the fiscal year immediately following the fiscal year for which the amounts were paid.

(c) Effect of insufficient appropriations for minimum allotments

(1) In general

If the amounts made available under subsection (b)(3)(A) of this section for a fiscal year are insufficient for providing each State with an allotment under section 300d–11(a) of this title of not less than the applicable amount under section 300d–18(a)(2) of this title, the Secretary shall, from such amounts as are made available under subsection (b)(3)(A) of this section, make grants to States described in paragraph (2) for carrying out part B of this subchapter.

(2) Eligible States

The States referred to in paragraph (1) are States that—

(A) have the greatest need to develop, implement, and maintain trauma care systems; and

(B) demonstrate in their applications under section 300d–17 of this title the greatest commitment to establishing and maintaining such systems.

(3) Rule of construction

Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.

(July 1, 1944, ch. 373, title XII, § 1232, as added Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2927;

[1] See References in Text note below.

amended Pub. L. 102–321, title VI, § 602(3), July 10, 1992, 106 Stat. 436; Pub. L. 103–183, title VI, § 602, Dec. 14, 1993, 107 Stat. 2239; Pub. L. 105–392, title IV, §§ 401(a)(2), 413, Nov. 13, 1998, 112 Stat. 3587, 3590.)

REFERENCES IN TEXT

Section 300d–3 of this title, referred to in subsec. (b)(2), was in the original a reference to section 1204, meaning section 1204 of act July 1, 1944. Section 1204 was renumbered section 1203 by Pub. L. 103–183, title VI, § 601(b)(2), Dec. 14, 1993, 107 Stat. 2238.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 413, substituted ''through 2002'' for ''and 1996''.

Pub. L. 105–392, § 401(a)(2), amended directory language of Pub. L. 103–183. See 1993 Amendment note below.

1993—Subsec. (a). Pub. L. 103–183, as amended by Pub. L. 105–392, § 401(a)(2), substituted ''For the purpose of carrying out parts A and B of this subchapter, there are authorized to be appropriated $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996'' for ''For the purpose of carrying out parts A and B of this subchapter, there are authorized to be appropriated $60,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993''.

1992—Subsec. (a). Pub. L. 102–321 substituted ''parts A and B of this subchapter'' for ''this subchapter''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 401(a)(2) of Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective July 10, 1992, with provision for programs providing financial assistance, see section 801(b), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300d–18 of this title.

§ 300d–33. Repealed. Pub. L. 103–183, title VI, § 601(e), Dec. 14, 1993, 107 Stat. 2239

Section, act July 1, 1944, ch. 373, title XII, § 1233, as added Nov. 16, 1990, Pub. L. 101–590, § 3, 104 Stat. 2927, related to waiver of requirement regarding purpose of grants.

PART D—TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE

§ 300d–41. Grants for certain trauma centers

(a) In general

The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising directly or indirectly from illicit trafficking in drugs. Grants under this subsection may be made only to such trauma centers.

(b) Minimum qualifications of centers

(1) Significant incidence of treating certain patients

(A) The Secretary may not make a grant under subsection (a) of this section to a trauma center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for—

(i) trauma resulting from the penetration of the skin by knives, bullets, or any other implement that can be used as a weapon; or

(ii) trauma that the center reasonably believes results from violence arising directly or indirectly from illicit trafficking in drugs.

(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a) of this section.

(2) Participation in trauma care system operating under certain professional guidelines

The Secretary may not make a grant under subsection (a) of this section unless the trauma center involved is a participant in a system that—

(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center is located;

(B) is established by the State or political subdivision in which such center is located; and

(C)(i) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 300d–13(c) of this title; or

(ii) agrees that such guidelines will be adopted by the system not later than 6 months after the date on which the trauma center submits to the Secretary the application for the grant.

(3) Submission and approval of long-term plan

The Secretary may not make a grant under subsection (a) of this section unless the trauma center involved—

(A) submits to the Secretary a plan satisfactory to the Secretary that—

(i) is developed on the assumption that the center will continue to incur substantial uncompensated costs in providing trauma care; and

(ii) provides for the long-term continued operation of the center with an acceptable standard of medical care, notwithstanding such uncompensated costs; and

(B) agrees to implement the plan according to a schedule approved by the Secretary.

(July 1, 1944, ch. 373, title XII, § 1241, as added Pub. L. 102–321, title VI, § 601, July 10, 1992, 106 Stat. 433.)

EFFECTIVE DATE

Part effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, see section 801(b), (d)(1) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300d–42, 300d–43, 300d–44 of this title.

§ 300d–42. Preferences in making grants

(a) In general

In making grants under section 300d–41(a) of this title, the Secretary shall give preference to any application—

(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

(2) made by a trauma center that, with respect to the system described in section 300d–41(b)(2) of this title in which the center is a participant—

(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 2-year period specified in section 300d–41(b)(1)(B) of this title; or

(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

(b) Further preference for certain applications

With respect to applications for grants under section 300d–41 of this title that are receiving preference for purposes of subsection (a) of this section, the Secretary shall give further preference to any such application made by a trauma center for which a disproportionate percentage of the uncompensated costs of the center result from the provision of trauma care to individuals who neither are citizens nor aliens lawfully admitted to the United States for permanent residence.

(July 1, 1944, ch. 373, title XII, § 1242, as added Pub. L. 102–321, title VI, § 601, July 10, 1992, 106 Stat. 434.)

§ 300d–43. Certain agreements

(a) Commitment regarding continued participation in trauma care system

The Secretary may not make a grant under subsection (a) of section 300d–41 of this title unless the trauma center involved agrees that—

(1) the center will continue participation in the system described in subsection (b) of such section throughout the 3-year period beginning on the date that the center first receives payments under the grant; and

(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

(A) the amount of assistance provided to the center under subsection (a) of such section; and

(B) an amount representing interest on the amount specified in subparagraph (A).

(b) Maintenance of financial support

With respect to activities for which a grant under section 300d–41 of this title is authorized to be expended, the Secretary may not make such a grant unless the trauma center involved agrees that, during the period in which the center is receiving payments under the grant, the center will maintain expenditures for such activities at a level that is not less than the level maintained by the center during the fiscal year preceding the first fiscal year for which the center receives such payments.

(c) Trauma care registry

The Secretary may not make a grant under section 300d–41(a) of this title unless the trauma center involved agrees that—

(1) the center will operate a registry of trauma cases in accordance with the applicable guidelines described in section 300d–41(b)(2)(C) of this title, and will begin operation of the registry not later than 6 months after the date on which the center submits to the Secretary the application for the grant; and

(2) in carrying out paragraph (1), the center will maintain information on the number of trauma cases treated by the center and, for each such case, the extent to which the center incurs uncompensated costs in providing trauma care.

(July 1, 1944, ch. 373, title XII, § 1243, as added Pub. L. 102–321, title VI, § 601, July 10, 1992, 106 Stat. 434.)

§ 300d–44. General provisions

(a) Application

The Secretary may not make a grant under section 300d–41(a) of this title unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) Limitation on duration of support

The period during which a trauma center receives payments under section 300d–41(a) of this title may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

(c) Limitation on amount of grant

A grant under section 300d–41 of this title may not be made in an amount exceeding $2,000,000.

(July 1, 1944, ch. 373, title XII, § 1244, as added Pub. L. 102–321, title VI, § 601, July 10, 1992, 106 Stat. 435.)

§ 300d–45. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated

$100,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994. Such authorization of appropriations is in addition to any other authorization of appropriations or amounts that are available for such purpose.

(July 1, 1944, ch. 373, title XII, § 1245, as added Pub. L. 102–321, title VI, § 601, July 10, 1992, 106 Stat. 435.)

PART E—MISCELLANEOUS PROGRAMS

§ 300d–51. Residency training programs in emergency medicine

(a) In general

The Secretary may make grants to public and nonprofit private entities for the purpose of planning and developing approved residency training programs in emergency medicine.

(b) Identification and referral of domestic violence

The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that training programs under subsection (a) of this section will provide education and training in identifying and referring cases of domestic violence.

(c) Authorization of appropriations

For the purpose of carrying out this section, there is authorized to be appropriated $400,000 for each of the fiscal years 1993 through 1995.

(July 1, 1944, ch. 373, title XII, § 1251, as added Pub. L. 102–408, title III, § 304, Oct. 13, 1992, 106 Stat. 2084.)

§ 300d–52. State grants for demonstration projects regarding traumatic brain injury

(a) In general

The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

(b) State advisory board

(1) In general

The Secretary may make a grant under subsection (a) of this section only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

(2) Functions

An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs. In developing recommendations under this paragraph, such boards shall consult with Federal, State, and local governmental agencies and with citizens groups and other private entities.

(3) Composition

An advisory board established under paragraph (1) shall be composed of—

(A) representatives of—

(i) the corresponding State agencies involved;

(ii) public and nonprofit private health related organizations;

(iii) other disability advisory or planning groups within the State;

(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

(v) injury control programs at the State or local level if such programs exist; and

(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

(c) Matching funds

(1) In general

With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a) of this section, the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

(2) Determination of amount contributed

In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

(d) Application for grant

The Secretary may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) Coordination of activities

The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

(f) Report

Not later than 2 years after July 29, 1996, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

(g) "Traumatic brain injury" defined

For purposes of this section, the term ''traumatic brain injury'' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(h) Authorization of appropriations

For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1997 through 1999.

(July 1, 1944, ch. 373, title XII, § 1252, as added Pub. L. 104–166, § 3, July 29, 1996, 110 Stat. 1446.)

PART F—INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 282 of this title.

§ 300d–61. Establishment of Program

(a) In general

The Secretary, acting through the Director of the National Institutes of Health (in this section referred to as the ''Director''), shall establish a comprehensive program of conducting basic and clinical research on trauma (in this section referred to as the ''Program''). The Program shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

(b) Plan for Program

(1) In general

The Director, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g) of this section, shall establish and implement a plan for carrying out the activities of the Program, including the activities described in subsection (d) of this section. All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

(2) Submission to Congress

Not later than December 1, 1993, the Director shall submit the plan required in paragraph (1) to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, together with an estimate of the funds needed for each of the fiscal years 1994 through 1996 to implement the plan.

(c) Participating agencies; coordination and collaboration

The Director—

(1) shall provide for the conduct of activities under the Program by the Directors of the agencies of the National Institutes of Health involved in research with respect to trauma;

(2) shall ensure that the activities of the Program are coordinated among such agencies; and

(3) shall, as appropriate, provide for collaboration among such agencies in carrying out such activities.

(d) Certain activities of Program

The Program shall include—

(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma;

(3) basic and clinical research regarding trauma care for pediatric and geriatric patients; and

(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training.

(e) Mechanisms of support

In carrying out the Program, the Director, acting through the Directors of the agencies referred to in subsection (c)(1) of this section, may make grants to public and nonprofit entities, including designated trauma centers.

(f) Resources

The Director shall assure the availability of appropriate resources to carry out the Program, including the plan established under subsection (b) of this section (including the activities described in subsection (d) of this section).

(g) Coordinating Committee

(1) In general

There shall be established a Trauma Research Interagency Coordinating Committee (in this section referred to as the ''Coordinating Committee'').

(2) Duties

The Coordinating Committee shall make recommendations regarding—

(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

(B) effective collaboration among the agencies in carrying out the activities.

(3) Composition

The Coordinating Committee shall be composed of the Directors of each of the agencies that, under subsection (c) of this section, have responsibilities under the Program, and any other individuals who are practitioners in the trauma field as designated by the Director of the National Institutes of Health.

(h) Definitions

For purposes of this section:

(1) The term ''designated trauma center'' has the meaning given such term in section 300d–31(1) of this title.

(2) The term ''Director'' means the Director of the National Institutes of Health.

(3) The term ''trauma'' means any serious injury that could result in loss of life or in significant disability and that would meet prehospital triage criteria for transport to a designated trauma center.

(4) The term ''traumatic brain injury'' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(July 1, 1944, ch. 373, title XII, § 1261, as added Pub. L. 103–43, title III, § 303(a), June 10, 1993, 107 Stat. 151; amended Pub. L. 104–166, § 2, July 29, 1996, 110 Stat. 1445.)

AMENDMENTS

1996—Subsec. (d)(4). Pub. L. 104–166, § 2(1), added par. (4).

Subsec. (h)(4). Pub. L. 104–166, § 2(2), added par. (4).

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

TRAUMATIC BRAIN INJURY STUDY; CONSENSUS CONFERENCE

Section 4 of Pub. L. 104–166 provided that:

''(a) STUDY.—

''(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the 'Secretary'), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

''(A) In collaboration with appropriate State and local health-related agencies—

''(i) determine the incidence and prevalence of traumatic brain injury; and

''(ii) develop a uniform reporting system under which States report incidents of traumatic brain injury, if the Secretary determines that such a system is appropriate.

''(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

''(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

''(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

''(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

''(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

''(2) DATES CERTAIN FOR REPORTS.—

''(A) Not later than 18 months after the date of the enactment of this Act [July 29, 1996], the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

''(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

''(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

''(c) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

''(d) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out subsection (a)(1)(A), there is authorized to be appropriated $3,000,000 for each of the fiscal years 1997 through 1999. For the purpose of carrying out the other provisions of this section, there is authorized to be appropriated an aggregate $500,000 for the fiscal years 1997 through 1999. Amounts appropriated for such other provisions remain available until expended.''

SUBCHAPTER XI—HEALTH MAINTENANCE ORGANIZATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 12 section 1721.

§ 300e. Requirements of health maintenance organizations

(a) "Health maintenance organization" defined

For purposes of this subchapter, the term ''health maintenance organization'' means a public or private entity which is organized under the laws of any State and which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b) of this section, and (2) is organized and operated in the manner prescribed by subsection (c) of this section.

(b) Manner of supplying basic and supplemental health services to members

A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this subchapter, basic and supplemental health services to its members in the following manner:

(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) except in the case of basic health services provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education, is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments

may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary. If a health maintenance organization offers to its members the opportunity to obtain basic health services through a physician not described in subsection (b)(3)(A) of this section, the organization may require, in addition to payments described in clause (D) of this paragraph, a reasonable deductible to be paid by a member when obtaining a basic health service from such a physician. A health maintenance organization may include a health service, defined as a supplemental health service by section 300e–1(2) of this title, in the basic health services provided its members for a basic health services payment described in the first sentence. In the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e–9(d)[1] of this title) provided comprehensive health services on a prepaid basis, the requirement of clause (C) shall not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization. The requirements of this paragraph respecting the basic health services payment shall not apply to the provision of basic health services to a member for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or an insurance policy but only to the extent such benefits apply to such services. For the provision of such services for an illness or injury for which a member is entitled to benefits under such a law, the health maintenance organization may, if authorized by such law, charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law, the insurance carrier, employer, or other entity which under such law is to pay for the provision of such services or, to the extent that such member has been paid under such law for such services, such member. For the provision of such services for an illness or injury for which a member is entitled to benefits under an insurance policy, a health maintenance organization may charge or authorize the provider of such services to charge the insurance carrier under such policy or, to the extent that such member has been paid under such policy for such services, such member.

(2) For such payment or payments (hereinafter in this subchapter referred to as ''supplemental health services payments'') as the health maintenance organization may require in addition to the basic health services payment, the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 300e–1(2) of this title). Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education, except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e–9(d)[1] of this title) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization.

(3)(A) Except as provided in subparagraph (B), at least 90 percent of the services of a physician which are provided as basic health services shall be provided through—

(i) members of the staff of the health maintenance organization,

(ii) a medical group (or groups),

(iii) an individual practice association (or associations),

(iv) physicians or other health professionals who have contracted with the health maintenance organization for the provision of such services, or

(v) any combination of such staff, medical group (or groups), individual practice association (or associations) or physicians or other health professionals under contract with the organization.

(B) Subparagraph (A) does not apply to the provision of the services of a physician—

(i) which the health maintenance organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or

(ii) which are provided a member of the organization in a manner other than that prescribed by subparagraph (A) because of an emergency which made it medically necessary that the service be provided to the member before it could be provided in a manner prescribed by subparagraph (A).

(C) Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require, but only to the extent that such requirements are designed to insure the delivery of quality health care services and sound fiscal management.

(D) For purposes of this paragraph the term ''health professional'' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

(4) Basic health services (and only such supplemental health services as members have contracted for) shall within the area served by the health maintenance organization be available and accessible to each of its members with reasonable promptness and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week, except that a health maintenance organization which

[1] See References in Text note below.

has a service area located wholly in a nonmetropolitan area may make a basic health service available outside its service area if that basic health service is not a primary care or emergency health care service and if there is an insufficient number of providers of that basic health service within the service area who will provide such service to members of the health maintenance organization. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic and supplemental health services other than through the organization if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition.

(5) To the extent that a natural disaster, war, riot, civil insurrection, or any other similar event not within the control of a health maintenance organization (as determined under regulations of the Secretary) results in the facilities, personnel, or financial resources of a health maintenance organization not being available to provide or arrange for the provision of a basic or supplemental health service in accordance with the requirements of paragraphs (1) through (4) of this subsection, such requirements only require the organization to make a good-faith effort to provide or arrange for the provision of such service within such limitation on its facilities, personnel, or resources.

(6) A health maintenance organization that otherwise meets the requirements of this subchapter may offer a high-deductible health plan (as defined in section 220(c)(2) of title 26).

(c) Organizational requirements

Each health maintenance organization shall—

(1)(A) have—

(i) a fiscally sound operation, and

(ii) adequate provision against the risk of insolvency,

which is satisfactory to the Secretary, and (B) have administrative and managerial arrangements satisfactory to the Secretary;

(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may (A) obtain insurance or make other arrangements for the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year, (B) obtain insurance or make other arrangements for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, (C) obtain insurance or make other arrangements for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year, and (D) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions;

(3)(A) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary), and (B) carry out enrollment of members who are entitled to medical assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] in accordance with procedures approved under regulations promulgated by the Secretary;

(4) not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

(5) be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization;

(6) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program (A) stresses health outcomes, and (B) provides review by physicians and other health professionals of the process followed in the provision of health services;

(7) adopt at least one of the following arrangements to protect its members from incurring liability for payment of any fees which are the legal obligation of such organization—

(A) a contractual arrangement with any hospital that is regularly used by the members of such organization prohibiting such hospital from holding any such member liable for payment of any fees which are the legal obligation of such organization;

(B) insolvency insurance, acceptable to the Secretary;

(C) adequate financial reserve, acceptable to the Secretary; and

(D) other arrangements, acceptable to the Secretary, to protect members,

except that the requirements of this paragraph shall not apply to a health maintenance organization if applicable State law provides the members of such organization with protection from liability for payment of any fees which are the legal obligation of such organization; and

(8) provide, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), and effective procedure for developing, compiling, evaluating, and reporting to the Secretary, statistics and other information (which the Secretary shall publish and disseminate on an annual basis and which the health maintenance organization shall disclose, in a manner acceptable to the Secretary, to its members and the general public) relating to (A) the cost of its operations, (B)

the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, (D) to the extent practical, developments in the health status of its members, and (E) such other matters as the Secretary may require.

The Secretary shall issue regulations stating the circumstances under which the Secretary, in administering paragraph (1)(A), will consider the resources of an organization which owns or controls a health maintenance organization. Such regulations shall require as a condition to consideration of resources that an organization which owns or controls a health maintenance organization shall provide satisfactory assurances that it will assume the financial obligations of the health maintenance organization.

(d) Application of rules by certain health maintenance organizations

An organization that offers health benefits coverage shall not be considered as failing to meet the requirements of this section notwithstanding that it provides, with respect to coverage offered in connection with a group health plan in the small or large group market (as defined in section 300gg–91(e) of this title), an affiliation period consistent with the provisions of section 300gg(g) of this title.

(July 1, 1944, ch. 373, title XIII, § 1301, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 914; amended Pub. L. 94–460, title I, §§ 101, 102(a), 103, 105(a), Oct. 8, 1976, 90 Stat. 1945–1947; Pub. L. 95–559, §§ 9(b), 10, 11(a)–(d), Nov. 1, 1978, 92 Stat. 2137–2139; Pub. L. 96–32, § 2(b), July 10, 1979, 93 Stat. 82; Pub. L. 97–35, title IX, § 942(a)(1), (2), (b)–(e), Aug. 13, 1981, 95 Stat. 573, 574; Pub. L. 100–517, §§ 2–4(a), 5(a)(1), (2), (b), Oct. 24, 1988, 102 Stat. 2578, 2579; Pub. L. 104–191, title I, §§ 102(b), 193, Aug. 21, 1996, 110 Stat. 1976, 1988.)

REFERENCES IN TEXT

Section 300e–9(d) of this title, referred to in subsec. (b)(1), (2), was redesignated section 300e–9(c) of this title by Pub. L. 100–517, § 7(b), Oct. 24, 1988, 102 Stat. 2580.

The Social Security Act, referred to in subsec. (c)(3)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(6). Pub. L. 104–191, § 193, added par. (6).

Subsec. (d). Pub. L. 104–191, § 102(b), added subsec. (d).

1988—Subsec. (a). Pub. L. 100–517, § 2, substituted "public or private entity which is organized under the laws of any State and" for "legal entity".

Subsec. (b)(1). Pub. L. 100–517, § 3, inserted after second sentence "If a health maintenance organization offers to its members the opportunity to obtain basic health services through a physician not described in subsection (b)(3)(A) of this section, the organization may require, in addition to payments described in clause (D) of this paragraph, a reasonable deductible to be paid by a member when obtaining a basic health service from such a physician."

Subsec. (b)(3)(A). Pub. L. 100–517, § 4(a), substituted "at least 90 percent of the services of a physician" for "the services of a physician".

Subsec. (c). Pub. L. 100–517, § 5(a)(2), inserted at end "The Secretary shall issue regulations stating the circumstances under which the Secretary, in administering paragraph (1)(A), will consider the resources of an organization which owns or controls a health maintenance organization. Such regulations shall require as a condition to consideration of resources that an organization which owns or controls a health maintenance organization shall provide satisfactory assurances that it will assume the financial obligations of the health maintenance organization."

Subsec. (c)(1)(A). Pub. L. 100–517, § 5(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary, and".

Subsec. (c)(5) to (9). Pub. L. 100–517, § 5(b), redesignated pars. (6) to (9) as (5) to (8), respectively, and struck out former par. (5) which read as follows: "(A) in the case of a private health maintenance organization, be organized in such a manner that assures that (i) at least one-third of the membership of the policymaking body of the health maintenance organization will be members of the organization, and (ii) there will be equitable representation on such body of members from medically underserved populations served by the organization, and (B) in the case of a public health maintenance organization, have an advisory board to the policymaking body of the public entity operating the organization which board meets the requirements of clause (A) of this paragraph and to which may be delegated policymaking authority for the organization;".

1981—Subsec. (b). Pub. L. 97–35, § 942(a)(1), (2), (b), (c), in par. (3)(A)(iv) struck out reference to subpar. (C), in par. (3)(B) substituted "(B)" for "(B)(i)", "(i)" for "(I)", "(ii)" for "(II)", and struck out cl. (ii) which related to forty-eight-month period after qualification as an organization, struck out par. (3)(C) which related to expiration of first four fiscal years as a qualified organization, redesignated par. (3)(D) as (3)(C) and substituted requirements respecting delivery and fiscal management, for requirements respecting appropriate continuing education, redesignated par. (3)(E) as (3)(D), and in par. (4) inserted provisions relating to service areas located in nonmetropolitan area, and substituted "with reasonable promptness" for "promptly as appropriate".

Subsec. (c). Pub. L. 97–35, § 942(d)(1), (e), in par. (2) substituted provisions specifying requirements with respect to insurance, etc., for provisions generalizing such insurance, etc., requirements, and added cl. (D), struck out par. (4) which related to open enrollment period, redesignated pars. (5) to (8) as (4) to (7), respectively, added par. (8), struck out pars. (9) and (10) which related to medical social and health education services, and continuing education, respectively, and redesignated par. (11) as (9).

Subsec. (d). Pub. L. 97–35, § 942(d)(2), struck out subsec. (d) which related to requirements, etc., respecting open enrollment period.

1979—Subsec. (b)(3). Pub. L. 96–32 amended directory language of section 11(a) of Pub. L. 95–559 by substituting reference to section "1301" for "1310" of the Public Health Service Act, as section to be amended, and required no change in text because amendment made by Pub. L. 95–559 had been executed to this section as the probable intent of Congress.

1978—Subsec. (b)(1). Pub. L. 95–559, §§ 10(a), 11(b), inserted "except in the case of basic health services provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "the requirement of clause (C)" and inserted provisions permitting the health maintenance organization to seek reimbursement for the cost of services provided to a member who is entitled to benefits under a workmen's compensation law or insurance policy.

Subsec. (b)(2). Pub. L. 95–559, § 10(a), inserted "unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student (as defined by the Secretary) at an accredited institution of higher education," after "community rating system".

Subsec. (b)(3). Pub. L. 95–559, §11(a), as amended by Pub. L. 96–32, inserted provisions limiting the health maintenance organization from entering into contracts for health services with physicians other than members of the staff of the health maintenance organization, medical groups, or individual practice associations.

Subsec. (b)(4). Pub. L. 95–559, §11(c), substituted ''basic and supplemental'' for ''basic or supplemental'' and ''if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition'' for ''if it was medically necessary that the services be provided before it could secure them through the organization''.

Subsec. (b)(5). Pub. L. 95–559, §11(d), added par. (5).

Subsec. (c)(1). Pub. L. 95–559, §10(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(3). Pub. L. 95–559, §9(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(6). Pub. L. 95–559, §10(c), designated existing provisions as subpar. (A), inserted ''in the case of a private health maintenance organization,'' before ''be organized in such'', and substituted ''(i)'' for ''(A)'' and ''(ii)'' for ''(B)'', and added subpar. (B).

1976—Subsec. (b)(1). Pub. L. 94–460, §§101(a), 105(a)(1), provided that a health maintenance organization may include a health service, defined as a supplemental health service by section 300e–1(2) of this title, in the basic health services provided its members for a basic health service payment described in the first sentence, and also provided that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e–9(d) of this title) provided comprehensive health services on a prepaid basis, the requirement of clause (C) would not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization.

Subsec. (b)(2). Pub. L. 94–460, §§101(b), 105(a)(2), substituted ''the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 300e–1(2) of this title)'' for ''the organization shall provide to each of its members each health service (A) which is included in supplemental health services (as defined in section 300e–1(2) of this title), (B) for which the required health manpower are available in the area served by the organization, and (C) for the provision of which the member has contracted with the organization'' and inserted ''except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 300e–9(d) of this title) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization'' after ''Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system''.

Subsec. (b)(3). Pub. L. 94–460, §102(a), inserted references to health professionals who have contracted with the health maintenance organization for the provision of such services and to the combination of staff, medical groups, individual practice associations, or health professionals under contract with the health maintenance organization, and inserted provisions allowing a health maintenance organization, during the thirty-six month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 300e–9(d) of this title), to provide basic and supplemental health services through an entity which but for the requirement of section 300e–1(4)(C)(i) of this title would be a medical group for purposes of this subchapter, directing that after the expiration of such period, the organization may provide basic or supplemental health services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity, directing that a health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that the sentence would not apply to the entering into of contracts for the purchase of basic and supplemental health services through an entity which but for the requirements of section 300e–1(4)(C)(i) of this title would be a medical group for purposes of this subchapter, and directing that contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services include such provisions as the Secretary may require (including provisions requiring appropriate continuing education).

Subsec. (b)(4). Pub. L. 94–460, §101(c), substituted ''and only such supplemental health services as members have contracted for'' for ''and supplemental health services in the case of the members who have contracted therefor''.

Subsec. (c)(4). Pub. L. 94–460, §103(a), substituted provisions making a simple reference to an open enrollment period in accordance with the provisions of subsec. (d) of this section for provisions spelling out in detail the requirements for a health maintenance organization with regard to an open enrollment period.

Subsec. (d). Pub. L. 94–460, §103(b), added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 118 of title I of Pub. L. 94–460 provided that:

''(a) Except as provided in subsection (b), the amendments made by this title [enacting section 300e–15 of this title and amending this section, sections 300e–1 to 300e–11, 300e–13, and 300n–1 of this title, and section 8902 of Title 5, Government Organization and Employees] shall take effect on the date of the enactment of this Act [Oct. 8, 1976].

''(b)(1) The amendments made by sections 101 [amending this section], 102 [amending this section and section 300e–1 of this title], 103 [amending this section], 104 [amending section 300e–1 of this title], and 106 [amending section 300e–1 of this title] shall (A) apply with respect to grants, contracts, loans, and loan guarantees made under sections 1303, 1304, and 1305 of the Public Health Service Act [sections 300e–2, 300e–3, and 300e–4 of this title] for fiscal years beginning after September 30, 1976, (B) apply with respect to health benefit plans offered under section 1310 of such Act [section 300e–9 of this title] after such date, and (C) for purposes of section 1312 [section 300e–11 of this title] take effect October 1, 1976.

''(2) Subsection (d) of section 1301 of the Public Health Service Act [subsec. (d) of this section] (added by section 103(b) of this Act) shall take effect with respect to fiscal years of health maintenance organizations beginning on or after the date of the enactment of this Act [Oct. 8, 1976].

''(3) The amendments made by section 107 [amending sections 300e–2, 300e–3, and 300e–4 of this title] shall apply with respect to grants, contracts, loans, and loan guarantees made under sections 1303, 1304, and 1305 of the Public Health Service Act [sections 300e–2, 300e–3 and 300e–4 of this title] for fiscal years beginning after September 30, 1976.

''(4) The amendments made by sections 109(a)(1) [amending section 300e–4 of this title] and 109(c) [amending section 300e–7 of this title] shall apply with respect to loan guarantees made under section 1305 of the Public Health Service Act [section 300e–4 of this title] after September 30, 1976.

''(5) The amendment made by section 109(e) [amending section 300e–3 of this title] shall apply with respect

to projects assisted under section 1304 of the Public Health Service Act [section 300e–3 of this title] after September 30, 1976.

''(6) The amendments made by paragraphs (1) and (2) of section 110(a) [amending section 300e–9 of this title] shall apply with respect to calendar quarters which begin after the date of the enactment of this Act [Oct. 8, 1976].

''(7) The amendments made by paragraphs (3) and (4) of section 110 [amending section 300e–9 of this title] shall apply with respect to failures of employers to comply with section 1310(a) of the Public Health Service Act [section 300e–9 of this title] after the date of the enactment of this Act [Oct. 8, 1976].

''(8) The amendment made by section 111 [amending section 300e–11 of this title] shall apply with respect to determinations of the Secretary of Health, Education, and Welfare described in section 1312(a) of the Public Health Service Act [section 300e–11(a) of this title] and made after the date of the enactment of this Act [Oct. 8, 1976].''

SHORT TITLE OF 1978 AMENDMENT

For short title of Pub. L. 95–559 as the ''Health Maintenance Organization Amendments of 1978'', see section 1 of Pub. L. 95–559, set out as a note under section 201 of this title.

SHORT TITLE OF 1976 AMENDMENT

For short title of Pub. L. 94–460 which substantially amended this subchapter, as the ''Health Maintenance Organization Amendments of 1976'', see section 1(a) of Pub. L. 94–460, set out as a note under section 201 of this title.

SHORT TITLE

For short title of Pub. L. 93–222, which enacted this subchapter, as the ''Health Maintenance Organization Act of 1973'', see section 1 of Pub. L. 93–222, set out as a Short Title of 1973 Amendments note under section 201 of this title.

QUALIFICATION OF HEALTH MAINTENANCE ORGANIZATION CONTINGENT UPON CONTROLLING ORGANIZATION'S ASSUMPTION OF FINANCIAL OBLIGATIONS AND MEETING OTHER REQUIREMENTS

Section 5(a)(3) of Pub. L. 100–517 provided that: ''During the period prior to the effective date of regulations issued under section 1301(c) of the Public Health Service Act [subsec. (c) of this section] (as amended by paragraph (2)), the Secretary of Health and Human Services shall consider the application for qualification under section 1301(c)(1)(A) of such Act of a health maintenance organization—

''(A) which is owned or controlled by another organization, and

''(B) which requests that the resources of the other organization be considered in determining its qualification under such section,

if the Secretary receives satisfactory assurances from the other organization that it will assume the financial obligations of the health maintenance organization and if the Secretary determines that the other organization meets such other requirements as the Secretary determines are necessary.''

STUDY ON HEALTH MAINTENANCE ORGANIZATION PROGRAM

Pub. L. 99–660, title VIII, § 813, Nov. 14, 1986, 100 Stat. 3801, which provided for a study to assess the operation and impact of the provisions of this subchapter and a report to Congress on the findings and conclusions of such study within 18 months after Nov. 14, 1986, was repealed by Pub. L. 102–531, title III, § 311(a), Oct. 27, 1992, 106 Stat. 3503, effective as if such repeal was enacted on Nov. 14, 1986.

HEALTH CARE QUALITY ASSURANCE PROGRAMS STUDY

Section 4 of Pub. L. 93–222 required Secretary of Health, Education, and Welfare to contract for conduct of a study of health care quality assurance programs and submit a final report to specific committees of Congress by Jan. 31, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–5, 300e–6, 300e–9, 300e–10, 300e–11, 300e–14, 1301, 1320a–3, 1395mm of this title; title 26 section 9832; title 29 section 1191b; title 42 section 300gg–91.

§ 300e–1. Definitions

For purposes of this subchapter:

(1) The term ''basic health services'' means—

(A) physician services (including consultant and referral services by a physician);

(B) inpatient and outpatient hospital services;

(C) medically necessary emergency health services;

(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(G) home health services; and

(H) preventive health services (including (i) immunizations, (ii) well-child care from birth, (iii) periodic health evaluations for adults, (iv) voluntary family planning services, (v) infertility services, and (vi) children's eye and ear examinations conducted to determine the need for vision and hearing correction).

Such term does not include a health service which the Secretary, upon application of a health maintenance organization, determines is unusual and infrequently provided and not necessary for the protection of individual health. The Secretary shall publish in the Federal Register each determination made by him under the preceding sentence. If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, podiatrist, psychologist, or other health care personnel, a health maintenance organization may provide such service through a dentist, optometrist, podiatrist, psychologist, or other health care personnel (as the case may be) licensed to provide such service. Such term includes a health service directly associated with an organ transplant only if such organ transplant was required to be included in basic health services on April 15, 1985. For purposes of this paragraph, the term ''home health services'' means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization.

(2) The term ''supplemental health services'' means any health service which is not included as a basic health service under paragraph (1) of this section. If a health service provided by a physician may also be provided under applicable State law by a dentist, optometrist, podiatrist, psychologist, or other health care personnel, a health maintenance organization may provide such service through an optometrist, dentist,

podiatrist, psychologist, or other health care personnel (as the case may be) licensed to provide such service.

(3) The term ''member'' when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

(4) The term ''medical group'' means a partnership, association, or other group—

(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, podiatrists, and psychologists) as are necessary for the provision of health services for which the group is responsible;

(B) a majority of the members of which are licensed to practice medicine or osteopathy; and

(C) the members of which (i) as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization, except that this clause does not apply before the end of the forty-eight month period beginning after the month in which the health maintenance oranization[1] becomes a qualified health maintenance organization as defined in section 300e–9(d)[2] of this title, or as authorized by the Secretary in accordance with regulations that take into consideration the unusual circumstances of the group; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other similar plan unrelated to the provision of specific health services; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group; and (v) establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member.

(5) The term ''individual practice association'' means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, psychology, or other health profession in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(B) to the extent feasible, for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff.

(6) The term ''health systems agency'' means an entity which is designated in accordance with section 300*l*–4 of this title.

(7) The term ''medically underserved population'' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each State health planning and development agency which covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each health systems agency designated for a health service area which covers (in whole or in part) such urban or rural area or the area in which such population group resides.

(8)(A) The term ''community rating system'' means the systems, described in subparagraphs (B) and (C), of fixing rates of payments for health services. A health maintenance organization may fix its rates of payments under the system described in subparagraph (B) or (C) or under both such systems, but a health maintenance organization may use only one such system for fixing its rates of payments for any one group.

(B) A system of fixing rates of payment for health services may provide that the rates shall be fixed on a per-person or per-family basis and may authorize the rates to vary with the number of persons in a family, but, except as authorized in subparagraph (D), such rates must be equivalent for all individuals and for all families of similar composition.

(C) A system of fixing rates of payment for health services may provide that the rates shall be fixed for individuals and families by groups. Except as authorized in subparagraph (D), such rates must be equivalent for all individuals in the same group and for all families of similar composition in the same group. If a health maintenance organization is to fix rates of payment for individuals and families by groups, it shall—

(i)(I) classify all of the members of the organization into classes based on factors which the health maintenance organization determines predict the differences in the use of health services by the individuals or families in each class and which have not been disapproved by the Secretary,

(II) determine its revenue requirements for providing services to the members of each class established under subclause (I), and

(III) fix the rates of payments for the individuals and families of a group on the basis of a composite of the organization's revenue requirements determined under subclause (II) for providing services to them as members of the classes established under subclause (I), or

(ii) fix the rates of payments for the individuals and families of a group on the basis of the organization's revenue requirements for providing services to the group, except that the

[1] So in original. Probably should be ''organization''.

[2] See References in Text note below.

rates of payments for the individuals and families of a group of less than 100 persons may not be fixed at rates greater than 110 percent of the rate that would be fixed for such individuals and families under subparagraph (B) or clause (i) of this subparagraph.

The Secretary shall review the factors used by each health maintenance organization to establish classes under clause (i). If the Secretary determines that any such factor may not reasonably be used to predict the use of the health services by individuals and families, the Secretary shall disapprove such factor for such purpose. If a health maintenance organization is to fix rates of payment for a group under clause (ii), it shall, upon request of the entity with which it contracts to provide services to such group, disclose to that entity the method and data used in calculating the rates of payment.

(D) The following differentials in rates of payments may be established under the systems described in subparagraphs (B) and (C):

(i) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of members:

(I) Individual members (including their families).

(II) Small groups of members (as determined under regulations of the Secretary).

(III) Large groups of members (as determined under regulations of the Secretary).

(ii) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.

(iii) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10 or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5) or any health benefits program for employees of States, political subdivision of States, and other public entities.

(9) The term ''non-metropolitan area'' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

(July 1, 1944, ch. 373, title XIII, § 1302, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 917; amended Pub. L. 94–460, title I, §§ 102(b), 104, 105(b), (c), 106, 117(b)(1), (2), Oct. 8, 1976, 90 Stat. 1946–1948, 1955; Pub. L. 95–559, § 11(e), Nov. 1, 1978, 92 Stat. 2139; Pub. L. 97–35, title IX, § 942(f)–(j), Aug. 13, 1981, 95 Stat. 574, 575; Pub. L. 97–414, § 9(c), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 99–660, title VIII, §§ 812(a), 814, Nov. 14, 1986, 100 Stat. 3801, 3802; Pub. L. 100–517, § 6(b), Oct. 24, 1988, 102 Stat. 2579.)

REFERENCES IN TEXT

Section 300e–9(d) of this title, referred to in par. (4)(C), was redesignated section 300e–9(c) of this title by Pub. L. 100–517, § 7(b), Oct. 24, 1988, 102 Stat. 2580.

AMENDMENTS

1988—Par. (8)(C). Pub. L. 100–517, § 6(b)(1), amended third sentence generally. Prior to amendment, third sentence read as follows: ''If a health maintenance organization is to fix rates of payment for individuals and families by groups, it shall—

''(i) classify all of the members of the organization into classes based on factors which the health maintenance organization determines predict the differences in the use of health services by the individuals or families in each class and which have not been disapproved by the Secretary,

''(ii) determine its revenue requirements for providing services to the members of each class established under clause (i), and

''(iii) fix the rates of payment for the individuals and families of a group on the basis of a composite of the organization's revenue requirements determined under clause (ii) for providing services to them as members of the classes established under clause (i).''

Pub. L. 100–517, § 6(b)(2), inserted at end ''If a health maintenance organization is to fix rates of payment for a group under clause (ii), it shall, upon request of the entity with which it contracts to provide services to such group, disclose to that entity the method and data used in calculating the rates of payment.''

1986—Par. (1). Pub. L. 99–660, § 814(a), inserted ''psychologist,'' in two places in fourth sentence.

Pub. L. 99–660, § 812(a), (b)(1), temporarily inserted ''Such term includes a health service directly associated with an organ transplant only if such organ transplant was required to be included in basic health services on April 15, 1985.'' in closing provisions. See Effective and Termination Dates of 1986 Amendment note below.

Par. (2). Pub. L. 99–660, § 814(a), inserted ''psychologist,'' in two places.

Par. (4)(A). Pub. L. 99–660, § 814(b), substituted ''podiatrists, and psychologists'' for ''and podiatrists''.

Par. (5). Pub. L. 99–660, § 814(c), inserted ''psychology,''.

1983—Par. (5)(B). Pub. L. 97–414 amended directory language of Pub. L. 97–35, § 942(i), to correct a typographical error, and did not involve any change in text. See 1981 Amendment note below.

1981—Par. (1). Pub. L. 97–35, § 942(f), struck out provisions authorizing health maintenance organizations to maintain, etc., drug use profiles of members.

Par. (2). Pub. L. 97–35, § 942(g), substituted provisions to include services not included under par. (1), for provisions enumerating specific services, substituted ''health service provided by a physician'' for ''service of a physician described in the preceding sentence'', and struck out provisions authorizing health maintenance organizations to maintain, etc., drug use profiles of members.

Par. (4)(C)(i). Pub. L. 97–35, § 942(h), inserted provisions relating to applicability to qualified organizations.

Par. (5)(B). Pub. L. 97–35, § 942(i), as amended by Pub. L. 97–414, § 9(c), struck out ''(i)'' after ''feasible'', and struck out cl. (ii) which related to continuing education.

Par. (8). Pub. L. 97–35, § 942(j), reorganized and restructured provisions and, among many changes, provided for determinations based upon subpars. (B) and (C), and set out determinations respecting differentials contained in former subpars. (B) and (C) as subpar. (D).

1978—Par. (1). Pub. L. 95–559 inserted provisions to exclude a health service which the Secretary, upon application of a health maintenance organization, determines is unusual and infrequently provided and not necessary for protection of individual health and that the Secretary publish in Federal Register each determination made by him under preceding sentence.

1976—Par. (1). Pub. L. 94–460, § 104(a), substituted reference to immunization, well-child care from birth, periodic health evaluations for adults, and children's ear examinations conducted to determine need for

hearing correction for reference to preventive dental care for children in (H) and, in the provisions following subpar. (H), inserted reference to ''other health care personnel''.

Par. (2). Pub. L. 94–460, § 104(b), substituted ''basic health service'' for ''basic health service under paragraph (1)(A) or (1)(H)'' in subpars. (B) and (C), added subpar. (G), and inserted reference to ''other health care personnel'' in provisions following subpar. (G).

Par. (4)(C). Pub. L. 94–460, §§ 102(b)(1), 106, substituted ''as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization'' for ''as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization'' in cl. (i), substituted ''similar plan unrelated to the provision of specific health services'' for ''plan'' in cl. (ii), struck out former cl. (iv) which covered the utilization of additional professional personnel, allied health professions personnel, and other health personnel as are available and appropriate for the effective and efficient delivery of the services of the members of the group, redesignated former cl. (v) as (iv), and added cl. (v).

Par. (5)(B). Pub. L. 94–460, § 102(b)(2), struck out former cl. (i) which covered the utilization of additional professional personnel, allied health professions personnel, and other personnel as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, and redesignated former cls. (ii) and (iii) as (i) and (ii), respectively.

Par. (6). Pub. L. 94–460, § 117(b)(1), substituted provisions defining ''health systems agency'' for provisions defining ''section 314(a) State health planning agency'' and ''section 314(b) areawide health planning agency''.

Par. (7). Pub. L. 94–460, § 117(b)(2), substituted ''State health planning and development agency which'' for ''section 314(a) State health planning agency whose section 314(a) plan'' and ''health systems agency designated for a health service area which'' for ''section 314(b) areawide health planning agency whose section 314(b) plan''.

Par. (8). Pub. L. 94–460, § 105(b), (c), substituted ''to reflect differences in marketing costs and the different administrative costs'' for ''to reflect the different administrative costs'' in subpar. (A) preceding cl. (i), added subpar. (B), and redesignated former subpar. (B) as (C).

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 812(b)(1) of Pub. L. 99–660, which provided that amendment by subsection (a), amending this section, was to take effect on Oct. 1, 1985, and was to cease to be in effect on Apr. 1, 1988, was repealed by Pub. L. 100–517, § 6(a), Oct. 24, 1988, 102 Stat. 2579.

Section 815 of title VIII of Pub. L. 99–660 provided that:

''(a) Except as provided in subsection (b) and section 812(b) [enacting provisions set out as notes above and below], this title and the amendments made by this title [amending this section and sections 300e–4, 300e–5 to 300e–10, 300e–16, and 300e–17 of this title, repealing sections 300e–2, 300e–3, and 300e–4a of this title, and enacting provisions set out as notes under this section and sections 201, 300e, 300e–4, and 300e–5 of this title] shall take effect on October 1, 1985.

''(b) Section 813 [enacting provisions set out as a note under section 300e of this title] shall take effect on the date of enactment of this Act [Nov. 14, 1986].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, except that amendment of pars. (1) and (2) of this section by section 104 of Pub. L. 94–460 and the amendment of pars. (4)(C) and (5)(B) of this section by sections 102 and 106 of Pub. L. 94–460 applicable with respect to grants, contracts, loans, and loan guarantees made under sections 300e–2, 300e–3, and 300e–4 of this title for fiscal years beginning after Sept. 30, 1976, applicable with respect to health benefit plans offered under section 300e–9 of this title after Sept. 30, 1976, and effective for purposes of section 300e–11 of this title on Oct. 1, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

CONSTRUCTION

Section 816 of title VIII of Pub. L. 99–660 provided that: ''The provisions of this title and of the amendments made by this title [amending this section and sections 300e–4, 300e–5 to 300e–10, 300e–16, and 300e–17 of this title, repealing sections 300e–2, 300e–3, and 300e–4a of this title, and enacting provisions set out as notes under this section and sections 201, 300e, 300e–4, and 300e–5 of this title] do not authorize the appropriation of any funds for fiscal year 1986.''

BASIC HEALTH SERVICE STATUS OF CERTAIN ORGAN TRANSPLANT SERVICES AFTER APRIL 1, 1988

Section 812(b)(2) of Pub. L. 99–660, which provided that after Apr. 1, 1988, for purposes of this subchapter, no health service directly associated with an organ transplant was to be considered to be a basic health service if such service would otherwise have been added as a basic health service between Apr. 15, 1985, and Apr. 1, 1988, was repealed by Pub. L. 100–517, § 6(a), Oct. 24, 1988, 102 Stat. 2579.

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

Section 5 of Pub. L. 93–222 directed Secretary of Health, Education, and Welfare to report to Congress the criteria used in the designation of medically underserved areas and population groups for purposes of par. (7) of this section by Dec. 29, 1973, and report to Congress the areas and population groups designated under par. (7) of this section, the comments of State and areawide health planning agencies, and areas which meet the definitional standards of par. (9) of this section for non-metropolitan areas by Dec. 29, 1974, and that the Office of Management and Budget may review such reports before their submission to Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e, 1395w–24, 1395x, 1395mm of this title.

§§ 300e–2, 300e–3. Repealed. Pub. L. 99–660, title VIII, § 803(a), Nov. 14, 1986, 100 Stat. 3799

Section 300e–2, act July 1, 1944, ch. 373, title XIII, § 1303, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 920; amended Oct. 8, 1976, Pub. L. 94–460, title I, §§ 107(a), 109(d)(1), 117(b)(3), 90 Stat. 1948, 1950, 1955; Aug. 13, 1981, Pub. L. 97–35, title IX, § 947(a), 95 Stat. 577, provided for grants and contracts for feasibility surveys.

Section 300e–3, act July 1, 1944, ch. 373, title XIII, § 1304, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 921; amended Apr. 21, 1976, Pub. L. 94–273, § 40, 90 Stat. 381; Oct. 8, 1976, Pub. L. 94–460, title I, §§ 107(b), 108(a), (b), (d)(1), 109(d)(2), (3), (e), 113(a), 117(b)(4), 90 Stat. 1948–1950, 1953, 1955; Nov. 1, 1978, Pub. L. 95–559, §§ 2(a), 3(a)–(c), 6, 92 Stat. 2131, 2134; July 10, 1979, Pub. L. 96–32, § 2(a), 93 Stat. 82; Aug. 13, 1981, Pub. L. 97–35, title IX, §§ 941(c), 947(b), 95 Stat. 573, 577, provided for grants, contracts, and loan guarantees for planning and for initial development costs.

EFFECTIVE DATE OF REPEAL

Repeal not applicable to any grant made or contract entered into under this subchapter before Oct. 1, 1985, see section 803(c) of Pub. L. 99–660, set out as an Effective Date of 1986 Amendment note under section 300e–5 of this title.

Repeal effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

§ 300e–4. Loans and loan guarantees for initial operation costs

(a) Authority

The Secretary may—

(1) make loans to public or private health maintenance organizations to assist them in meeting the amount by which their costs of operation during a period not to exceed the first sixty months of their operation exceed their revenues in that period;

(2) make loans to public or private health maintenance organizations to assist them in meeting the amount by which their costs of operation, which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred during a period not to exceed the first sixty months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private health maintenance organizations for the amounts referred to in paragraphs (1) and (2).

No loan or loan guarantee may be made under this subsection for the costs of operation of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs, and unless the Secretary has made a grant or loan to, entered into a contract with, or guaranteed a loan for, the organization in fiscal year 1981, 1982, 1983, 1984, or 1985 under this section or section 300e–3(b)[1] of this title (as in effect before October 1, 1985).

(b) Limitations

(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) of this section for a health maintenance organization may not exceed $7,000,000. In any twelve-month period the amount disbursed to a health maintenance organization under this section (either directly by the Secretary, by an escrow agent under the terms of an escrow agreement, or by a lender under a guaranteed loan) may not exceed $3,000,000.

(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) of this section may not exceed such limitations as may be specified in appropriation Acts.

(c) Source of loan funds

Loans under this section shall be made from the fund established under section 300e–7(e) of this title.

(d) Time limit on loans and loan guarantees

No loan may be made or guaranteed under this section after September 30, 1986.

[1] See References in Text note below.

(e) Repealed. Pub. L. 97–35, title IX, § 947(c), Aug. 13, 1981, 95 Stat. 577

(f) Medically underserved populations

In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for health maintenance organizations which will serve medically underserved populations.

(July 1, 1944, ch. 373, title XIII, § 1305, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 924; amended Pub. L. 93–641, § 8, Jan. 4, 1975, 88 Stat. 2276; Pub. L. 94–273, § 2(21), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–460, title I, §§ 107(c), 108(c), (d)(2), 109(a)(1), (2), 113(b), Oct. 8, 1976, 90 Stat. 1949, 1953; Pub. L. 95–559, §§ 2(b), 4(a), (b), Nov. 1, 1978, 92 Stat. 2131, 2132; Pub. L. 96–32, § 2(d), July 10, 1979, 93 Stat. 82; Pub. L. 97–35, title IX, §§ 943(a)–(c), 947(c), Aug. 13, 1981, 95 Stat. 576, 577; Pub. L. 99–660, title VIII, § 804(a), Nov. 14, 1986, 100 Stat. 3800.)

REFERENCES IN TEXT

Section 300e–3(b) of this title, referred to in subsec. (a), was repealed by Pub. L. 99–660, title VIII, § 803(a), Nov. 14, 1986, 100 Stat. 3799.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–660 inserted ‘‘, and unless the Secretary has made a grant or loan to, entered into a contract with, or guaranteed a loan for, the organization in fiscal year 1981, 1982, 1983, 1984, or 1985 under this section or section 300e–3(b) of this title (as in effect before October 1, 1985)’’ at end of last sentence.

1981—Subsec. (a). Pub. L. 97–35, § 943(a), in pars. (1) and (2) struck out ‘‘nonprofit’’ before ‘‘private’’, and in par. (3) substituted provisions respecting guarantees for private health maintenance organizations, for guarantees for nonprofit private health maintenance organizations.

Subsec. (b)(1). Pub. L. 97–35, § 943(b), generally revised limitations and, among many changes, increased amounts subject to coverage, and struck out requirements respecting Congressional oversight for increases in amounts.

Subsec. (d). Pub. L. 97–35, § 943(c), substituted ‘‘1986’’ for ‘‘1981’’.

Subsec. (e). Pub. L. 97–35, § 947(c), struck out subsec. (e) which related to projects in nonmetropolitan areas.

1979—Subsec. (b)(1). Pub. L. 96–32 substituted ‘‘$4,500,000’’ for ‘‘$4,000,000’’ in two places.

1978—Subsec. (a). Pub. L. 95–559, § 4(b)(1), substituted ‘‘costs of operation’’ for ‘‘operating costs’’ wherever appearing.

Subsec. (b)(1). Pub. L. 95–559, § 4(a), (b)(2), inserted ‘‘(or $4,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and, within 30 days of the making of such loans or loan guarantees, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the loans or loan guarantees and a copy of the written determination made with respect to the loans or loan guarantees and the reasons for the determination) through September 30, 1979, and $4,000,000 thereafter’’ after ‘‘$2,500,000’’ and ‘‘(or $2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and, within 30 days of such disbursement, furnishes the Committee on Human

Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the disbursement and a copy of the written determination made with respect to it and the reasons for the determination) through September 30, 1979, and $2,000,000 thereafter'' after ''$1,000,000'' and substituted ''any twelve-month period'' for ''any fiscal year''.

Subsec. (d). Pub. L. 95–559, § 2(b), substituted ''September 30, 1981'' for ''September 30, 1980''.

1976—Subsec. (a)(1), (2). Pub. L. 94–460, §§ 107(c), 109(a)(1), substituted ''during a period not to exceed the first sixty months'' for ''in the period of the first thirty-six months''.

Subsec. (a)(3). Pub. L. 94–460, § 108(c), substituted reference to loans made to nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or to other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population for reference to loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

Subsec. (b)(1). Pub. L. 94–460, § 109(a)(2), substituted ''In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed $1,000,000'' for ''In any fiscal year, the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000''.

Subsec. (d). Pub. L. 94–460, § 113(b), substituted ''No loan may be made or guaranteed under this section after September 30, 1980'' for ''A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978''.

Pub. L. 94–273 substituted ''September'' for ''June''.

Subsec. (f). Pub. L. 94–460, § 108(d)(2), added subsec. (f).

1975—Subsec. (b)(1). Pub. L. 93–641 substituted provisions that amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000 for provisions that principal amount of any loan made or guaranteed under subsec. (a) of this section for a health maintenance organization may not exceed $1,000,000.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 804(b) of Pub. L. 99–660 provided that: ''The amendment made by subsection (a) [amending this section] does not apply to any loan or loan guarantee for the initial costs of operation of a health maintenance organization made under title XIII of the Public Health Service Act [this subchapter] before October 1, 1985.''

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 4(d) of Pub. L. 95–559 provided that: ''The amendments made by this section [amending this section and section 300e–7 of this title] shall only be effective for fiscal years beginning on or after October 1, 1978.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, except that the amendment of subsec. (a)(1), (2) of this section by section 107(c) of Pub. L. 94–460 applicable with respect to grants, contracts, loans, and loan guarantees made under this section and sections 300e–2 and 300e–3 of this title for fiscal years beginning after Sept. 30, 1976, and except that the amendment of subsec. (a)(1), (2) of this section by section 109(a)(1) of Pub. L. 94–460 applicable with respect to loan guarantees made under this section after Sept. 30, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300e–5 of this title.

§ 300e–4a. Repealed. Pub. L. 99–660, title VIII, § 805(a), Nov. 14, 1986, 100 Stat. 3800

Section, act July 1, 1944, ch. 373, title XIII, § 1305A, as added Nov. 1, 1978, Pub. L. 95–559, § 5(a), 92 Stat. 2133; amended July 10, 1979, Pub. L. 96–32, § 2(e), 93 Stat. 82; Aug. 13, 1981, Pub. L. 97–35, title IX, § 944, 95 Stat. 576, related to loans and loan guarantees for acquisition and construction of ambulatory health care facilities.

EFFECTIVE DATE OF REPEAL

Repeal not applicable to any loan or loan guarantee made under this section before Oct. 1, 1985, see section 805(c) of Pub. L. 99–660, set out as an Effective Date of 1986 Amendment note under section 300e–5 of this title.

Repeal effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

§ 300e–5. Application requirements

(a) Submission to and approval by Secretary required for making loans and loan guarantees

No loan or loan guarantee may be made under this subchapter unless an application therefor has been submitted to, and approved by, the Secretary.

(b) Application contents

The Secretary may not approve an application for a loan or loan guarantee under this subchapter unless—

(1) such application meets the requirements of section 300e–7 of this title;

(2) in the case of an application for assistance under section 300e–4 of this title, he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 300e(c) of this title, (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to

provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

(5) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this subchapter, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this subchapter and with the plans contained in previous applications for such assistance;

(6) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 300e(b) of this title respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and

(7) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one loan or loan guarantee under this subchapter, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe. In determining, for purposes of paragraph (2), whether an applicant would be able to complete a project or undertaking without the assistance applied for, the Secretary shall not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant.

(c) Regulations

The Secretary shall by regulation establish standards and procedures for health systems agencies to follow in reviewing and commenting on applications for loans and loan guarantees under this subchapter.

(July 1, 1944, ch. 373, title XIII, § 1306, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 925; amended Pub. L. 94–460, title I, §§ 105(a)(3), 117(b)(5), (6), Oct. 8, 1976, 90 Stat. 1948, 1955; Pub. L. 95–559, § 12(b), (c), Nov. 1, 1978, 92 Stat. 2140; Pub. L. 99–660, title VIII, §§ 803(b)(1), 805(b), 806, Nov. 14, 1986, 100 Stat. 3799, 3800.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–660, § 803(b)(1)(A), substituted ''loan'' for ''grant, contract, loan,''.

Subsec. (b). Pub. L. 99–660, § 803(b)(1)(A), substituted ''loan'' for ''grant, contract, loan,'' in introductory text and in second sentence.

Subsec. (b)(1). Pub. L. 99–660, § 803(b)(1)(B), struck out ''in the case of an application for assistance under section 300e–2 or 300e–3 of this title, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee,'' before ''such application''.

Subsec. (b)(2). Pub. L. 99–660, § 805(b), struck out reference to section 300e–4a.

Pub. L. 99–660, § 803(b)(1)(C), struck out reference to section 300e–3.

Subsec. (b)(5) to (8). Pub. L. 99–660, § 806, redesignated pars. (6), (7), and (8) as (5), (6), and (7), respectively, and struck out former par. (5) which read as follows: ''each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted;''.

Subsec. (c). Pub. L. 99–660, § 803(b)(1)(D), substituted ''loans'' for ''grants, contracts, loans,''.

1978—Subsec. (b). Pub. L. 95–559 in par. (2) inserted ''in the case of an application for assistance under section 300e–3, 300e–4, or 300e–4a of this title,'' before ''he determines'' and in provisions following par. (8) inserted provision that in determining, for purposes of par. (2), whether an applicant would be able to complete a project or undertaking without the assistance applied for, the Secretary not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant.

1976—Subsec. (b)(5). Pub. L. 94–460, § 117(b)(5), substituted ''each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted;'' for ''the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;''.

Subsec. (b)(7), (8). Pub. L. 94–460, § 105(a)(3), added par. (7) and redesignated former par. (7) as (8).

Subsec. (c). Pub. L. 94–460, § 117(b)(6), substituted ''health systems agencies'' for ''section 314(b) areawide health planning agencies and section 314(a) State health planning agencies''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 803(c) of Pub. L. 99–660 provided that: ''The amendments made by this section [amending this section and sections 300e–6, 300e–8, and 300e–16 of this title and repealing sections 300e–2 and 300e–3 of this title] do not apply to any grant made or contract entered into under title XIII of the Public Health Service Act [this subchapter] before October 1, 1985.''

Section 805(c) of Pub. L. 99–660 provided that: ''The amendments made by this section [amending this sec-

tion and repealing section 300e–4a of this title] do not apply to any loan or loan guarantee made under section 1305A of the Public Health Service Act [former section 300e–4a of this title] before October 1, 1985.''

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–6, 300e–16 of this title.

§ 300e–6. Administration of assistance programs

(a) Recordkeeping; audit and examination

(1) Each recipient of a loan or loan guarantee under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the loan (directly made or guaranteed), the total cost of the undertaking in connection with which the loan was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a loan or loan guarantee under this subchapter which relate to such assistance.

(b) Report upon expiration of period

Upon expiration of the period for which a loan or loan guarantee was provided an entity under this subchapter, such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in section 300e–5(b)(3) of this title.

(c) Repealed. Pub. L. 99–660, title VIII, § 803(a), Nov. 14, 1986, 100 Stat. 3799

(d) Other entities considered health maintenance organizations

An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.] may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if—

(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 300e(b) of this title, except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII [42 U.S.C. 1395 et seq.] or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 300e(c) of this title, except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

(2) with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

(July 1, 1944, ch. 373, title XIII, § 1307, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 926; amended Pub. L. 94–460, title I, §§ 109(b)(1), 112, Oct. 8, 1976, 90 Stat. 1950, 1953; Pub. L. 97–35, title IX, § 943(d), Aug. 13, 1981, 95 Stat. 576; Pub. L. 99–660, title VIII, § 803(a), (b)(2), Nov. 14, 1986, 100 Stat. 3799, 3800.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 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.

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–660, § 803(b)(2), substituted ''loan or loan guarantee'' for ''grant, contract, loan, or loan guarantee'', ''proceeds of the loan'' for ''proceeds of the grant, contract, or loan'', and ''with which the loan was given'' for ''with which such assistance was given''.

Subsecs. (a)(2), (b). Pub. L. 99–660, § 803(b)(2)(A), substituted ''loan or loan guarantee'' for ''grant, contract, loan, or loan guarantee''.

Subsec. (c). Pub. L. 99–660, § 803(a), struck out subsec. (c) which read as follows: ''If in any fiscal year the funds appropriated under section 300e–8 of this title are insufficient to fund all applications approved under this subchapter for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 300e–2 and 300e–3 of this title, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.''

1981—Subsec. (e). Pub. L. 97–35 struck out subsec. (e) which related to limitation on cumulative total of loan guarantees in any fiscal year.

1976—Subsec. (d). Pub. L. 94–460, § 112, inserted sentence at end setting conditions upon which an entity providing health services to a defined population on a prepaid basis may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter.

Subsec. (e). Pub. L. 94–460, § 109(b)(1), inserted ''for a private health maintenance organization (other than a private nonprofit health maintenance organization)'' after ''may be made'', and ''for private health maintenance organizations (other than private nonprofit health maintenance organizations)'' after ''guaranteed''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 not applicable to any grant made or contract entered into under this subchapter before Oct. 1, 1985, see section 803(c) of Pub. L. 99–660, set out as a note under section 300e–5 of this title.

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

§ 300e–7. General provisions relating to loan guarantees and loans

(a) Conditions

(1) The Secretary may not approve an application for a loan guarantee under this subchapter unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for loans with similar maturities, terms, conditions, and security and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this subchapter.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this subchapter the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this subchapter (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this subchapter shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this subchapter shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Application requirements

(1) The Secretary may not approve an application for a loan under this subchapter unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this subchapter shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) on the date the loan is made, bear interest at a rate comparable to the rate of interest prevailing on such date with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States. On the date disbursements are made under a loan after the initial disbursement under the loan, the Secretary may change the rate of interest on the amount of the loan disbursed on that date to a rate which is comparable to the rate of interest prevailing on the date the subsequent disbursement is made with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this subchapter, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans

(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this subchapter.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was

made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

(3) After any loan under this subchapter to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of title 26.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e) of this section.

(5) Any reference in this subchapter (other than in this subsection and in subsection (d) of this section) to a loan guarantee under this subchapter does not include a loan guarantee made under this subsection.

(d) Loan guarantee fund

(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the ''fund'') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this subchapter and to take the action authorized by subsection (f) of this section. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this subchapter and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him before October 1, 1986, under this subchapter and to take the action authorized by subsection (f) of this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which the securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Loan fund

There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the ''fund'') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this subchapter and to take the action authorized by subsection (f) of this section. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this subchapter and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

(f) Actions to protect interest of United States in event of default

The Secretary may take such action as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this subchapter, including taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.

(July 1, 1944, ch. 373, title XIII, § 1308, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 927; amended Pub. L. 94–460, title I, § 109(b)(2), (c), Oct. 8, 1976, 90 Stat. 1950; Pub. L. 95–559, § 4(c), Nov. 1, 1978, 92 Stat. 2132; Pub. L. 97–35, title IX, § 945, Aug. 13, 1981, 95 Stat. 577; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–660, title VIII, § 807, Nov. 14, 1986, 100 Stat. 3800.)

CODIFICATION

In subsec. (d)(2), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act'' and ''that Act'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1986—Subsec. (c)(3). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (d)(2). Pub. L. 99–660 inserted ''before October 1, 1986,'' after ''guarantees issued by him''.

1981—Subsec. (b)(2). Pub. L. 97–35 inserted provisions relating to changes in the rate of interest by the Secretary, and in cl. (D) made changes in nomenclature.

1978—Subsec. (d). Pub. L. 95–559, § 4(c)(2)(A), in pars. (1) and (2) inserted ''and to take the action authorized by subsection (f) of this section'' after ''by him under this subchapter''.

Subsec. (e). Pub. L. 95–559, § 4(c)(2)(B), inserted ''and to take the action authorized by subsection (f) of this section'' after ''loans under this subchapter''.

Subsec. (f). Pub. L. 95–559, § 4(c)(1), added subsec. (f).

1976—Subsec. (a)(1)(A). Pub. L. 94–460, § 109(c)(1), substituted ''for loans with similar maturities, terms, conditions, and security'' for ''for similar loans''.

Subsec. (b)(2)(D). Pub. L. 94–460, § 109(c)(2), substituted ''marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges'' for ''loans guaranteed under this subchapter''.

Subsec. (c)(5). Pub. L. 94–460, § 109(b)(2), added par. (5).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–559 effective only for fiscal years beginning on or after October 1, 1978, see section 4(d) of Pub. L. 95–559, set out as a note under section 300e–4 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, except that the amendment by section 109(c) of Pub. L. 94–460 applicable with respect to loan guarantees made under section 300e–4 of this title after Sept. 30, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e–4, 300e–5, 300e–8 of this title.

§ 300e–8. Authorization of appropriations

(a) For grants under section 300e–16 of this title there is authorized to be appropriated $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b) To meet the obligations of the loan fund established under section 300e–7(e) of this title resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to the loan fund for fiscal years 1987, 1988, and 1989, such sums as may be necessary.

(July 1, 1944, ch. 373, title XIII, § 1309, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 930; amended Pub. L. 94–460, title I, § 113(c), Oct. 8, 1976, 90 Stat. 1954; Pub. L. 95–83, title I, § 105(b), Aug. 1, 1977, 91 Stat. 384; Pub. L. 95–559, §§ 2(c), 7(b), Nov. 1, 1978, 92 Stat. 2131, 2135; Pub. L. 97–35, title IX, § 941(a), (b), Aug. 13, 1981, 95 Stat. 572; Pub. L. 99–660, title VIII, §§ 803(b)(3), 811, Nov. 14, 1986, 100 Stat. 3800, 3801.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–660, § 803(b)(3), struck out par. (2) designation and struck out par. (1) which read as follows: ''For grants and contracts under sections 300e–2 and 300e–3 of this title there is authorized to be appropriated $20,000,000 for the fiscal years 1982, 1983, and 1984. No funds appropriated under this paragraph may be expended or obligated for a grant or contract unless the entity received a grant or contract under section 242a or 242b of this title during or before the fiscal year 1981.''

Subsec. (b). Pub. L. 99–660, § 811, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''To maintain in the loan fund established under section 300e–7(e) of this title for the purpose of making new loans a balance of at least $5,000,000 at the end of each fiscal year and to meet the obligations of the loan fund resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to the loan fund for fiscal years 1982, 1983, and 1984, such sums as may be necessary to assure such balance and meet such obligations.''

1981—Subsec. (a). Pub. L. 97–35, § 941(a), substituted provisions authorizing appropriations for fiscal years 1982, 1983, and 1984, and provisions respecting prior receipt of funds, for provisions authorizing appropriations for fiscal years ending June 30, 1974, 1975, and 1976, and Sept. 30, 1977, 1978, 1979, 1980, and 1981.

Subsec. (b). Pub. L. 97–35, § 941(b), substituted provisions relating to maintenance of the loan fund for fiscal years 1982, 1983, and 1984, for provisions relating to maintenance of the loan fund for fiscal years ending June 30, 1974, and 1975.

1978—Subsec. (a). Pub. L. 95–559 substituted ''300e–3(b) and 300e–16 of this title'' for ''and 300e–3(b) of this title'' and '', $31,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $68,000,000 for the fiscal year ending September 30, 1981'' for ''; and for the purpose of making payments under grants and contracts under section 300e–3(b) of this title for the fiscal year ending September 30, 1979, there is authorized to be appropriated $50,000,000''.

1977—Subsec. (a). Pub. L. 95–83 substituted, where appearing the second time, ''September 30, 1979'' for ''September 30, 1977''.

1976—Subsec. (a). Pub. L. 94–460 substituted ''$40,000,000 for the fiscal year ending June 30, 1976, $45,000,000 for the fiscal year ending September 30, 1977, and $45,000,000 for the fiscal year ending September 30, 1978;'' for ''and $85,000,000 for the fiscal year ending June 30, 1976;'' and ''for the fiscal year ending September 30, 1977, there is authorized to be appropriated $50,000,000'' for ''for the fiscal year ending June 30, 1977, there is authorized to be appropriated $85,000,000''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 803(b)(3) of Pub. L. 99–660 not applicable to any grant made or contract entered into under this subchapter before Oct. 1, 1985, see section 803(c) of Pub. L. 99–660, set out as a note under section 300e–5 of this title.

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 7(b) of Pub. L. 95–559 effective only for fiscal years beginning on or after Oct. 1, 1978, see section 7(c) of Pub. L. 95–559, set out as an Effective Date note under section 300e–16 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

§ 300e–9. Employees' health benefits plans

(a) Regulations; membership option

In accordance with regulations which the Secretary shall prescribe—

(1) each employer—

(A) which is required during any calendar quarter to pay its employees the minimum wage prescribed by section 206 of title 29 (or would be required to pay its employees such wage but for section 213(a) of title 29), and

(B) which during such calendar quarter employed an average number of employees of not less than 25, and

(2) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of payment to the State of funds under section 247b, 247c, or 300a of this title,

which offers to its employees in the calendar year beginning after such calendar quarter the option of membership in a qualified health maintenance organization which is engaged in the provision of basic health services in a health maintenance organization service area in which at least 25 of such employees reside shall meet the requirements of subsection (b) of this section with respect to any qualified health maintenance organization offered by the employer or State or political subdivision.

(b) Nondiscriminatory contributions for services; payroll deductions; effect on costs

(1) If a health benefits plan offered by an employer or a State or political subdivision includes contributions for services offered under the plan, the employer or State or political subdivision shall make a contribution under the plan for services offered by a qualified health maintenance organization in an amount which does not financially discriminate against an employee who enrolls in such organization. For purposes of the preceding sentence, an employer's or a State's or political subdivision's contribution does not financially discriminate if the employer's or State's or political subdivision's method of determining the contributions on behalf of all employees is reasonable and is designed to assure employees a fair choice among health benefits plans.

(2) Each employer or State or political subdivision which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required shall, with the consent of an employee who exercises option of membership in a qualified health maintenance organization, arrange for the employee's contribution for membership in the organization to be paid through payroll deductions.

(3) No employer or State or political subdivision shall be required to pay more for health benefits as a result of the application of this subsection than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer or State or political subdivision and its employees.

(c) "Qualified health maintenance organization" defined

For purposes of this section, the term ''qualified health maintenance organization'' means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 300e(b) of this title and that it is organized and operated in the manner prescribed by section 300e(c) of this title, and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 300e(b) of this title and will be organized and operated in the manner prescribed by section 300e(c) of this title.

(d) Civil penalty; notice and presentation of views; review

(1) Any employer who knowingly does not comply with one or more of the requirements of paragraph (1) or (2) of subsection (b) of this section shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

(e) "Employer" defined

For purposes of this section, the term ''employer'' does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing, except that such term includes nonappropriated fund instrumentalities of the Government of the United States; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501(c)(3) of title 26, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

(f) Termination of payment for failure to comply

If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that

it or any of its political subdivisions has failed to comply with paragraph (1) or (2) of subsection (b) of this section, the Secretary shall terminate payments to such State under sections 247b, 247c, and 300a of this title and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

(July 1, 1944, ch. 373, title XIII, § 1310, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 930; amended Pub. L. 94–460, title I, § 110(a), Oct. 8, 1976, 90 Stat. 1950; Pub. L. 95–559, §§ 8, 12(a)(1), Nov. 1, 1978, 92 Stat. 2135, 2140; Pub. L. 96–32, § 2(f), July 10, 1979, 93 Stat. 82; Pub. L. 97–35, title IX, §§ 942(a)(3), (4), 946, Aug. 13, 1981, 95 Stat. 573, 577; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–660, title VIII, § 808, Nov. 14, 1986, 100 Stat. 3801; Pub. L. 100–517, §§ 4(b), 7(a)(1), (2), (b), Oct. 24, 1988, 102 Stat. 2578, 2580.)

AMENDMENTS

1988—Pub. L. 100–517, § 7(b), amended section generally, substituting subsecs. (a) to (f) for former subsecs. (a) to (g).

Subsec. (b). Pub. L. 100–517, §§ 4(b), 7(a)(1)(A), in introductory provisions, substituted ''or a State or political subdivision'' for ''subject to subsection (a) of this section'', in par. (1), inserted ''and provides at least 90 percent of such services through physicians described in section 300e(b)(3)(A) of this title'', in par. (2), inserted ''and provides no more than 10 percent of such services through physicians who are not described in section 300e(b)(3)(A) of this title'', and in concluding provisions, substituted ''employer or State or political subdivision pursuant'' for ''employer pursuant''.

Subsec. (c). Pub. L. 100–517, § 7(a)(1)(B), (2), substituted ''No employer or State or political subdivision'' for ''No employer'', ''between the employer or State or political subdivision'' for ''between the employer'', and ''Each employer or State or political subdivision'' for ''Each employer'', and inserted at end ''If a health benefits plan offered by an employer or a State or political subdivision under subsection (a) of this section includes contributions for services offered under the plan, the employer or State or political subdivision shall make a contribution under the plan for services offered by a qualified health maintenance organization in an amount which does not financially discriminate against an employee who enrolls in such organization. For purposes of the preceding sentence, an employer's or a State's or political subdivision's contribution does not financially discriminate if the employer's or State's or political subdivision's method of determining the contributions on behalf of all employees is reasonable and is designed to assure employees a fair choice among health benefits plans.''

1986—Subsec. (d). Pub. L. 99–660 struck out last sentence which read as follows: ''Every two years (or such longer period as the Secretary may by regulation prescribe) after the date a health maintenance organization becomes a qualified health maintenance organization under this subsection, the health maintenance organization must demonstrate to the Secretary that it is qualified within the meaning of this subsection.''

Subsec. (f). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1981—Subsec. (b)(1). Pub. L. 97–35, § 942(a)(3)(A), substituted provisions respecting provision of more than one-half of the basic services provided by physicians, for provisions respecting provision of basic services.

Subsec. (b)(2). Pub. L. 97–35, § 942(a)(3)(B), (4), inserted reference to provision by physicians, added cl. (B), and redesignated former cl. (B) as (C).

Subsec. (d). Pub. L. 97–35, § 946(a), inserted provisions relating to demonstration of continued qualification of organization.

Subsec. (f)(1). Pub. L. 97–35, § 946(b), inserted reference to United States nonappropriated fund instrumentalities.

1979—Subsec. (e)(1). Pub. L. 96–32 substituted ''subsection (a), (b), or (c)'' for ''subsection (a)''.

1978—Subsec. (b). Pub. L. 95–559, § 8(b), substituted in par. (1) ''through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups)'' for ''(A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals'' and in par. (2) ''(B) a combination of such association (or associations), medical group (or groups), staff, and individual physicians and other health professionals under contract with the organization'' for ''(B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization''.

Subsec. (c). Pub. L. 95–559, § 8(a), inserted provision that each employer which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required and which is required by subsection (a) of this section to offer his employees the option of membership in a qualified health maintenance organization shall, with the consent of an employee who exercises such option, arrange for the employee's contribution for such membership to be paid through payroll deductions.

Subsec. (h). Pub. L. 95–559, § 12(a)(1), struck out subsec. (h) which provided that the duties and functions of the Secretary, insofar as they involve determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d) of this section, be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions be integrated with the administration of section 300e–11(a) of this title.

1976—Subsec. (a). Pub. L. 94–460, § 110(a)(1), substituted reference to each employer which is now or hereafter required for reference to each employer which is required, reference to basic health services in health maintenance organization service areas in which at least 25 of such employees reside for reference to basic and supplemental health services in the areas in which such employees reside, and inserted provisions requiring certain States and political subdivisions thereof to include in any health benefits plan the option of membership in qualified health maintenance organizations as a condition of payment to the State of funds under section 246(d), 247b, 247c, 300a, 300m–4, or 300p–3 of this title, and that the offer of membership in such an organization be first made to the employees' representative, if any, and then be made to each employee if the offer is accepted by the representative.

Subsec. (b)(1). Pub. L. 94–460, § 110(a)(2), substituted ''(A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals'' for ''through professionals who are members of the staff of the organization or a medical group (or groups)''.

Subsec. (b)(2). Pub. L. 94–460, § 110(a)(2), substituted ''basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization'' for ''such services through an individual practice association (or associations)''.

Subsec. (c). Pub. L. 94–460, § 110(a)(3), struck out provision that failure of any employer to comply with the

requirements of subsection (a) of this section be considered a willful violation of section 215 of title 29.

Subsecs. (e) to (h). Pub. L. 94–460, § 110(a)(4), added subsecs. (e) to (h).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 7(b) of Pub. L. 100–517 provided that the amendment made by section 7(b) is effective 7 years after Oct. 24, 1988.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 942(a)(5) of Pub. L. 97–35 provided that: "The amendment made by paragraph (3)(A) [amending this section] shall apply with respect to the offering of a health maintenance organization in accordance with section 1310(b)(1) of the Public Health Service Act [subsec. (b)(1) of this section] after four years after the date the organization becomes a qualified health maintenance organization for purposes of section 1310 of such Act [this section] if the health maintenance organization provides assurances satisfactory to the Secretary that upon the expiration of such four years it will provide more than one half of its basic health services which are provided by physicians through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups)."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 110(a)(1), (2) of Pub. L. 94–460 applicable with respect to calendar quarters which began after Oct. 8, 1976, and amendment by section 110(a)(3), (4) of Pub. L. 94–460 applicable with respect to failures of employers to comply with section 300e–9 of this title after Oct. 8, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

COLLECTIVE BARGAINING AGREEMENTS IN EFFECT ON OCTOBER 24, 1988, UNAFFECTED

Section 7(a)(3) of Pub. L. 100–517 provided that: "Nothing in section 1310 of the Public Health Service Act (42 U.S.C. 300e–9), as amended by this Act, shall be construed to supersede any provision of a collective bargaining agreement in effect on the date of enactment of this Act [Oct. 24, 1988]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e, 300e–1, 300e–10, 300e–11, 300e–14, 300e–16, 300e–17, 1395mm, 1395nn, 1396b of this title; title 5 section 8902.

§ 300e–10. Restrictive State laws and practices

(a) Entities operating as health maintenance organizations

In the case of any entity—

(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

(B) requires that physicians constitute all or a percentage of its governing body,

(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity,

(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, or

(E) imposes requirements which would prohibit the entity from complying with the requirements of this subchapter, and

(2) for which a grant, contract, loan, or loan guarantee was made under this subchapter or which is a qualified health maintenance organization for purposes of section 300e–9 of this title (relating to employees' health benefits plans),

such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 300e of this title.

(b) Advertising

No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this subchapter or which is a qualified health maintenance organization for purposes of section 300e–9 of this title (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgement concerning, any health professional who provides services for a health maintenance organization.

(c) Digest of State laws, regulations, and practices; legal consultative assistance

The Secretary shall, within 6 months after October 8, 1976, develop a digest of State laws, regulations, and practices pertaining to development, establishment, and operation of health maintenance organizations which shall be updated at least annually and relevant sections of which shall be provided to the Governor of each State annually. Such digest shall indicate which State laws, regulations, and practices appear to be inconsistent with the operation of this section. The Secretary shall also insure that appropriate legal consultative assistance is available to the States for the purpose of complying with the provisions of this section.

(July 1, 1944, ch. 373, title XIII, § 1311, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 931; amended Pub. L. 94–460, title I, § 114, Oct. 8, 1976, 90 Stat. 1954; Pub. L. 99–660, title VIII, § 809, Nov. 14, 1986, 100 Stat. 3801; Pub. L. 100–517, § 8, Oct. 24, 1988, 102 Stat. 2583.)

PRIOR PROVISIONS

A prior section 1311 of act July 1, 1944, was classified to section 211a of this title prior to repeal by Pub. L. 93–222, § 7(b).

AMENDMENTS

1988—Subsec. (a)(1)(E). Pub. L. 100–517 added subpar. (E).

1986—Subsec. (c). Pub. L. 99–660 substituted "annually" for "quarterly" after "at least".

1976—Subsec. (c). Pub. L. 94–460 added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effec-

tive and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 effective Oct. 8, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

§ 300e–11. Continued regulation of health maintenance organizations

(a) Determination of deficiency

If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this subchapter as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 300e–9 of this title—

(1) fails to provide basic and supplemental services to its members,

(2) fails to provide such services in the manner prescribed by section 300e(b) of this title, or

(3) is not organized or operated in the manner prescribed by section 300e(c) of this title,

the Secretary may take the action authorized by subsection (b) of this section.

(b) Action by Secretary upon determination

(1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 300e–9(d)(1)[1] of this title, a determination described in subsection (a) of this section, the Secretary shall notify the entity in writing of the determination. Such notice shall specify the manner in which the entity has not complied with such assurances and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines is reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes, then after the Secretary provides the entity a reasonable opportunity for reconsideration of his determination, including, at the entity's election, a fair hearing (A) the entity shall not be a qualified health maintenance organization for purposes of section 300e–9 of this title until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 300e–9 of this title, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this subchapter, a determination described in subsection (a) of this section, the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this subchapter for the grant, contract, loan, or loan guarantee.

(July 1, 1944, ch. 373, title XIII, § 1312, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 931; amended Pub. L. 94–460, title I, § 111, Oct. 8, 1976, 90 Stat. 1952; Pub. L. 95–559, § 12(a)(2), Nov. 1, 1978, 92 Stat. 2140; Pub. L. 97–35, title IX, § 949(a), Aug. 13, 1981, 95 Stat. 578.)

REFERENCES IN TEXT

Section 300e–9(d)(1) of this title, referred to in subsec. (b)(1), was redesignated section 300e–9(c)(1) of this title by Pub. L. 100–517, § 7(b), Oct. 24, 1988, 102 Stat. 2580.

PRIOR PROVISIONS

A prior section 1312 of act July 1, 1944, was classified to section 212a of this title prior to repeal by Pub. L. 93–222, § 7(b).

AMENDMENTS

1981—Subsec. (b)(1). Pub. L. 97–35 inserted provisions relating to opportunity for reconsideration of determination of Secretary.

1978—Subsec. (c). Pub. L. 95–559 struck out subsec. (c) which provided that the Secretary, acting through the Assistant Secretary for Health, administer subsections (a) and (b) of this section in the Office of the Assistant Secretary for Health.

1976—Subsec. (a). Pub. L. 94–460, § 111(a), substituted "the Secretary may take the action authorized by subsection (b) of this section" for "the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 300e–9 of this title or when application was made under this subchapter for a grant, contract, loan, or loan guarantee".

Subsecs. (b), (c). Pub. L. 94–460, § 111(b), (c), added subsec. (b), redesignated former subsec. (b) as (c), and substituted "acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) of this section" for "through the Assistant Secretary for Health, shall administer subsection (a) of this section".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–460 applicable with respect to determinations of the Secretary of Health, Education, and Welfare described in subsec. (a) of this section and made after Oct. 8, 1976, see section 118 of Pub. L. 94–460, set out as a note under section 300e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396b of this title.

[1] See References in Text note below.

§ 300e–12. Limitation on source of funding for health maintenance organizations

No funds appropriated under any provision of this chapter (except as provided in sections 254b, 254c, and 256 of this title)[1] other than this subchapter may be used—

(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities or in meeting the costs of such organizations in acquiring or constructing ambulatory health care facilities.

(July 1, 1944, ch. 373, title XIII, § 1313, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 932; amended Pub. L. 95–559, § 5(b), Nov. 1, 1978, 92 Stat. 2133; Pub. L. 95–626, title I, § 107, Nov. 10, 1978, 92 Stat. 3562.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in text, were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Section 256 of this title, referred to in text, was repealed by Pub. L. 97–35, title IX, § 903(c), Aug. 13, 1981, 95 Stat. 561, eff. Oct. 1, 1982.

AMENDMENTS

1978—Pub. L. 95–626 inserted "(except as provided in sections 254b, 254c, and 256 of this title)" after "under any provision of this chapter" in provisions preceding par. (1).

Par. (4). Pub. L. 95–559 inserted "or in meeting the costs of such organizations in acquiring or constructing ambulatory health care facilities" after "or entities".

§ 300e–13. Repealed. Pub. L. 97–35, title IX, § 949(b), Aug. 13, 1981, 95 Stat. 578

Section, acts July 1, 1944, ch. 373, title XIII, § 1314, as added Dec. 29, 1973, Pub. L. 93–222, § 2, 87 Stat. 932; amended Oct. 8, 1976, Pub. L. 94–460, title I, § 115, 90 Stat. 1954; Nov. 1, 1978, Pub. L. 95–559, § 13, 92 Stat. 2140, required the Comptroller General to: (a) evaluate the operations, particularly, specified aspects of the operations, of at least ten or one-half, whichever is greater, of the health maintenance organizations for which assistance was provided under sections 300e–2, 300e–3, and 300e–4 of this title, and which, by Dec. 31, 1976, were designated by the Secretary under section 300e–9(d) of this title as qualified health maintenance organizations, to Congress by June 30, 1978; (b) conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 300e–9 of this title and report to Congress not later than 36 months after Dec. 29, 1973; (c) evaluate the operations of health maintenance organizations in comparison with others in distinct categories, in comparison with alternative forms of health care delivery, and their impact on the health of the public and report to Congress not later than 36 months after Dec. 29, 1973; and (d) evaluate the adequacy and effectiveness of the policies and procedures of the Secretary for the management of the grant and loan programs established by this subchapter and the adequacy of the amounts of assistance available under these programs and report to Congress not later than May 1, 1979.

§ 300e–14. Annual report

(a) The Secretary shall periodically review the programs of assistance authorized by this subchapter and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

(1) a summary of each grant, contract, loan, or loan guarantee made under this subchapter in the period covered by the report and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 300e–9 of this title;

(2) the statistics and other information reported in such period to the Secretary in accordance with section 300e(c)(11)[1] of this title;

(3) findings with respect to the ability of the health maintenance organizations assisted under this subchapter—

(A) to operate on a fiscally sound basis without continued Federal financial assistance,

(B) to meet the requirements of section 300e(c) of this title respecting their organization and operation,

(C) to provide basic and supplemental health services in the manner prescribed by section 300e(b) of this title,

(D) to include indigent and high-risk individuals in their membership, and

(E) to provide services to medically underserved populations; and

(4) findings with respect to—

(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

(b) The Office of Management and Budget may review the Secretary's report under subsection (a) of this section before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report.

(July 1, 1944, ch. 373, title XIII, § 1315, as added Pub. L. 93–222, § 2, Dec. 29, 1973, 87 Stat. 933.)

[1] See References in Text notes below.

[1] See References in Text note below.

REFERENCES IN TEXT

Section 300e(c)(11) of this title, referred to in subsec. (a)(2), was redesignated section 300e(c)(9) of this title by Pub. L. 97–35, title IX, § 942(d)(1), Aug. 13, 1981, 95 Stat. 574, and redesignated section 300e(c)(8) of this title by Pub. L. 100–517, § 5(b), Oct. 24, 1988, 102 Stat. 2579.

§ 300e–14a. Health services for Indians and domestic agricultural migratory and seasonal workers

The Secretary of Health and Human Services, in connection with existing authority (except section 254b[1] of this title) for the provisions of health services to domestic agricultural migratory workers, to persons who perform seasonal agricultural services similar to the services performed by such workers, and to the families of such workers and persons, is authorized to arrange for the provision of health services to such workers and persons and their families through health maintenance organizations. In carrying out this section the Secretary may only use sums appropriated after December 29, 1973.

(Pub. L. 93–222, § 6(b), Dec. 29, 1973, 87 Stat. 936; Pub. L. 95–626, title I, § 102(b)(2), Nov. 10, 1978, 92 Stat. 3551; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

Section 254b of this title, referred to in text, was in the original a reference to section 329 of the Public Health Service Act, 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. Section 2 of Pub. L. 104–299 enacted a new section 330 of act July 1, 1944, which is classified to section 254b of this title.

CODIFICATION

Section was enacted as part of the Health Maintenance Organization Act of 1973, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1978—Pub. L. 95–626 substituted ''section 254b'' for ''section 247d''.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in text, pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 300e–15. Repealed. Pub. L. 97–35, title IX, § 949(b), Aug. 13, 1981, 95 Stat. 578

Section, act July 1, 1944, ch. 373, title XIII, § 1316, as added Oct. 8, 1976, Pub. L. 94–460, title I, § 116, 90 Stat. 1954, related to administration of programs.

§ 300e–16. Training and technical assistance

(a) National Health Maintenance Organization Intern Program

(1) The Secretary shall establish a National Health Maintenance Organization Intern Program (hereinafter in this subsection referred to as the ''Program'') for the purpose of providing training to individuals to become administrators and medical directors of health maintenance organizations or to assume other managerial positions with health maintenance organizations. Under the Program the Secretary may directly provide internships for such training and may make grants to or enter into contracts with health maintenance organizations and other entities to provide such internships.

(2) No internship may be provided by the Secretary and no grant may be made or contract entered into by the Secretary for the provision of internships unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form and contain such information, and be submitted to the Secretary in such manner, as the Secretary shall prescribe. Section 300e–5 of this title does not apply to an application submitted under this section.

(3) Internships under the Program shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the internships as the Secretary deems necessary. An internship provided an individual for training at a health maintenance organization or any other entity shall also provide for payments to be made to the organization or other entity for the cost of support services (including the cost of salaries, supplies, equipment, and related items) provided such individual by such organization or other entity. The amount of any such payments to any organization or other entity shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the organization or other entity for establishing and maintaining its training programs.

(4) Payments under grants under the Program may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(b) Technical assistance

The Secretary shall provide technical assistance (1) to entities intending to become a qualified health maintenance organization within the meaning of section 300e–9(d)[1] of this title, and (2) to health maintenance organizations. The Secretary may provide such technical assistance through grants to public and nonprofit private entities and contracts with public and private entities.

(c) Amounts provided in advance in appropriation acts

The authority of the Secretary to enter into contracts under subsections (a) and (b) of this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(July 1, 1944, ch. 373, title XIII, § 1317, as added Pub. L. 95–559, § 7(a), Nov. 1, 1978, 92 Stat. 2134; amended Pub. L. 99–660, title VIII, § 803(b)(4), Nov. 14, 1986, 100 Stat. 3800.)

REFERENCES IN TEXT

Section 300e–9(d) of this title, referred to in subsec. (b), was redesignated section 300e–9(c) of this title by Pub. L. 100–517, § 7(b), Oct. 24, 1988, 102 Stat. 2580.

[1] See References in Text note below.

[1] See References in Text note below.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–660 redesignated cls. (2) and (3) as (1) and (2), respectively, and struck out former cl. (1) which read as follows: ''to entities in connection with projects for which assistance is being provided under section 300e–2 or 300e–3 of this title,''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 not applicable to any grant made or contract entered into under this subchapter before Oct. 1, 1985, see section 803(c) of Pub. L. 99–660, set out as a note under section 300e–5 of this title.

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

EFFECTIVE DATE

Section 7(c) of Pub. L. 95–559 provided that: ''The amendments made by this section [enacting this section and amending section 300e–8 of this title] shall only be effective for fiscal years beginning on or after October 1, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300e–8 of this title.

§ 300e–17. Financial disclosure

(a) Financial information reported to Secretary

Each health maintenance organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

(1) Such information as the Secretary may require demonstrating that the health maintenance organization has a fiscally sound operation.

(2) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1320a–3 of this title by disclosing entities and the information required to be supplied under section 1396a(a)(38) of this title.

(3) A description of transactions, as specified by the Secretary, between the health maintenance organization and a party in interest. Such transactions shall include—

(A) any sale or exchange, or leasing of any property between the health maintenance organization and a party in interest;

(B) any furnishing for consideration of goods, services (including management services), or facilities between the health maintenance organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

(C) any lending of money or other extension of credit between a health maintenance organization and a party in interest.

The Secretary may require that information reported respecting a health maintenance organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

(b) "Party in interest" defined

For the purposes of this section the term ''party in interest'' means:

(1) any director, officer, partner, or employee responsible for management or administration of a health maintenance organization, any person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the health maintenance organization, and, in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

(2) any entity in which a person described in paragraph (1)—

(A) is an officer or director;

(B) is a partner (if such entity is organized as a partnership);

(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

(D) has a mortgage, deed of trust, note, on other interest valuing more than 5 per centum of the assets of such entity;

(3) any person directly or indirectly controlling, controlled by, or under common control with a health maintenance organization; and

(4) any spouse, child, or parent of an individual described in paragraph (1).

(c) Information availability

Each health maintenance organization shall make the information reported pursuant to subsection (a) of this section available to its enrollees upon reasonable request.

(d) Evaluation of transactions

The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(3) of this section for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(3) of this section.

(e) Repealed. Pub. L. 99–660, title VIII, § 810, Nov. 14, 1986, 100 Stat. 3801

(f) Rates

Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization.

(g) Annual financial statement

Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) of this sec-

tion shall be ineligible for any Federal assistance under this subchapter until such time as such statement is received by the Secretary and shall not be a qualified health maintenance organization for purposes of section 300e–9 of this title.

(h) Penalties

Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(July 1, 1944, ch. 373, title XIII, § 1318, as added Pub. L. 95–559, § 9(a), Nov. 1, 1978, 92 Stat. 2135; amended Pub. L. 97–35, title IX, § 948, Aug. 13, 1981, 95 Stat. 577; Pub. L. 99–660, title VIII, § 810, Nov. 14, 1986, 100 Stat. 3801.)

AMENDMENTS

1986—Subsec. (e). Pub. L. 99–660 struck out subsec. (e) which read as follows: ''The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

''(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d) of this section;

''(2) an assessment of the degree of conformity or nonconformity of each health maintenance organization evaluated by the Secretary under subsection (d) of this section with such standards and norms;

''(3) what action, if any, the Secretary considers necessary under section 300e–11 of this title with respect to health maintenance organizations evaluated under subsection (d) of this section.''

1981—Subsec. (a). Pub. L. 97–35, § 948(a), (b), in par. (2) inserted reference to copy of the report, if any, filed with the Health Care Financing Administration, and in par. (3)(B) reorganized excluding provisions and, among revisions, inserted salaries paid to employees for services.

Subsec. (b)(1). Pub. L. 97–35, § 948(c), inserted ''responsible for management or administration'' after ''employee''.

Subsec. (b)(4). Pub. L. 97–35, § 948(d), substituted ''spouse, child, or parent'' for ''member of the immediate family''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395mm, 1396b of this title.

SUBCHAPTER XII—SAFETY OF PUBLIC WATER SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300j–10, 4365, 6905, 6924, 6925, 6939b, 7412, 9601, 9621, 10341 of this title; title 7 sections 1926, 1926a, 6510; title 10 section 2704; title 16 sections 460zz–2, 460*lll*, 471i; title 18 section 1956; title 21 section 349; title 22 section 277d–12.

PART A—DEFINITIONS

§ 300f. Definitions

For purposes of this subchapter:

(1) The term ''primary drinking water regulation'' means a regulation which—

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either—

(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g–1 of this title; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including accepted methods for quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.

(2) The term ''secondary drinking water regulation'' which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary accordingly to geographic and other circumstances.

(3) The term ''maximum contaminant level'' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(4) PUBLIC WATER SYSTEM.—

(A) IN GENERAL.—The term ''public water system'' means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used pri-

marily in connection with such system, and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(B) CONNECTIONS.—

(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public water system for purposes of the Act until the date that is two years after August 6, 1996. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the 2-year period, the water supplier shall not be considered a public water system.

(5) The term ''supplier of water'' means any person who owns or operates a public water system.

(6) The term ''contaminant'' means any physical, chemical, biological, or radiological substance or matter in water.

(7) The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(8) The term ''Agency'' means the Environmental Protection Agency.

(9) The term ''Council'' means the National Drinking Water Advisory Council established under section 300j–5 of this title.

(10) The term ''municipality'' means a city, town, or other public body created by or pursuant to State law, or an Indian Tribe.

(11) The term ''Federal agency'' means any department, agency, or instrumentality of the United States.

(12) The term ''person'' means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).

(13)(A) Except as provided in subparagraph (B), 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.

(B) For purposes of section 300j–12 of this title, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(14) The term ''Indian Tribe'' means any Indian tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over any area. For purposes of section 300j–12 of this title, the term includes any Native village (as defined in section 1602(c) of title 43).

(15) COMMUNITY WATER SYSTEM.—The term ''community water system'' means a public water system that—

(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

(B) regularly serves at least 25 year-round residents.

(16) NONCOMMUNITY WATER SYSTEM.—The term ''noncommunity water system'' means a public water system that is not a community water system.

(July 1, 1944, ch. 373, title XIV, § 1401, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1660; amended Pub. L. 94–317, title III, § 301(b)(2), June 23, 1976, 90 Stat. 707; Pub. L. 94–484, title IX, § 905(b)(1), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–190, § 8(b), Nov. 16, 1977, 91 Stat. 1397; Pub. L. 99–339, title III, § 302(b), June 19, 1986, 100 Stat. 666; Pub. L. 104–182, title I, § 101(a), (b)(1), Aug. 6, 1996, 110 Stat. 1615, 1616.)

REFERENCES IN TEXT

The Safe Drinking Water Act Amendments of 1996, referred to in par. (4)(C), is Pub. L. 104–182, Aug. 6, 1996, 110 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of this title and Tables.

AMENDMENTS

1996—Par. (1). Pub. L. 104–182, § 101(a)(1)(B), inserted at end ''At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.''

Par. (1)(D). Pub. L. 104–182, § 101(a)(1)(A), inserted ''accepted methods for'' before ''quality control''.

Par. (4). Pub. L. 104–182, § 101(b)(1), designated existing provisions as subpar. (A), inserted par. and subpar. headings, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, substituted ''water for human consumption through pipes or other constructed conveyances'' for ''piped water for human consumption'' in first sentence, and added subpars. (B) and (C).

Par. (13). Pub. L. 104–182, § 101(a)(2), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), the term'' for ''The term'', and added subpar. (B).

Par. (14). Pub. L. 104–182, § 101(a)(3), inserted at end ''For purposes of section 300j–12 of this title, the term includes any Native village (as defined in section 1602(c) of title 43).''

Pars. (15), (16). Pub. L. 104–182, § 101(a)(4), added pars. (15) and (16).

1986—Par. (10). Pub. L. 99–339, § 302(b)(2), substituted ''Indian Tribe'' for ''Indian tribal organization authorized by law''.

Par. (14). Pub. L. 99–339, § 302(b)(1), added par. (14).

1977—Par. (12). Pub. L. 95–190 expanded definition of ''person'' to include Federal agency, and officers, employees, and agents of any corporation, company, etc.

1976—Par. (13). Pub. L. 94–484 defined ''State'' to include Northern Mariana Islands.

Pub. L. 94–317 added par. (13).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 2(b) of Pub. L. 104–182 provided that: ''Except as otherwise specified in this Act [enacting sections 300g–7 to 300g–9, 300h–8, 300j–3c, and 300j–12 to 300j–18 of this title and section 1263a of Title 33, Navigation and Navigable Waters, amending this section, sections 300g–1 to 300g–6, 300h, 300h–5 to 300h–7, 300i, 300i–1, 300j to 300j–2, 300j–4 to 300j–8, 300j–11, and 300j–21 to 300j–25 of this title, sections 4701 and 4721 of Title 16, Conservation, and section 349 of Title 21, Food and Drugs, repealing section 13551 of this title, enacting provisions set out as notes under this section, sections 201, 300g–1, 300j–1, and 300j–12 of this title, section 1281 of Title 33, and section 45 of Title 40, Public Buildings, Property, and Works, and amending provisions set out as a note under section 201 of this title] or in the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act [Aug. 6, 1996].''

SHORT TITLE

This subchapter is known as the ''Safe Drinking Water Act'', see note set out under section 201 of this title.

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.

EFFECT OF PUBLIC LAW 104–182 ON FEDERAL WATER POLLUTION CONTROL ACT

Section 2(c) of Pub. L. 104–182 provided that: ''Except for the provisions of section 302 [42 U.S.C. 300j–12 note] (relating to transfers of funds), nothing in this Act [see Effective Date of 1996 Amendment note above] or in any amendments made by this Act to title XIV of the Public Health Service Act [this subchapter] (commonly known as the 'Safe Drinking Water Act') or any other law shall be construed by the Administrator of the Environmental Protection Agency or the courts as affecting, modifying, expanding, changing, or altering—

''(1) the provisions of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.];

''(2) the duties and responsibilities of the Administrator under that Act; or

''(3) the regulation or control of point or nonpoint sources of pollution discharged into waters covered by that Act.

The Administrator shall identify in the agency's annual budget all funding and full-time equivalents administering such title XIV separately from funding and staffing for the Federal Water Pollution Control Act.''

CONGRESSIONAL FINDINGS

Section 3 of Pub. L. 104–182 provided that: ''The Congress finds that—

''(1) safe drinking water is essential to the protection of public health;

''(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

''(3) the Federal Government commits to maintaining and improving its partnership with the States in the administration and implementation of the Safe Drinking Water Act;

''(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

''(5) the existing process for the assessment and selection of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for setting priorities in establishing drinking water regulations;

''(6) procedures for assessing the health effects of contaminants establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

''(7) in considering the appropriate level of regulation for contaminants in drinking water, risk assessment, based on sound and objective science, and benefit-cost analysis are important analytical tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

''(8) more effective protection of public health requires—

''(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern;

''(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

''(C) prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical, and financial capacity, and enhanced protection of source waters of public water systems;

''(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act; and

''(10) consumers served by public water systems should be provided with information on the source of the water they are drinking and its quality and safety, as well as prompt notification of any violation of drinking water regulations.''

GAO STUDY

Section 101(b)(2) of Pub. L. 104–182 provided that: ''The Comptroller General of the United States shall undertake a study to—

''(A) ascertain the numbers and locations of individuals and households relying for their residential water needs, including drinking, bathing, and cooking (or other similar uses) on irrigation water systems, mining water systems, industrial water systems, or other water systems covered by section 1401(4)(B) of the Safe Drinking Water Act [par. (4)(B)

of this section] that are not public water systems subject to the Safe Drinking Water Act [this subchapter];

''(B) determine the sources and costs and affordability (to users and systems) of water used by such populations for their residential water needs; and

''(C) review State and water system compliance with the exclusion provisions of section 1401(4)(B) of such Act.

The Comptroller General shall submit a report to the Congress within 3 years after the date of enactment of this Act [Aug. 6, 1996] containing the results of such study.''

SAFE DRINKING WATER AMENDMENTS OF 1977 RESTRICTIONS ON APPROPRIATIONS FOR RESEARCH

Section 2(e) of Pub. L. 95–190 provided that: ''Nothing in this Act [see Short Title of 1977 Amendment note set out under section 201 of this title] shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act [this subchapter] (relating to safe drinking water).''

SAFE DRINKING WATER AMENDMENTS OF 1977 AS NOT AFFECTING AUTHORITY OF ADMINISTRATOR WITH RESPECT TO CONTAMINANTS

Section 3(e)(2) of Pub. L. 95–190 provided that: ''Nothing in this Act [see Short Title of 1977 Amendment note set out under section 201 of this title] shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act [this subchapter] to promulgate regulations or take other action with respect to any contaminant.''

RURAL WATER SURVEY; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Section 3 of Pub. L. 93–523, as amended by Pub. L. 95–190, §§2(d), 3(d), Nov. 16, 1977, 91 Stat. 1393, 1394, directed Administrator of Environmental Protection Agency, after consultation with Secretary of Agriculture and the several States, to enter into arrangements with public or private entities to conduct a survey of quantity, quality, and availability of rural drinking water supplies, which survey was to include, but not be limited to, consideration of number of residents in each rural area who presently are being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system, or who presently have limited or otherwise inadequate access to drinking water, or who, due to absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard, and who have experienced incidents of chronic or acute illness, which may be attributed to inadequacy of a drinking water supply system. Survey to be completed within eighteen months of Dec. 16, 1974, and a final report thereon submitted, not later than six months after completion of survey, to President and to Congress.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 300g–4, 300g–5, 300j–12 of this title; title 21 section 349.

PART B—PUBLIC WATER SYSTEMS

§ 300g. Coverage

Subject to sections 300g–4 and 300g–5 of this title, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) which does not sell water to any person; and

(4) which is not a carrier which conveys passengers in interstate commerce.

(July 1, 1944, ch. 373, title XIV, §1411, as added Pub. L. 93–523, §2(a), Dec. 16, 1974, 88 Stat. 1662.)

§ 300g–1. National drinking water regulations

(a) National primary drinking water regulations; maximum contaminant level goals; simultaneous publication of regulations and goals

(1) Effective on June 19, 1986, each national interim or revised primary drinking water regulation promulgated under this section before June 19, 1986, shall be deemed to be a national primary drinking water regulation under subsection (b) of this section. No such regulation shall be required to comply with the standards set forth in subsection (b)(4) of this section unless such regulation is amended to establish a different maximum contaminant level after June 19, 1986.

(2) After June 19, 1986, each recommended maximum contaminant level published before June 19, 1986, shall be treated as a maximum contaminant level goal.

(3) Whenever a national primary drinking water regulation is proposed under subsection (b) of this section for any contaminant, the maximum contaminant level goal for such contaminant shall be proposed simultaneously. Whenever a national primary drinking water regulation is promulgated under subsection (b) of this section for any contaminant, the maximum contaminant level goal for such contaminant shall be published simultaneously.

(4) Paragraph (3) shall not apply to any recommended maximum contaminant level published before June 19, 1986.

(b) Standards

(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

(A) GENERAL AUTHORITY.—The Administrator shall, in accordance with the procedures established by this subsection, publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for a contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of August 6, 1996) if the Administrator determines that—

(i) the contaminant may have an adverse effect on the health of persons;

(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

(iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

(B) REGULATION OF UNREGULATED CONTAMINANTS.—

(i) LISTING OF CONTAMINANTS FOR CONSIDERATION.—(I) Not later than 18 months after August 6, 1996, and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data base established under section 300j–4(g) of this title, shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this subchapter.

(II) The unregulated contaminants considered under subclause (I) shall include, but not be limited to, substances referred to in section 9601(14) of this title, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

(III) The Administrator's decision whether or not to select an unregulated contaminant for a list under this clause shall not be subject to judicial review.

(ii) DETERMINATION TO REGULATE.—(I) Not later than 5 years after August 6, 1996, and every 5 years thereafter, the Administrator shall, after notice of the preliminary determination and opportunity for public comment, for not fewer than 5 contaminants included on the list published under clause (i), make determinations of whether or not to regulate such contaminants.

(II) A determination to regulate a contaminant shall be based on findings that the criteria of clauses (i), (ii), and (iii) of subparagraph (A) are satisfied. Such findings shall be based on the best available public health information, including the occurrence data base established under section 300j–4(g) of this title.

(III) The Administrator may make a determination to regulate a contaminant that does not appear on a list under clause (i) if the determination to regulate is made pursuant to subclause (II).

(IV) A determination under this clause not to regulate a contaminant shall be considered final agency action and subject to judicial review.

(iii) REVIEW.—Each document setting forth the determination for a contaminant under clause (ii) shall be available for public comment at such time as the determination is published.

(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C), or completing the analysis under paragraph (3)(C), to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subparagraph shall be issued, and a completed analysis meeting the requirements of paragraph (3)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

(E) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall publish maximum contaminant level goals and promulgate, by rule, national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation for a contaminant not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Federal Register, may extend the deadline for such promulgation for up to 9 months.

(F) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

(2) SCHEDULES AND DEADLINES.—

(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall

publish maximum contaminant level goals and promulgate national primary drinking water regulations—

(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator shall promulgate an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule.

(3) RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.—

(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

(i) each population addressed by any estimate of public health effects;

(ii) the expected risk or central estimate of risk for the specific populations;

(iii) each appropriate upper-bound or lower-bound estimate of risk;

(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of each of the following:

(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur as the result of treatment to comply with each level.

(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(VI) Any increased health risk that may occur as the result of compliance, includ-

ing risks associated with co-occurring contaminants.

(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.

(4) GOALS AND STANDARDS.—

(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety.

(B) MAXIMUM CONTAMINANT LEVELS.—Except as provided in paragraphs (5) and (6), each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a maximum contaminant level for such contaminant which is as close to the maximum contaminant level goal as is feasible.

(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).

(D) DEFINITION OF FEASIBLE.—For the purposes of this subsection, the term ''feasible'' means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purpose of this paragraph, granular activated carbon is feasible for the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as granular activated carbon.

(E) FEASIBLE TECHNOLOGIES.—

(i) IN GENERAL.—Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a regulation under this subsection shall not require that any specified technology, treatment technique, or other means be used for purposes of meeting such maximum contaminant level.

(ii) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—The Administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the Administrator in consultation with the States, for small public water systems serving—

(I) a population of 10,000 or fewer but more than 3,300;

(II) a population of 3,300 or fewer but more than 500; and

(III) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards. In listing any technology, treatment technique, or other means pursuant to this clause, the Administrator shall consider the quality of the source water to be treated.

(iii) LIST OF TECHNOLOGIES THAT ACHIEVE COMPLIANCE.—Except as provided in clause (v), not later than 2 years after August 6, 1996, and after consultation with the States, the Administrator shall issue a list of tech-

nologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to June 19, 1986.

(iv) ADDITIONAL TECHNOLOGIES.—The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II), and (III) of clause (ii) that are subject to the regulation.

(v) TECHNOLOGIES THAT MEET SURFACE WATER TREATMENT RULE.—Within one year after August 6, 1996, the Administrator shall list technologies that meet the Surface Water Treatment Rule for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).

(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

(i) increasing the concentration of other contaminants in drinking water; or

(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

(i) persons served by large public water systems; and

(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 300g–4(e) of this title (relating to small system variances);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems eligible under section 300g–4(e) of this title for a small system variance.

(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation (as described in paragraph (2)(C)) for contaminants that are disinfectants or disinfection byproducts, or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 300j–7 of this title only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.

(7)(A) The Administrator is authorized to promulgate a national primary drinking water regulation that requires the use of a treatment technique in lieu of establishing a maximum contaminant level, if the Administrator makes a finding that it is not economically or technologically feasible to ascertain the level of the contaminant. In such case, the Administrator shall identify those treatment techniques which, in the Administrator's judgment, would prevent known or anticipated adverse effects on the health of persons to the extent feasible. Such regulations shall specify each treatment technique known to the Administrator which meets the requirements of this paragraph, but the Administrator may grant a variance from any specified treatment technique in accordance with section 300g–4(a)(3) of this title.

(B) Any schedule referred to in this subsection for the promulgation of a national primary

drinking water regulation for any contaminant shall apply in the same manner if the regulation requires a treatment technique in lieu of establishing a maximum contaminant level.

(C)(i) Not later than 18 months after June 19, 1986, the Administrator shall propose and promulgate national primary drinking water regulations specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources. In promulgating such rules, the Administrator shall consider the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health.

(ii) In lieu of the provisions of section 300g–4 of this title the Administrator shall specify procedures by which the State determines which public water systems within its jurisdiction shall adopt filtration under the criteria of clause (i). The State may require the public water system to provide studies or other information to assist in this determination. The procedures shall provide notice and opportunity for public hearing on this determination. If the State determines that filtration is required, the State shall prescribe a schedule for compliance by the public water system with the filtration requirement. A schedule shall require compliance within 18 months of a determination made under clause (iii).

(iii) Within 18 months from the time that the Administrator establishes the criteria and procedures under this subparagraph, a State with primary enforcement responsibility shall adopt any necessary regulations to implement this subparagraph. Within 12 months of adoption of such regulations the State shall make determinations regarding filtration for all the public water systems within its jurisdiction supplied by surface waters.

(iv) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to make the determination in clause (ii) in such State as the State would have under that clause. Any filtration requirement or schedule under this subparagraph shall be treated as if it were a requirement of a national primary drinking water regulation.

(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in 40 CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this section).

(8) DISINFECTION.—At any time after the end of the 3-year period that begins on August 6, 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 300g–2 of this title, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water. The Administrator shall simultaneously promulgate a rule specifying criteria that will be used by the Administrator (or delegated State authorities) to grant variances from this requirement according to the provisions of sections 300g–4(a)(1)(B) and 300g–4(a)(3) of this title. In implementing section 300j–1(e) of this title the Administrator or the delegated State authority shall, where appropriate, give special consideration to providing technical assistance to small public water systems in complying with the regulations promulgated under this paragraph.

(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this subchapter. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.

(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.

(11) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(12) CERTAIN CONTAMINANTS.—

(A) ARSENIC.—

(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

(ii) STUDY PLAN.—Not later than 180 days after August 6, 1996, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

(iii) COOPERATIVE AGREEMENTS.—In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

(iv) PROPOSED REGULATIONS.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

(v) FINAL REGULATIONS.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

(vi) AUTHORIZATION.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

(B) SULFATE.—

(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices, and shall be completed not later than 30 months after August 6, 1996.

(ii) DETERMINATION.—The Administrator shall include sulfate among the 5 or more contaminants for which a determination is made pursuant to paragraph (3)(B) not later than 5 years after August 6, 1996.

(iii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (2), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.

(13) RADON IN DRINKING WATER.—

(A) NATIONAL PRIMARY DRINKING WATER REGULATION.—Notwithstanding paragraph (2), the Administrator shall withdraw any national primary drinking water regulation for radon proposed prior to August 6, 1996, and shall propose and promulgate a regulation for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996.

(B) RISK ASSESSMENT AND STUDIES.—

(i) ASSESSMENT BY NAS.—Prior to proposing a national primary drinking water regulation for radon, the Administrator shall arrange for the National Academy of Sciences to prepare a risk assessment for radon in drinking water using the best available science in accordance with the requirements of paragraph (3). The risk assessment shall consider each of the risks associated with exposure to radon from drinking water and consider studies on the health effects of radon at levels and under conditions likely to be experienced through residential exposure. The risk assessment shall be peer-reviewed.

(ii) STUDY OF OTHER MEASURES.—The Administrator shall arrange for the National Academy of Sciences to prepare an assessment of the health risk reduction benefits associated with various mitigation measures to reduce radon levels in indoor air. The assessment may be conducted as part of the risk assessment authorized by clause (i) and shall be used by the Administrator to prepare the guidance and approve State programs under subparagraph (G).

(iii) OTHER ORGANIZATION.—If the National Academy of Sciences declines to prepare the risk assessment or studies required by this subparagraph, the Administrator shall enter into a contract or cooperative agreement with another independent, scientific organization to prepare such assessments or studies.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—Not later than 30 months after August 6, 1996, the Administrator shall publish, and seek public comment on, a health risk reduction and cost analysis meeting the requirements of paragraph (3)(C) for potential maximum contaminant levels that are being considered for radon in drinking water. The Administrator shall include a response to all significant public comments received on the analysis with the preamble for the proposed rule published under subparagraph (D).

(D) PROPOSED REGULATION.—Not later than 36 months after August 6, 1996, the Administrator shall propose a maximum contaminant level goal and a national primary drinking water regulation for radon pursuant to this section.

(E) FINAL REGULATION.—Not later than 12 months after the date of the proposal under subparagraph (D), the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for radon pursuant to this section based on the risk assessment prepared pursuant to subparagraph (B) and the health risk reduction and cost analysis published pursuant to subparagraph (C). In considering the

risk assessment and the health risk reduction and cost analysis in connection with the promulgation of such a standard, the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

(F) ALTERNATIVE MAXIMUM CONTAMINANT LEVEL.—If the maximum contaminant level for radon in drinking water promulgated pursuant to subparagraph (E) is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Administrator shall, simultaneously with the promulgation of such level, promulgate an alternative maximum contaminant level for radon that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If the Administrator promulgates an alternative maximum contaminant level under this subparagraph, the Administrator shall, after notice and opportunity for public comment and in consultation with the States, publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to be used by the States in preparing programs under subparagraph (G). The guidelines shall take into account data from existing radon mitigation programs and the assessment of mitigation measures prepared under subparagraph (B).

(G) MULTIMEDIA RADON MITIGATION PROGRAMS.—

(i) IN GENERAL.—A State may develop and submit a multimedia program to mitigate radon levels in indoor air for approval by the Administrator under this subparagraph. If, after notice and the opportunity for public comment, such program is approved by the Administrator, public water systems in the State may comply with the alternative maximum contaminant level promulgated under subparagraph (F) in lieu of the maximum contaminant level in the national primary drinking water regulation promulgated under subparagraph (E).

(ii) ELEMENTS OF PROGRAMS.—State programs may rely on a variety of mitigation measures including public education, testing, training, technical assistance, remediation grant and loan or incentive programs, or other regulatory or nonregulatory measures. The effectiveness of elements in State programs shall be evaluated by the Administrator based on the assessment prepared by the National Academy of Sciences under subparagraph (B) and the guidelines published by the Administrator under subparagraph (F).

(iii) APPROVAL.—The Administrator shall approve a State program submitted under this paragraph if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the State complied with the maximum contaminant level promulgated under subparagraph (E). The Administrator shall approve or disapprove a program submitted under this paragraph within 180 days of receipt. A program that is not disapproved during such period shall be deemed approved. A program that is disapproved may be modified to address the objections of the Administrator and be resubmitted for approval.

(iv) REVIEW.—The Administrator shall periodically, but not less often than every 5 years, review each multimedia mitigation program approved under this subparagraph to determine whether it continues to meet the requirements of clause (iii) and shall, after written notice to the State and an opportunity for the State to correct any deficiency in the program, withdraw approval of programs that no longer comply with such requirements.

(v) EXTENSION.—If, within 90 days after the promulgation of an alternative maximum contaminant level under subparagraph (F), the Governor of a State submits a letter to the Administrator committing to develop a multimedia mitigation program under this subparagraph, the effective date of the national primary drinking water regulation for radon in the State that would be applicable under paragraph (10) shall be extended for a period of 18 months.

(vi) LOCAL PROGRAMS.—In the event that a State chooses not to submit a multimedia mitigation program for approval under this subparagraph or has submitted a program that has been disapproved, any public water system in the State may submit a program for approval by the Administrator according to the same criteria, conditions, and approval process that would apply to a State program. The Administrator shall approve a multimedia mitigation program if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would result from compliance by the public water system with the maximum contaminant level for radon promulgated under subparagraph (E).

(14) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after August 6, 1996, unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date.

(15) VARIANCE TECHNOLOGIES.—

(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation for a contaminant pursuant to this section, the Administrator shall issue guidance or regulations describing the best treatment technologies, treatment techniques, or other means (referred to in this paragraph as ''variance technology'') for the contaminant that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available and affordable, as determined by the Administrator

in consultation with the States, for public water systems of varying size, considering the quality of the source water to be treated. The Administrator shall identify such variance technologies for public water systems serving—

(i) a population of 10,000 or fewer but more than 3,300;

(ii) a population of 3,300 or fewer but more than 500; and

(iii) a population of 500 or fewer but more than 25,

if, considering the quality of the source water to be treated, no treatment technology is listed for public water systems of that size under paragraph (4)(E). Variance technologies identified by the Administrator pursuant to this paragraph may not achieve compliance with the maximum contaminant level or treatment technique requirement of such regulation, but shall achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water. The guidance or regulations shall not require the use of a technology from a specific manufacturer or brand.

(B) LIMITATION.—The Administrator shall not identify any variance technology under this paragraph, unless the Administrator has determined, considering the quality of the source water to be treated and the expected useful life of the technology, that the variance technology is protective of public health.

(C) ADDITIONAL INFORMATION.—The Administrator shall include in the guidance or regulations identifying variance technologies under this paragraph any assumptions supporting the public health determination referred to in subparagraph (B), where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide any assumptions used in determining affordability, taking into consideration the number of persons served by such systems. The Administrator shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors including the applicability of variance technology to waters from surface and underground sources.

(D) REGULATIONS AND GUIDANCE.—Not later than 2 years after August 6, 1996, and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to August 6, 1996, for which a variance may be granted under section 300g–4(e) of this title. The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional variance technologies. The Administrator shall, not less often than every 7 years, or upon receipt of a petition supported by substantial information, review variance technologies identified under this paragraph. The Administrator shall issue revised guidance or regulations if new or innovative variance technologies become available that meet the requirements of this paragraph and achieve an equal or greater reduction or inactivation efficiency than the variance technologies previously identified under this subparagraph. No public water system shall be required to replace a variance technology during the useful life of the technology for the sole reason that a more efficient variance technology has been listed under this subparagraph.

(c) Secondary regulations; publication of proposed regulations; promulgation; amendments

The Administrator shall publish proposed national secondary drinking water regulations within 270 days after December 16, 1974. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations; public hearings; administrative consultations

Regulations under this section shall be prescribed in accordance with section 553 of title 5 (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e) Science Advisory Board comments

The Administrator shall request comments from the Science Advisory Board (established under the Environmental Research, Development, and Demonstration Act of 1978) prior to proposal of a maximum contaminant level goal and national primary drinking water regulation. The Board shall respond, as it deems appropriate, within the time period applicable for promulgation of the national primary drinking water standard concerned. This subsection shall, under no circumstances, be used to delay final promulgation of any national primary drinking water standard.

(July 1, 1944, ch. 373, title XIV, § 1412, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1662; amended Pub. L. 95–190, §§ 3(c), 12(a), Nov. 16, 1977, 91 Stat. 1394, 1398; Pub. L. 99–339, title I, § 101(a)–(c)(1), (d), (e), June 19, 1986, 100 Stat. 642–646; Pub. L. 104–182, title I, §§ 102(a), (c)(2), 103, 104(a), (c), 105–111(a), title V, § 501(a)(1), (2), Aug. 6, 1996, 110 Stat. 1617, 1621–1623, 1625–1631, 1691.)

REFERENCES IN TEXT

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b)(1)(B)(i)(II), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables.

The Safe Drinking Water Act Amendments of 1996, referred to in subsec. (b)(13)(A), is Pub. L. 104–182, Aug. 6, 1996, 110 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of this title and Tables.

The Environmental Research, Development, and Demonstration Act of 1978, referred to in subsec. (e),

probably means the Environmental Research, Development, and Demonstration Authorization Act of 1978 which is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, as amended. Provisions of the Act establishing the Science Advisory Board are classified to section 4365 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–182, § 102(c)(2), struck out ''paragraph (1), (2), or (3) of'' before ''subsection (b)'' in two places.

Subsec. (b). Pub. L. 104–182, § 102(a), inserted heading.

Subsec. (b)(1), (2). Pub. L. 104–182, § 102(a), added pars. (1) and (2) and struck out former pars. (1) and (2) which related to publication of maximum contaminant level goals and promulgation of national primary drinking water regulations for certain listed contaminants or substituted contaminants.

Subsec. (b)(3). Pub. L. 104–182, § 103, added par. (3).

Pub. L. 104–182, § 102(a), struck out par. (3) which related to publication of maximum contaminant level goals and promulgation of national primary drinking water regulations for contaminants, other than those referred to in pars. (1) or (2), which may have an adverse effect on human health and are known to occur in public water systems.

Subsec. (b)(4). Pub. L. 104–182, § 104(a)(1), designated first sentence as subpar. (A), inserted par. and subpar. (A) headings, designated second sentence as subpar. (B), inserted subpar. (B) heading, substituted ''Except as provided in paragraphs (5) and (6), each national'' for ''Each national'' and ''specify a maximum contaminant level'' for ''specify a maximum level'', and added subpar. (C).

Subsec. (b)(4)(D). Pub. L. 104–182, § 104(a)(2), (3), redesignated par. (5) as subpar. (D) of par. (4), inserted subpar. heading, and substituted ''this paragraph'' for ''paragraph (4)''.

Subsec. (b)(4)(E). Pub. L. 104–182, §§ 104(a)(4), (5), 105, redesignated par. (6) as subpar. (E)(i) of par. (4), inserted subpar. and cl. headings, substituted ''this subsection'' for ''this paragraph'', and added cls. (ii) to (v).

Subsec. (b)(5), (6). Pub. L. 104–182, § 104(a)(6), added pars. (5) and (6). Former pars. (5) and (6) redesignated subpars. (D) and (E)(i), respectively, of par. (4).

Subsec. (b)(7)(C)(v). Pub. L. 104–182, § 106, added cl. (v).

Subsec. (b)(8). Pub. L. 104–182, § 501(a)(2), substituted ''section 300j–1(e)'' for ''section 300j–1(g)''.

Pub. L. 104–182, § 107, inserted heading, realigned margins, and substituted ''At any time after the end of the 3-year period that begins on August 6, 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 300g–2 of this title, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.'' for ''Not later than 36 months after June 19, 1986, the Administrator shall propose and promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems.''

Subsec. (b)(9). Pub. L. 104–182, § 104(c), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''National primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years. Such review shall include an analysis of innovations or changes in technology, treatment techniques or other activities that have occurred over the previous 3-year period and that may provide for greater protection of the health of persons. The findings of such review shall be published in the Federal Register. If, after opportunity for public comment, the Administrator concludes that the technology, treatment techniques, or other means resulting from such innovations or changes are not feasible within the meaning of paragraph (5), an explanation of such conclusion shall be published in the Federal Register.''

Subsec. (b)(10). Pub. L. 104–182, § 108, amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''National primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) of this section shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.''

Subsec. (b)(11). Pub. L. 104–182, § 501(a)(1), realigned margins.

Subsec. (b)(12). Pub. L. 104–182, § 109(a), added par. (12).

Subsec. (b)(13). Pub. L. 104–182, § 109(b), added par. (13).

Subsec. (b)(14). Pub. L. 104–182, § 110, added par. (14).

Subsec. (b)(15). Pub. L. 104–182, § 111(a), added par. (15).

1986—Subsec. (a). Pub. L. 99–339, § 101(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after December 16, 1974. Within 180 days after December 16, 1974, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

''(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on December 16, 1974.

''(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.''

Subsec. (b)(1). Pub. L. 99–339, § 101(b), substituted provisions establishing standard setting schedules and deadlines for provisions relating to establishment of maximum contaminant levels and a list of contaminants with adverse effect but of undetermined levels.

Subsec. (b)(2). Pub. L. 99–339, § 101(b), substituted provisions authorizing the Administrator to substitute contaminants for those referred to in par. (1) and to supply a list of the contaminants proposed for substitution, with the decision of the Administrator to regulate such contaminant not subject to judicial review, for provisions which authorized the Administrator to publish in the Federal Register proposed revised national interim primary drinking water regulations and 180 days after the date of such proposed regulations to promulgate such revised regulations with modification as deemed appropriate.

Subsec. (b)(3). Pub. L. 99–339, § 101(b), substituted provisions directing the Administrator to publish maximum contaminant level goals and promulgate national primary drinking water regulations for contaminants, other than specified in par. (1) or (2), which may have an adverse effect on health and are known or anticipated to occur in public water systems, to establish an advisory working group to aid in establishing a list of such contaminants, and to publish, within a specified time, both proposed and final goals and regulations for provisions which required that revised national primary drinking water regulations specify a maximum contaminant level or require the use of treatment techniques for each contaminant, which level or technique was to be as close to the recommended level or technique as feasible, and defined the term ''feasible''.

Subsec. (b)(4) to (11). Pub. L. 99–339, § 101(b), (c)(1), (d), added pars. (4) to (8), redesignated former pars. (4) to (6) as pars. (9) to (11), respectively, in par. (9) substituted

''National'' for ''Revised National'' and inserted provision that review include analysis, and publication in Federal Register, of innovations in technology, treatment techniques or other activities occurring during previous three years and their feasibility, and in par. (10) substituted ''National'' for ''Revised National''.

Subsec. (e). Pub. L. 99–339, § 101(e), amended subsec. (e) generally, substituting provisions which relate to the request by the Administrator of comments by the Science Advisory Board prior to proposal of a maximum contaminant level goal and national primary drinking water regulation for provisions which related to study by the National Academy of Sciences to determine the maximum contaminant levels, report to Congress, and funding therefor.

1977—Subsec. (e)(2). Pub. L. 95–190 inserted provisions relating to revisions of the required report and cl. (G).

APPLICABILITY OF PRIOR REQUIREMENTS

Section 102(b) of Pub. L. 104–182 provided that: ''The requirements of subparagraphs (C) and (D) of section 1412(b)(3) of the Safe Drinking Water Act [subsec. (b)(3)(C), (D) of this section] as in effect before the date of enactment of this Act [Aug. 6, 1996], and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of this Act, are superseded by the amendments made by subsection (a) [amending this section].''

DISINFECTANTS AND DISINFECTION BYPRODUCTS

Section 104(b) of Pub. L. 104–182 provided that: ''The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Safe Drinking Water Act [subsec. (b)(5) of this section] (as amended by this Act) to promulgate the Stage I and Stage II Disinfectants and Disinfection Byproducts Rules as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). The considerations used in the development of the July 29, 1994, proposed national primary drinking water regulation on disinfectants and disinfection byproducts shall be treated as consistent with such section 1412(b)(5) for purposes of such Stage I and Stage II rules.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300f, 300g–2, 300g–3, 300g–4, 300g–5, 300j–2, 300j–3, 300j–3b, 300j–4, 300j–12, 300j–14 of this title; title 21 section 349.

§ 300g–2. State primary enforcement responsibility

(a) In general

For purposes of this subchapter, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b) of this section) that such State—

(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 300g–1 of this title not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 300g–4 and 300g–5 of this title;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances including earthquakes, floods, hurricanes, and other natural disasters, as appropriate; and

(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

(b) Regulations

(1) The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) of this section are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this subchapter when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and no-

tify the applicant in writing of the reasons for his denial.

(c) Interim primary enforcement authority

A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) of this section and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) of this section with respect to the regulation.

(July 1, 1944, ch. 373, title XIV, § 1413, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1665; amended Pub. L. 99–339, title I, § 101(c)(2), June 19, 1986, 100 Stat. 646; Pub. L. 104–182, title I, §§ 112, 113(b), Aug. 6, 1996, 110 Stat. 1633, 1635.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–182, § 112(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''has adopted drinking water regulations which are no less stringent than the national primary drinking water regulations in effect under sections 300g–1(a) and 300g–1(b) of this title;''.

Subsec. (a)(5). Pub. L. 104–182, § 112(b), inserted ''including earthquakes, floods, hurricanes, and other natural disasters, as appropriate'' after ''emergency circumstances''.

Subsec. (a)(6). Pub. L. 104–182, § 113(b), added par. (6).

Subsec. (c). Pub. L. 104–182, § 112(a)(2), added subsec. (c).

1986—Subsec. (a)(1). Pub. L. 99–339 substituted ''are no less stringent than the national primary drinking water regulations in effect under sections 300g–1(a) and 300g–1(b) of this title'' for subpars. (A) and (B) which related to stringency of State drinking water regulations between period of promulgation and effective date of national interim drinking water regulations and during the period after such effective date.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–1, 300g–3, 300g–4, 300g–7, 300j–2, 300j–12 of this title.

§ 300g–3. Enforcement of drinking water regulations

(a) Notice to State and public water system; issuance of administrative order; civil action

(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 300g–2(a) of this title) that any public water system—

(i) for which a variance under section 300g–4 or an exemption under section 300g–5 of this title is not in effect, does not comply with any applicable requirement, or

(ii) for which a variance under section 300g–4 or an exemption under section 300g–5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and such public water system and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with the requirement by the earliest feasible time.

(B) If, beyond the thirtieth day after the Administrator's notification under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) of this section requiring the public water system to comply with such applicable requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(2) ENFORCEMENT IN NONPRIMACY STATES.—

(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

(i) for which a variance under section 300g–4 of this title or an exemption under section 300g–5 of this title is not in effect, does not comply with any applicable requirement; or

(ii) for which a variance under section 300g–4 of this title or an exemption under section 300g–5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) of this section requiring the public water system to comply with the requirement, or commence a civil action under subsection (b) of this section.

(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.

(b) Judicial determinations in appropriate Federal district courts; civil penalties, separate violations

The Administrator may bring a civil action in the appropriate United States district court to require compliance with any applicable requirement with an order issued under subsection (g) of this section, or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 300g–4 or 300g–5 of this title if—

(1) authorized under paragraph (1) or (2) of subsection (a) of this section, or

(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgement as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a vio-

lation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $25,000 for each day in which such violation occurs.

(c) Notice to persons served

(1) In general

Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

(A) Notice of any failure on the part of the public water system to—

(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

(ii) perform monitoring required by section 300j–4(a) of this title.

(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 300g–4 of this title for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 300g–5 of this title, notice of—

(i) the existence of the variance or exemption; and

(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

(2) Form, manner, and frequency of notice

(A) In general

The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

(ii) take into account the seriousness of any potential adverse health effects that may be involved.

(B) State requirements

(i) In general

A State may, by rule, establish alternative notification requirements—

(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

(II) with respect to the form and content of notice given under subparagraph (D).

(ii) Contents

The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

(iii) Relationship to section 300g–2

Nothing in this subparagraph shall be construed or applied to modify the requirements of section 300g–2 of this title.

(C) Violations with potential to have serious adverse effects on human health

Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

(ii) provide a clear and readily understandable explanation of—

(I) the violation;

(II) the potential adverse effects on human health;

(III) the steps that the public water system is taking to correct the violation; and

(IV) the necessity of seeking alternative water supplies until the violation is corrected;

(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 300g–2 of this title as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

(I) be provided to appropriate broadcast media;

(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

(D) Written notice

(i) In general

Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct deliv-

ery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

(ii) Form and manner of notice

The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

(E) Unregulated contaminants

The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 300j–4(a) of this title.

(3) Reports

(A) Annual report by State

(i) In general

Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 300g–2 of this title shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

(ii) Distribution

The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

(B) Annual report by Administrator

Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this subchapter. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this subchapter on Indian reservations.

(4) Consumer confidence reports by community water systems

(A) Annual reports to consumers

The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after August 6, 1996, to require each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a ''consumer confidence report''). Such regulations shall provide a brief and plainly worded definition of the terms ''maximum contaminant level goal'', ''maximum contaminant level'', ''variances'', and ''exemptions'' and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation.

(B) Contents of report

The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

(i) Information on the source of the water purveyed.

(ii) A brief and plainly worded definition of the terms ''maximum contaminant level goal'', ''maximum contaminant level'', ''variances'', and ''exemptions'' as provided in the regulations of the Administrator.

(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).

(iv) Information on compliance with national primary drinking water regulations, as required by the Administrator, and notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

(v) Information on the levels of unregulated contaminants for which monitoring is required under section 300j–4(a)(2) of this title (including levels of cryptosporidium and radon where States determine they may be found).

(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and po-

tential health effects can be obtained by calling the Environmental Protection Agency hotline.

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in subclause (IV) of clause (iii), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

(C) Coverage

The Governor of a State may determine not to apply the mailing requirement of subparagraph (A) to a community water system serving fewer than 10,000 persons. Any such system shall—

(i) inform, in the newspaper notice required by clause (iii) or by other means, its customers that the system will not be mailing the report as required by subparagraph (A);

(ii) make the consumer confidence report available upon request to the public; and

(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

(D) Alternative to publication

For any community water system which, pursuant to subparagraph (C), is not required to meet the mailing requirement of subparagraph (A) and which serves 500 persons or fewer, the community water system may elect not to comply with clause (i) or (iii) of subparagraph (C). If the community water system so elects, the system shall, at a minimum—

(i) prepare an annual consumer confidence report pursuant to subparagraph (B); and

(ii) provide notice at least once per year to each of its customers by mail, by door-to-door delivery, by posting or by other means authorized by the regulations of the Administrator that the consumer confidence report is available upon request.

(E) Alternative form and content

A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.

(d) Notice of noncompliance with secondary drinking water regulations

Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) State authority to adopt or enforce laws or regulations respecting drinking water regulations or public water systems unaffected

Nothing in this subchapter shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this subchapter.

(f) Notice and public hearing; availability of recommendations transmitted to State and public water system

If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1) of this section) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

(g) Administrative order requiring compliance; notice and hearing; civil penalty; civil actions

(1) In any case in which the Administrator is authorized to bring a civil action under this section or under section 300j–4 of this title with respect to any applicable requirement, the Administrator also may issue an order to require compliance with such applicable requirement.

(2) An order issued under this subsection shall not take effect, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the order. A copy of any order issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state

with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

(3)(A) Any person who violates, or fails or refuses to comply with, an order under this subsection shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5.

(C) Whenever any civil penalty sought by the Administrator under this subsection for a violation of an applicable requirement exceeds $25,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28).

(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(h) Consolidation incentive

(1) In general

An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 300g–2 of this title) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

(A) the physical consolidation of the system with 1 or more other systems;

(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

(2) Consequences of approval

If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

(i) "Applicable requirement" defined

In this section, the term ''applicable requirement'' means—

(1) a requirement of section 300g–1, 300g–3, 300g–4, 300g–5, 300g–6, 300j, or 300j–4 of this title;

(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 300g–2 of this title have been satisfied, or an applicable State program approved pursuant to this part.

(July 1, 1944, ch. 373, title XIV, § 1414, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1666; amended Pub. L. 95–190, § 12(b), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 99–339, title I, §§ 102, 103, June 19, 1986, 100 Stat. 647, 648; Pub. L. 104–182, title I, §§ 113(a), 114(a), Aug. 6, 1996, 110 Stat. 1634, 1636.)

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–182, § 113(a)(1)(A)(i)(II), substituted ''with the requirement'' for ''with such regulation or requirement'' in concluding provisions.

Subsec. (a)(1)(A)(i). Pub. L. 104–182, § 113(a)(1)(A)(i)(I), substituted ''any applicable requirement'' for ''any national primary drinking water regulation in effect under section 300g–1 of this title''.

Subsec. (a)(1)(B). Pub. L. 104–182, § 113(a)(1)(A)(ii), substituted ''such applicable requirement'' for ''such regulation or requirement''.

Subsec. (a)(2). Pub. L. 104–182, § 113(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

''(A) for which a variance under section 300g–4(a)(2) or an exemption under section 300g–5(f) of this title is not in effect, does not comply with any national primary drinking water regulation in effect under section 300g–1 of this title, or

''(B) for which a variance under section 300g–4(a)(2) or an exemption under section 300g–5(f) of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

the Administrator shall issue an order under subsection (g) of this section requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b) of this section.''

Subsec. (b). Pub. L. 104–182, § 113(a)(2), substituted ''any applicable requirement'' for ''a national primary drinking water regulation'' in introductory provisions.

Subsec. (c). Pub. L. 104–182, § 114(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to notice of owner or operator of public water system to persons served, regulations for form, manner, and frequency of notice, amendment of regulations to provide different types and frequencies of notice, and penalties.

Subsec. (g)(1). Pub. L. 104–182, § 113(a)(3)(A), substituted ''applicable requirement'' for ''regulation, schedule, or other requirement'' in two places.

Subsec. (g)(2). Pub. L. 104–182, § 113(a)(3)(B), substituted ''effect, in the case'' for ''effect until after notice and opportunity for public hearing and, in the case'' and ''regarding the order'' for ''regarding the proposed order'' and struck out ''proposed to be'' after ''A copy of any order''.

Subsec. (g)(3)(B). Pub. L. 104–182, § 113(a)(3)(C)(i), added subpar. (B) and struck out former subpar. (B) which read as follows: ''Whenever any civil penalty sought by the Administrator under this paragraph does

not exceed a total of $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5.''

Subsec. (g)(3)(C). Pub. L. 104–182, § 113(a)(3)(C)(ii), substituted ''subsection for a violation of an applicable requirement exceeds $25,000'' for ''paragraph exceeds $5,000''.

Subsecs. (h), (i). Pub. L. 104–182, § 113(a)(4), added subsecs. (h) and (i).

1986—Pub. L. 99–339, § 102(d)(2), substituted ''Enforcement'' for ''Failure of State to assure enforcement'' in section catchline.

Subsec. (a)(1)(A). Pub. L. 99–339, § 102(a), inserted ''and such public water system'' after ''notify the State'' in provisions following cl. (ii).

Subsec. (a)(1)(B). Pub. L. 99–339, § 102(b)(1), amended subpar. (B) generally, substituting provisions which relate to issuance of an order to public water system to comply with regulations, or commencement of civil action if the State has not commenced appropriate enforcement action for provisions which related to public notice of noncompliance and commencement of civil action by Administrator if State failed to take steps to obtain compliance by public water system.

Subsec. (a)(2). Pub. L. 99–339, § 102(b)(2), substituted ''the Administrator shall issue an order under subsection (g) of this section requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b) of this section'' for ''he may commence a civil action under subsection (b) of this section''.

Subsec. (b). Pub. L. 99–339, § 102(c), inserted '', with an order issued under subsection (g) of this section,'' before ''or with any schedule'' and substituted ''there has been a violation'' for ''there has been a willful violation'' and ''$25,000'' for ''$5,000''.

Subsec. (c). Pub. L. 99–339, § 103, substituted provisions relating to amendment of regulations within fifteen months after June 19, 1986, to provide different types and frequencies of notice based on the differences between violations which are intermittent or continuous, manner and content of notices, notice required to public served by owner or operator of public water system, and civil penalty of $25,000, for provisions relating to form, manner, and frequency of notice based on three month billing period for water bills, notice required to public served by owner or operator of public water system, and civil penalty of $5,000.

Subsec. (g). Pub. L. 99–339, § 102(d), added subsec. (g).

1977—Subsec. (c). Pub. L. 95–190 inserted provisions relating to frequency of required notice, and notice respecting contaminant levels, and substituted ''issued under this subsection'' for ''thereunder''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–4, 300g–5, 300j–7 of this title.

§ 300g–4. Variances

(a) Characteristics of raw water sources; specific treatment technique; notice to Administrator, reasons for variance; compliance, enforcement; approval or revision of schedules and revocation of variances; review of variances and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting variances or failing to prescribe schedules; State corrective action; authority of Administrator in a State without primary enforcement responsibility; alternative treatment techniques

Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation. A variance may be issued to a system on condition that the system install the best technology, treatment techniques, or other means, which the Administrator finds are available (taking costs into consideration), and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system. The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant for purposes of this subsection at the time he proposes and promulgates a maximum contaminant level for each such contaminant. The Administrator's finding of best available technology, treatment techniques or other means for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered appropriate by the Administrator. Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe at the the[1] time the variance is granted, a schedule for—

(i) compliance (including increments of progress) by the public water system with each containment level requirement with respect to which the variance was granted, and

(ii) implementation by the public water system of such additional control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

[1] So in original.

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of the national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 300g–3 of this title as if such requirement was part of a national primary drinking water regulation.

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance on schedule or other requirement. No variance revocation or revised schedule or other re-

quirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Enforcement of schedule or other requirement

Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) of this section is conditioned may be enforced under section 300g–3 of this title as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) Applications for variances; regulations: reasonable time for acting

If an application for a variance under subsection (a) of this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(d) "Treatment technique requirement" defined

For purposes of this section, the term ''treatment technique requirement'' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 300f(1)(C)(ii) of this title) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g–1(b) of this title.

(e) Small system variances

(1) In general

A State exercising primary enforcement responsibility for public water systems under section 300g–2 of this title (or the Administrator in nonprimacy States) may grant a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation to—

(A) public water systems serving 3,300 or fewer persons; and

(B) with the approval of the Administrator pursuant to paragraph (9), public water systems serving more than 3,300 persons but fewer than 10,000 persons,

if the variance meets each requirement of this subsection.

(2) Availability of variances

A public water system may receive a variance pursuant to paragraph (1), if—

(A) the Administrator has identified a variance technology under section 300g–1(b)(15) of this title that is applicable to the size and source water quality conditions of the public water system;

(B) the public water system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, such treatment technology, treatment technique, or other means; and

(C) the State in which the system is located determines that the conditions of paragraph (3) are met.

(3) Conditions for granting variances

A variance under this subsection shall be available only to a system—

(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title), with a national primary drinking water regulation, including compliance through—

(i) treatment;

(ii) alternative source of water supply; or

(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) makes a written determination that restructuring or consolidation is not practicable); and

(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

(4) Compliance schedules

A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) may allow up to 2 additional years to comply with a variance technology, secure an alternative source of water, restructure or consolidate if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to section 300j–12 of this title or any other Federal or State program.

(5) Duration of variances

The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) shall review each variance granted under this

subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

(6) Ineligibility for variances

A variance shall not be available under this subsection for—

(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

(7) Regulations and guidance

(A) In general

Not later than 2 years after August 6, 1996, and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system that a variance is proposed to be granted (including information regarding the contaminant and variance) and requirements for a public hearing on the variance before the variance is granted;

(ii) requirements for the installation and proper operation of variance technology that is identified (pursuant to section 300g–1(b)(15) of this title) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 300g–1(b)(15)(A) of this title); and

(iv) information requirements for variance applications.

(B) Affordability criteria

Not later than 18 months after August 6, 1996, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

(8) Review by the Administrator

(A) In general

The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 300g–2 of this title with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

(B) Notice and publication

If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

(9) Approval of variances

A State proposing to grant a variance under this subsection to a public water system serving more than 3,300 and fewer than 10,000 persons shall submit the variance to the Administrator for review and approval prior to the issuance of the variance. The Administrator shall approve the variance if it meets each of the requirements of this subsection. The Administrator shall approve or disapprove the variance within 90 days. If the Administrator disapproves a variance under this paragraph, the Administrator shall notify the State in writing of the reasons for disapproval and the variance may be resubmitted with modifications to address the objections stated by the Administrator.

(10) Objections to variances

(A) By the Administrator

The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

(B) Petition by consumers

Not later than 30 days after a State exercising primary enforcement responsibility for public water systems under section 300g–2 of this title proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition and determine whether to object to the variance under subparagraph (A) not later than 60 days after the receipt of the petition.

(C) Timing

No variance shall be granted by a State until the later of the following:

(i) 90 days after the State proposes to grant a variance.

(ii) If the Administrator objects to the variance, the date on which the State makes the recommended modifications or responds in writing to each objection.

(July 1, 1944, ch. 373, title XIV, § 1415, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1669; amended Pub. L. 99–339, title I, § 104, June 19, 1986, 100 Stat. 649; Pub. L. 104–182, title I, §§ 102(c)(1), 115, 116, title V, § 501(a)(3), Aug. 6, 1996, 110 Stat. 1621, 1641, 1691.)

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–182, § 501(a)(3), inserted ''the'' before ''time the variance is granted,'' in introductory provisions.

Pub. L. 104–182, § 115, in second sentence, substituted ''be issued to a system on condition that the system install'' for ''only be issued to a system after the system's application of'' and inserted '', and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system'' after ''(taking costs into consideration)''.

Subsec. (d). Pub. L. 104–182, § 102(c)(1), substituted ''section 300g–1(b)'' for ''section 300g–1(b)(3)''.

Subsec. (e). Pub. L. 104–182, § 116, added subsec. (e).

1986—Subsec. (a)(1)(A). Pub. L. 99–339, § 104(1)–(3), substituted ''such drinking water regulation. A variance may only be issued to a system after the system's application'' for ''such drinking water regulation despite application'', struck out ''generally'' after ''finds are'', inserted provisions relating to proposal and promulgation by Administrator of a finding on best available technology, treatment techniques or other means available for each contaminant at time of proposal and promulgation of maximum contaminant levels, and substituted ''at the time'' for ''within one year of the date''.

Subsec. (a)(1)(A)(ii). Pub. L. 99–339, § 104(4), substituted ''water system of such additional control'' for ''water system of such control''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g, 300g–1, 300g–2, 300g–3, 300g–5, 300g–9, 300j–2, 300j–4, 300j–7, 300j–8 of this title.

§ 300g–5. Exemptions

(a) Requisite findings

A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors, including qualification of the public water system as a system serving a disadvantaged community pursuant to section 300j–12(d) of this title), the public water system is unable to comply with such contaminant level or treatment technique requirement, or to implement measures to develop an alternative source of water supply,

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,

(3) the granting of the exemption will not result in an unreasonable risk to health;[1] and

(4) management or restructuring changes (or both) cannot reasonably be made that will result in compliance with this subchapter or, if compliance cannot be achieved, improve the quality of the drinking water.

(b) Compliance schedule and implementation of control measures; notice and hearing; dates for compliance with schedule; compliance, enforcement; approval or revision of schedules and revocation of exemptions

(1) If a State grants a public water system an exemption under subsection (a) of this section, the State shall prescribe, at the time the exemption is granted, a schedule for—

(A) compliance (including increments of progress or measures to develop an alternative source of water supply) by the public water system with each contaminant level requirement or treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) of this section shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but not later than 3 years after the otherwise applicable compliance date established in section 300g–1(b)(10) of this title.

(B) No exemption shall be granted unless the public water system establishes that—

(i) the system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to section 300g–1(b)(10) of this title;

(ii) in the case of a system which needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance or assistance pursuant to section 300j–12 of this title, or any other Federal or State program is reasonably likely to be available within the period of the exemption; or

(iii) the system has entered into an enforceable agreement to become a part of a regional public water system; and

the system is taking all practicable steps to meet the standard.

[1] So in original. The semicolon probably should be a comma.

(C) In the case of a system which does not serve more than a population of 3,300 and which needs financial assistance for the necessary improvements, an exemption granted under clause (i) or (ii) of subparagraph (B) may be renewed for one or more additional 2-year periods, but not to exceed a total of 6 years, if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).

(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 300g–4(e) of this title.

(3) Each public water system's exemption granted by a State under subsection (a) of this section shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 300g–3 of this title as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) of this section or the schedule is revised by the Administrator under such subsection.

(c) Notice to Administrator; reasons for exemption

Each State which grants an exemption under subsection (a) of this section shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) of this section before the exemption may be granted) and document the need for the exemption.

(d) Review of exemptions and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting exemptions or failing to prescribe schedules; State corrective action

(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review, together with findings responsive to comments submitted in connection with such review.

(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) of this section or failed to prescribe schedules in accordance with subsection (b) of this section, the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) "Treatment technique requirement" defined

For purposes of this section, the term ''treatment technique requirement'' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 300f(1)(C)(ii) of this title) each treatment technique known to the Admin-

istrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 300g–1(b) of this title.

(f) Authority of Administrator in a State without primary enforcement responsibility

If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

(g) Applications for exemptions; regulations; reasonable time for acting

If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(July 1, 1944, ch. 373, title XIV, § 1416, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1672; amended Pub. L. 95–190, § 10(a), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 96–502, §§ 1, 4(b), Dec. 5, 1980, 94 Stat. 2737, 2738; Pub. L. 99–339, title I, §§ 101(c)(4), 105, June 19, 1986, 100 Stat. 646, 649; Pub. L. 104–182, title I, § 117(a), Aug. 6, 1996, 110 Stat. 1644.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–182, § 117(a)(1), inserted ", including qualification of the public water system as a system serving a disadvantaged community pursuant to section 300j–12(d) of this title" after "(which may include economic factors" and "or to implement measures to develop an alternative source of water supply," after "treatment technique requirement,".

Subsec. (a)(4). Pub. L. 104–182, § 117(a)(2), added par. (4).

Subsec. (b)(1)(A). Pub. L. 104–182, § 117(a)(3), substituted "(including increments of progress or measures to develop an alternative source of water supply)" for "(including increments of progress)" and "requirement or treatment" for "requirement and treatment".

Subsec. (b)(2)(A). Pub. L. 104–182, § 117(a)(4)(A), substituted "not later than 3 years after the otherwise applicable compliance date established in section 300g–1(b)(10) of this title." for "(except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the national primary drinking water regulations promulgated under section 300g–1(a) of this title, not later than 12 months after June 19, 1986; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by national primary drinking water regulations, other than a regulation referred to in section 300g–1(a) of this title, 12 months after the date of the issuance of the exemption."

Subsec. (b)(2)(B). Pub. L. 104–182, § 117(a)(4)(A), substituted "No exemption shall be granted unless" for "The final date for compliance provided in any schedule in the case of any exemption may be extended by the State (in the case of a State which has primary enforcement responsibility) or by the Administrator (in any other case) for a period not to exceed 3 years after the date of the issuance of the exemption if" in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 104–182, § 117(a)(4)(B), substituted "prior to the date established pursuant to section 300g–1(b)(10) of this title" for "within the period of such exemption".

Subsec. (b)(2)(B)(ii). Pub. L. 104–182, § 117(a)(4)(C), inserted "or assistance pursuant to section 300j–12 of this title, or any other Federal or State program is reasonably likely to be available within the period of the exemption" after "such financial assistance".

Subsec. (b)(2)(C). Pub. L. 104–182, § 117(a)(4)(D), substituted "a population of 3,300" for "500 service connections" and inserted ", but not to exceed a total of 6 years," after "for one or more additional 2-year periods".

Subsec. (b)(2)(D). Pub. L. 104–182, § 117(a)(4)(E), added subpar. (D).

1986—Subsec. (b)(1). Pub. L. 99–339, § 105(a)(1), substituted "at the time" for "within one year of the date".

Subsec. (b)(2)(A)(i). Pub. L. 99–339, § 105(a)(2), struck out "interim" before "national primary" and substituted "not later than 12 months after June 19, 1986" for "not later than January 1, 1984".

Subsec. (b)(2)(A)(ii). Pub. L. 99–339, § 105(a)(3), struck out "revised" before "national primary" and substituted "other than a regulation referred to in section 300g–1(a) of this title, 12 months after the date of the issuance of the exemption" for "not later than seven years after the date such requirement takes effect".

Subsec. (b)(2)(B). Pub. L. 99–339, § 105(a)(4), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1986; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect."

Subsec. (b)(2)(C). Pub. L. 99–339, § 105(a)(4), added subpar. (C).

Subsec. (e). Pub. L. 99–339, § 101(c)(4), substituted "300g–1(b)" for "300g–1(b)(3)".

1980—Subsec. (a)(2). Pub. L. 96–502, § 4(b), substituted "treatment technique requirement, or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system, and" for "treatment technique requirement, and".

Subsec. (b)(2)(A)(i). Pub. L. 96–502, § 1, substituted "January 1, 1984" for "January 1, 1981".

Subsec. (b)(2)(B)(i). Pub. L. 96–502, § 1, substituted "January 1, 1986" for "January 1, 1983".

1977—Subsec. (b)(1). Pub. L. 95–190 substituted "contaminant" for "containment" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g, 300g–2, 300g–3, 300g–9, 300j–2, 300j–7, 300j–8 of this title.

§ 300g–6. Prohibition on use of lead pipes, solder, and flux

(a) In general

(1) Prohibitions

(A) In general

No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or

any flux, after June 19, 1986, in the installation or repair of—

(i) any public water system; or

(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d) of this section).

(B) Leaded joints

Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.

(2) Public notice requirements

(A) In general

Each owner or operator of a public water system shall identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either or both of the following:

(i) The lead content in the construction materials of the public water distribution system.

(ii) Corrosivity of the water supply sufficient to cause leaching of lead.

The notice shall be provided in such manner and form as may be reasonably required by the Administrator. Notice under this paragraph shall be provided notwithstanding the absence of a violation of any national drinking water standard.

(B) Contents of notice

Notice under this paragraph shall provide a clear and readily understandable explanation of—

(i) the potential sources of lead in the drinking water,

(ii) potential adverse health effects,

(iii) reasonably available methods of mitigating known or potential lead content in drinking water,

(iv) any steps the system is taking to mitigate lead content in drinking water, and

(v) the necessity for seeking alternative water supplies, if any.

(3) Unlawful acts

Effective 2 years after August 6, 1996, it shall be unlawful—

(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(b) State enforcement

(1) Enforcement of prohibition

The requirements of subsection (a)(1) of this section shall be enforced in all States effective 24 months after June 19, 1986. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

(2) Enforcement of public notice requirements

The requirements of subsection (a)(2) of this section shall apply in all States effective 24 months after June 19, 1986.

(c) Penalties

If the Administrator determines that a State is not enforcing the requirements of subsection (a) of this section as required pursuant to subsection (b) of this section, the Administrator may withhold up to 5 percent of Federal funds available to that State for State program grants under section 300j–2(a) of this title.

(d) "Lead free" defined

For purposes of this section, the term ''lead free''—

(1) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead;

(2) when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead; and

(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e) of this section.

(e) Plumbing fittings and fixtures

(1) In general

The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

(2) Standards

(A) In general

If a voluntary standard for the leaching of lead is not established by the date that is 1 year after August 6, 1996, the Administrator shall, not later than 2 years after August 6, 1996, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

(B) Alternative requirement

If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after August 6, 1996, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.

(July 1, 1944, ch. 373, title XIV, § 1417, as added Pub. L. 99–339, title I, § 109(a), June 19, 1986, 100 Stat. 651; amended Pub. L. 104–182, title I, § 118, title V, § 501(f)(1), Aug. 6, 1996, 110 Stat. 1645, 1691.)

AMENDMENTS

1996—Pub. L. 104–182, § 501(f)(1), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (a)(1). Pub. L. 104–182, § 118(1), substituted ''Prohibitions'' for ''Prohibition'' in heading and amended text generally. Prior to amendment, text read as follows: ''Any pipe, solder, or flux, which is used after June 19, 1986, in the installation or repair of—

''(A) any public water system, or

''(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

shall be lead free (within the meaning of subsection (d) of this section). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.''

Subsec. (a)(2)(A). Pub. L. 104–182, § 118(2), inserted ''owner or operator of a'' after ''Each'' in introductory provisions.

Subsec. (a)(3). Pub. L. 104–182, § 118(3), added par. (3).

Subsec. (d)(3). Pub. L. 104–182, § 118(4), added par. (3).

Subsec. (e). Pub. L. 104–182, § 118(5), added subsec. (e).

NOTIFICATION TO STATES

Section 109(b) of Pub. L. 99–339 provided that: ''The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act [this section] within 90 days after the enactment of this Act [June 19, 1986].''

BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY

Section 109(c) of Pub. L. 99–339, as amended by Pub. L. 102–54, § 13(q)(2), June 13, 1991, 105 Stat. 279, provided that:

''(1) PROHIBITION.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which contains a potable water system unless such system uses only lead free pipe, solder, and flux.

''(2) DEFINITION OF LEAD FREE.—For purposes of paragraph (1) the term 'lead free'—

''(A) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and

''(B) when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

''(3) EFFECTIVE DATE.—Paragraph (1) shall become effective 24 months after the enactment of this Act [June 19, 1986].''

CROSS REFERENCES

Housing assistance by Secretary of Veterans Affairs, see section 3701 et seq. of Title 38, Veterans' Benefits.

Housing assistance by Secretary of Housing and Urban Development, see section 1701 et seq. of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300g–3 of this title.

§ 300g–7. Monitoring of contaminants

(a) Interim monitoring relief authority

(1) In general

A State exercising primary enforcement responsibility for public water systems may modify the monitoring requirements for any regulated or unregulated contaminants for which monitoring is required other than microbial contaminants (or indicators thereof), disinfectants and disinfection byproducts or corrosion byproducts for an interim period to provide that any public water system serving 10,000 persons or fewer shall not be required to conduct additional quarterly monitoring during an interim relief period for such contaminants if—

(A) monitoring, conducted at the beginning of the period for the contaminant concerned and certified to the State by the public water system, fails to detect the presence of the contaminant in the ground or surface water supplying the public water system; and

(B) the State, considering the hydrogeology of the area and other relevant factors, determines in writing that the contaminant is unlikely to be detected by further monitoring during such period.

(2) Termination; timing of monitoring

The interim relief period referred to in paragraph (1) shall terminate when permanent monitoring relief is adopted and approved for such State, or at the end of 36 months after August 6, 1996, whichever comes first. In order to serve as a basis for interim relief, the monitoring conducted at the beginning of the period must occur at the time determined by the State to be the time of the public water system's greatest vulnerability to the contaminant concerned in the relevant ground or surface water, taking into account in the case of pesticides the time of application of the pesticide for the source water area and the travel time for the pesticide to reach such waters and taking into account, in the case of other contaminants, seasonality of precipitation and contaminant travel time.

(b) Permanent monitoring relief authority

(1) In general

Each State exercising primary enforcement responsibility for public water systems under this subchapter and having an approved source water assessment program may adopt, in accordance with guidance published by the Administrator, tailored alternative monitoring requirements for public water systems in such State (as an alternative to the monitoring requirements for chemical contaminants set forth in the applicable national primary drinking water regulations) where the State concludes that (based on data available at the time of adoption concerning susceptibility, use, occurrence, or wellhead protection, or from the State's drinking water source water assessment program) such alternative monitoring would provide assurance that it complies with the Administrator's guidelines. The State program must be adequate to assure compliance with, and enforcement of, applicable national primary drinking water regulations. Alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection byproducts, or corrosion byproducts. The

preceding sentence is not intended to limit other authority of the Administrator under other provisions of this subchapter to grant monitoring flexibility.

(2) Guidelines

(A) In general

The Administrator shall issue, after notice and comment and at the same time as guidelines are issued for source water assessment under section 300j–13 of this title, guidelines for States to follow in proposing alternative monitoring requirements under paragraph (1) for chemical contaminants. The Administrator shall publish such guidelines in the Federal Register. The guidelines shall assure that the public health will be protected from drinking water contamination. The guidelines shall require that a State alternative monitoring program apply on a contaminant-by-contaminant basis and that, to be eligible for such alternative monitoring program, a public water system must show the State that the contaminant is not present in the drinking water supply or, if present, it is reliably and consistently below the maximum contaminant level.

(B) Definition

For purposes of subparagraph (A), the phrase ''reliably and consistently below the maximum contaminant level'' means that, although contaminants have been detected in a water supply, the State has sufficient knowledge of the contamination source and extent of contamination to predict that the maximum contaminant level will not be exceeded. In determining that a contaminant is reliably and consistently below the maximum contaminant level, States shall consider the quality and completeness of data, the length of time covered and the volatility or stability of monitoring results during that time, and the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to be reliably and consistently below the maximum contaminant level.

(3) Effect of detection of contaminants

The guidelines issued by the Administrator under paragraph (2) shall require that if, after the monitoring program is in effect and operating, a contaminant covered by the alternative monitoring program is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the public water system must either—

(A) demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination problem; or

(B) test for the detected contaminant pursuant to the applicable national primary drinking water regulation.

(4) States not exercising primary enforcement responsibility

The Governor of any State not exercising primary enforcement responsibility under section 300g–2 of this title on August 6, 1996, may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subsection that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

(c) Treatment as NPDWR

All monitoring relief granted by a State to a public water system for a regulated contaminant under subsection (a) or (b) of this section shall be treated as part of the national primary drinking water regulation for that contaminant.

(d) Other monitoring relief

Nothing in this section shall be construed to affect the authority of the States under applicable national primary drinking water regulations to alter monitoring requirements through waivers or other existing authorities. The Administrator shall periodically review and, as appropriate, revise such authorities.

(July 1, 1944, ch. 373, title XIV, § 1418, as added Pub. L. 104–182, title I, § 125(b), Aug. 6, 1996, 110 Stat. 1654.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–7, 300j–13 of this title.

§ 300g–8. Operator certification

(a) Guidelines

Not later than 30 months after August 6, 1996, and in cooperation with the States, the Administrator shall publish guidelines in the Federal Register, after notice and opportunity for comment from interested persons, including States and public water systems, specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. Such guidelines shall take into account existing State programs, the complexity of the system, and other factors aimed at providing an effective program at reasonable cost to States and public water systems, taking into account the size of the system.

(b) State programs

Beginning 2 years after the date on which the Administrator publishes guidelines under subsection (a) of this section, the Administrator shall withhold 20 percent of the funds a State is otherwise entitled to receive under section 300j–12 of this title unless the State has adopted and is implementing a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of the guidelines published pursuant to subsection (a) of this section

or that has been submitted in compliance with subsection (c) of this section and that has not been disapproved.

(c) Existing programs

For any State exercising primary enforcement responsibility for public water systems or any other State which has an operator certification program, the guidelines under subsection (a) of this section shall allow the State to enforce such program in lieu of the guidelines under subsection (a) of this section if the State submits the program to the Administrator within 18 months after the publication of the guidelines unless the Administrator determines (within 9 months after the State submits the program to the Administrator) that such program is not substantially equivalent to such guidelines. In making this determination, an existing State program shall be presumed to be substantially equivalent to the guidelines, notwithstanding program differences, based on the size of systems or the quality of source water, providing the State program meets the overall public health objectives of the guidelines. If disapproved, the program may be resubmitted within 6 months after receipt of notice of disapproval.

(d) Expense reimbursement

(1) In general

The Administrator shall provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to this section.

(2) State grants

The reimbursement shall be provided through grants to States with each State receiving an amount sufficient to cover the reasonable costs for training all such operators in the State, as determined by the Administrator, to the extent required by this section. Grants received by a State pursuant to this paragraph shall first be used to provide reimbursement for training and certification costs of persons operating systems serving 3,300 persons or fewer. If a State has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for grants under section 300j–12 of this title.

(3) Authorization

There are authorized to be appropriated to the Administrator to provide grants for reimbursement under this section $30,000,000 for each of fiscal years 1997 through 2003.

(4) Reservation

If the appropriation made pursuant to paragraph (3) for any fiscal year is not sufficient to satisfy the requirements of paragraph (1), the Administrator shall, prior to any other allocation or reservation, reserve such sums as necessary from the funds appropriated pursuant to section 300j–12(m) of this title to provide reimbursement for the training and certification costs mandated by this subsection.

(July 1, 1944, ch. 373, title XIV, § 1419, as added Pub. L. 104–182, title I, § 123, Aug. 6, 1996, 110 Stat. 1652.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

§ 300g–9. Capacity development

(a) State authority for new systems

A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 300j–12 of this title (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

(b) Systems in significant noncompliance

(1) List

Beginning not later than 1 year after August 6, 1996, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this subchapter (as defined in guidelines issued prior to August 6, 1996, or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

(2) Report

Not later than 5 years after August 6, 1996, and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

(3) Withholding

The list and report under this subsection shall be considered part of the capacity development strategy of the State required under subsection (c) of this section for purposes of the withholding requirements of section 300j–12(a)(1)(G)(i) of this title (relating to State loan funds).

(c) Capacity development strategy

(1) In general

Beginning 4 years after August 6, 1996, a State shall receive only—

(A) 90 percent in fiscal year 2001;

(B) 85 percent in fiscal year 2002; and

(C) 80 percent in each subsequent fiscal year,

of the allotment that the State is otherwise entitled to receive under section 300j–12 of this title (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

(2) Content

In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

(C) a description of how the State will use the authorities and resources of this subchapter or other means to—

(i) assist public water systems in complying with national primary drinking water regulations;

(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

(iii) assist public water systems in the training and certification of operators;

(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

(3) Report

Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this subchapter in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

(4) Review

The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 300j–12 of this title.

(d) Federal assistance

(1) In general

The Administrator shall support the States in developing capacity development strategies.

(2) Informational assistance

(A) In general

Not later than 180 days after August 6, 1996, the Administrator shall—

(i) conduct a review of State capacity development efforts in existence on August 6, 1996, and publish information to assist States and public water systems in capacity development efforts; and

(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

(B) Publication of information

The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after August 6, 1996.

(3) Promulgation of drinking water regulations

In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

(4) Guidance for new systems

Not later than 2 years after August 6, 1996, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

(e) Variances and exemptions

Based on information obtained under subsection (c)(3) of this section, the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this subsection shall be interpreted, construed, or applied to affect or alter the requirements of section 300g–4 or 300g–5 of this title.

(f) Small public water systems technology assistance centers

(1) Grant program

The Administrator is authorized to make grants to institutions of higher learning to establish and operate small public water system technology assistance centers in the United States.

(2) Responsibilities of the centers

The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of training and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

(3) Applications

Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) Selection criteria

The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of small and rural communities or Indian Tribes.

(B) The grant recipient shall be located in a region that has experienced problems, or may reasonably be foreseen to experience problems, with small and rural public water systems.

(C) The grant recipient shall have access to expertise in small public water system technology management.

(D) The grant recipient shall have the capability to disseminate the results of small public water system technology and training programs.

(E) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

(F) The grant recipient has regional support beyond the host institution.

(5) Consortia of States

At least 2 of the grants under this subsection shall be made to consortia of States with low population densities.

(6) Authorization of appropriations

There are authorized to be appropriated to make grants under this subsection $2,000,000 for each of the fiscal years 1997 through 1999, and $5,000,000 for each of the fiscal years 2000 through 2003.

(g) Environmental finance centers

(1) In general

The Administrator shall provide initial funding for one or more university-based environmental finance centers for activities that provide technical assistance to State and local officials in developing the capacity of public water systems. Any such funds shall be used only for activities that are directly related to this subchapter.

(2) National capacity development clearinghouse

The Administrator shall establish a national public water system capacity development clearinghouse to receive and disseminate information with respect to developing, improving, and maintaining financial and managerial capacity at public water systems. The Administrator shall ensure that the clearinghouse does not duplicate other federally supported clearinghouse activities.

(3) Capacity development techniques

The Administrator may request an environmental finance center funded under paragraph (1) to develop and test managerial, financial, and institutional techniques for capacity development. The techniques may include capacity assessment methodologies, manual and computer based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $1,500,000 for each of the fiscal years 1997 through 2003.

(5) Limitation

No portion of any funds made available under this subsection may be used for lobbying expenses.

(July 1, 1944, ch. 373, title XIV, § 1420, as added Pub. L. 104–182, title I, § 119, Aug. 6, 1996, 110 Stat. 1647.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6939b, 9601 of this title; title 33 section 1345.

§ 300h. Regulations for State programs

(a) Publication of proposed regulations; promulgation; amendments; public hearings; administrative consultations

(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after December 16, 1974. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5 (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

(b) Minimum requirements; restrictions

(1) Regulations under subsection (a) of this section for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2) of this section. Such regulations shall require that a State program, in order to be approved under section 300h–1 of this title—

(A) shall prohibit, effective on the date on which the applicable underground injection control program takes effect, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

(D) shall apply (i) as prescribed by section 300j–6(b)[1] of this title, to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production or natural gas storage operations, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by an underground injection.

(C) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection.

(c) Temporary permits; notice and hearing

(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i) of this section) temporary permits for underground injection which may be effective until the, expiration of four years after December 16, 1974, if—

(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i) of this section), but after reasonable notice and hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after December 16, 1974, if the State finds, on the record of such hearing—

(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

(d) "Underground injection" defined; underground injection endangerment of drinking water sources

For purposes of this part:

(1) The term ''underground injection'' means the subsurface emplacement of fluids by well injection. Such term does not include the underground injection of natural gas for purposes of storage.

(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

(July 1, 1944, ch. 373, title XIV, § 1421, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1674; amended Pub. L. 95–190, § 6(b), Nov. 16, 1977, 91 Stat. 1396; Pub. L. 96–502, §§ 3, 4(c), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title II, § 201(a), June 19, 1986, 100 Stat. 653; Pub. L. 104–182, title V, § 501(b)(1), Aug. 6, 1996, 110 Stat. 1691.)

REFERENCES IN TEXT

Section 300j–6(b) of this title, referred to in subsec. (b)(1)(D), was repealed, and a new section 300j–6(b) relating to administrative penalty orders was added, by Pub. L. 104–182, title I, § 129(a), Aug. 6, 1996, 110 Stat. 1660.

[1] See References in Text note below.

AMENDMENTS

1996—Subsec. (b)(3)(B)(i). Pub. L. 104–182 substituted ''number of States'' for ''number or States''.

1986—Subsec. (b)(2)(A). Pub. L. 99–339 inserted ''or natural gas storage operations'' after ''production''.

1980—Subsec. (b)(1)(A). Pub. L. 96–502, § 4(c), substituted ''effective on the date on which the applicable underground injection control program takes effect'' for ''effective three years after December 16, 1974''.

Subsec. (d)(1). Pub. L. 96–502, § 3, inserted provision that such term does not include the underground injection of natural gas for purposes of storage.

1977—Subsec. (b)(3). Pub. L. 95–190 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–1, 300h–4, 300j–2, 300j–6 of this title.

§ 300h–1. State primary enforcement responsibility

(a) List of States in need of a control program; amendment of list

Within 180 days after December 16, 1974, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing

(1)(A) Each State listed under subsection (a) of this section shall within 270 days after the date of promulgation of any regulation under section 300h of this title (or, if later, within 270 days after such State is first listed under subsection (a) of this section) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 300h of this title; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 300h of this title revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) of this section shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) Program by Administrator for State without primary enforcement responsibility; restrictions

If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) of this section, if the Administrator determines under subsection (b)(3) of this section that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A) of this section, or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1) of this section, the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 300h(b) of this title. Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production or natural gas storage operations, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) "Applicable underground injection control program" defined

For purposes of this subchapter, the term ''applicable underground injection control program'' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b) of this section, or (2) which has been prescribed by the Administrator under subsection (c) of this section.

(e) Primary enforcement responsibility by Indian Tribe

An Indian Tribe may assume primary enforcement responsibility for underground injection control under this section consistent with such regulations as the Administrator has prescribed

pursuant to this part and section 300j–11 of this title. The area over which such Indian Tribe exercises governmental jurisdiction need not have been listed under subsection (a) of this section, and such Tribe need not submit an application to assume primary enforcement responsibility within the 270-day deadline noted in subsection (b)(1)(A) of this section. Until an Indian Tribe assumes primary enforcement responsibility, the currently applicable underground injection control program shall continue to apply. If an applicable underground injection control program does not exist for an Indian Tribe, the Administrator shall prescribe such a program pursuant to subsection (c) of this section, and consistent with section 300h(b) of this title, within 270 days after June 19, 1986, unless an Indian Tribe first obtains approval to assume primary enforcement responsibility for underground injection control.

(July 1, 1944, ch. 373, title XIV, § 1422, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1676; amended Pub. L. 95–190, § 6(a), Nov. 16, 1977, 91 Stat. 1396; Pub. L. 99–339, title II, § 201(a), title III, § 302(c), June 19, 1986, 100 Stat. 653, 666.)

AMENDMENTS

1986—Subsec. (c)(1). Pub. L. 99–339, § 201(a), inserted ''or natural gas storage operations, or'' after ''production''.

Subsec. (e). Pub. L. 99–339, § 302(c), added subsec. (e).

1977—Subsec. (b)(1)(A). Pub. L. 95–190 inserted provisions relating to extension of date for submission of applications by any State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300h–2, 300h–4, 300j–2, 6924 of this title.

§ 300h–2. Enforcement of program

(a) Notice to State and violator; issuance of administrative order; civil action

(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 300h–1(b)(3) of this title or section 300h–4(c) of this title) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (c) of this section requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, the Administrator shall issue an order under subsection (c) of this section requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(b) Civil and criminal actions

Civil actions referred to in paragraphs (1) and (2) of subsection (a) of this section shall be brought in the appropriate United States district court. Such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program or with an order issued under subsection (c) of this section. The court may enter such judgment as protection of public health may require. Any person who violates any requirement of an applicable underground injection control program or an order requiring compliance under subsection (c) of this section—

(1) shall be subject to a civil penalty of not more than $25,000 for each day of such violation, and

(2) if such violation is willful, such person may, in addition to or in lieu of the civil penalty authorized by paragraph (1), be imprisoned for not more than 3 years, or fined in accordance with title 18, or both.

(c) Administrative orders

(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part other than those relating to—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

(2) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, or other requirement of this part relating to—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $5,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

(3)(A) An order under this subsection shall be issued by the Administrator after opportunity (provided in accordance with this subparagraph) for a hearing. Before issuing the order, the Administrator shall give to the person to whom it is directed written notice of the Administrator's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the

order. Such hearing shall not be subject to section 554 or 556 of title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

(B) The Administrator shall provide public notice of, and reasonable opportunity to comment on, any proposed order.

(C) Any citizen who comments on any proposed order under subparagraph (B) shall be given notice of any hearing under this subsection and of any order. In any hearing held under subparagraph (A), such citizen shall have a reasonable opportunity to be heard and to present evidence.

(D) Any order issued under this subsection shall become effective 30 days following its issuance unless an appeal is taken pursuant to paragraph (6).

(4)(A) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and may specify a reasonable time for compliance.

(B) In assessing any civil penalty under this subsection, the Administrator shall take into account appropriate factors, including (i) the seriousness of the violation; (ii) the economic benefit (if any) resulting from the violation; (iii) any history of such violations; (iv) any good-faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require.

(5) Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action, or has issued an order under this subsection assessing a penalty, shall not be subject to an action under subsection (b) of this section or section 300h–3(c) or 300j–8 of this title, except that the foregoing limitation on civil actions under section 300j–8 of this title shall not apply with respect to any violation for which—

(A) a civil action under section 300j–8(a)(1) of this title has been filed prior to commencement of an action under this subsection, or

(B) a notice of violation under section 300j–8(b)(1) of this title has been given before commencement of an action under this subsection and an action under section 300j–8(a)(1) of this title is filed before 120 days after such notice is given.

(6) Any person against whom an order is issued or who commented on a proposed order pursuant to paragraph (3) may file an appeal of such order with the United States District Court for the District of Columbia or the district in which the violation is alleged to have occurred. Such an appeal may only be filed within the 30-day period beginning on the date the order is issued. Appellant shall simultaneously send a copy of the appeal by certified mail to the Administrator and to the Attorney General. The Administrator shall promptly file in such court a certified copy of the record on which such order was imposed. The district court shall not set aside or remand such order unless there is not substantial evidence on the record, taken as a whole, to support the finding of a violation or, unless the Administrator's assessment of penalty or requirement for compliance constitutes an abuse of discretion. The district court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of a penalty constitutes an abuse of discretion. Notwithstanding section 300j–7(a)(2) of this title, any order issued under paragraph (3) shall be subject to judicial review exclusively under this paragraph.

(7) If any person fails to pay an assessment of a civil penalty—

(A) after the order becomes effective under paragraph (3), or

(B) after a court, in an action brought under paragraph (6), has entered a final judgment in favor of the Administrator,

the Administrator may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys' fees, and interest at currently prevailing rates from the date the order is effective or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(8) The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanction.

(d) State authority to adopt or enforce laws or regulations respecting underground injection unaffected

Nothing in this subchapter shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this subchapter.

(July 1, 1944, ch. 373, title XIV, § 1423, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1677; amended Pub. L. 96–502, § 2(b), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title II, § 202, June 19, 1986, 100 Stat. 654.)

AMENDMENTS

1986—Pub. L. 99–339, § 202(d), substituted ''Enforcement'' for ''Failure of State to assure enforcement'' in section catchline.

Subsec. (a)(1). Pub. L. 99–339, § 202(a)(1), substituted provisions which related to issuance of an order of compliance or commencement of a civil action by the Administrator if the State has not commenced enforcement against the violator for provisions directing the Administrator to give public notice and request that the State report within 15 days thereafter as to steps taken to enforce compliance and authorizing the Administrator to commence a civil action upon failure by the State to comply timely.

Subsec. (a)(2). Pub. L. 99–339, § 202(a)(2), substituted provision that the Administrator issue an order under subsec. (c) of this section or commence a civil action under subsec. (b) of this section for provision that he commence a civil action under subsec. (b)(1) of this section.

Subsec. (b). Pub. L. 99–339, § 202(b), amended subsec. (b) generally, substituting provisions relating to jurisdiction of the appropriate Federal district court, entry of judgment, civil penalty of $25,000 per day, criminal

liability and fine for willful violation for provisions which related to judicial determinations in appropriate Federal district courts, civil penalties of $5,000 per day, and fines of $10,000 per day for willful violations.

Subsecs. (c), (d). Pub. L. 99–339, § 202(c), added subsec. (c) and redesignated former subsec. (c) as (d).

1980—Subsec. (a)(1). Pub. L. 96–502 inserted reference to section 300h–4(c) of this title.

§ 300h–3. Interim regulation of underground injections

(a) Necessity for well operation permit; designation of one aquifer areas

(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b) of this section. The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b) Well operation permits; publication in Federal Register; notice and hearing; issuance or denial; conditions for issuance

(1) During the period beginning on the date an area is designated under subsection (a) of this section and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) of this section only, if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

(c) Civil penalties; separate violations; penalties for willful violations; temporary restraining order or injunction

Any person who operates a new underground injection well in violation of subsection (b) of this section, (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b) of this section, he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

(d) "New underground injection well" defined

For purposes of this section, the term ''new underground injection well'' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before December 16, 1974.

(e) Areas with one aquifer; publication in Federal Register; commitments for Federal financial assistance

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

(July 1, 1944, ch. 373, title XIV, § 1424, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–2, 300h–6 of this title.

§ 300h–4. Optional demonstration by States relating to oil or natural gas

(a) Approval of State underground injection control program; alternative showing of effectiveness of program by State

For purposes of the Administrator's approval or disapproval under section 300h–1 of this title of that portion of any State underground injection control program which relates to—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production or natural gas storage operations, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

in lieu of the showing required under subparagraph (A) of section 300h–1(b)(1) of this title the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 300h(b)(1) of this title and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(b) Revision or amendment of requirements of regulation; showing of effectiveness of program by State

If the Administrator revises or amends any requirement of a regulation under section 300h of this title relating to any aspect of the underground injection referred to in subsection (a) of this section, in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) of this section has been made, in lieu of the showing required under section 300h–1(b)(1)(B) of this title the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 300h(b)(1) of this title and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(c) Primary enforcement responsibility of State; voiding by Administrator under duly promulgated rule

(1) Section 300h–1(b)(3) of this title shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 300h–1 of this title in the same manner as provided in such subsection with respect to a determination described in such subsection.

(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.

(July 1, 1944, ch. 373, title XIV, § 1425, as added Pub. L. 96–502, § 2(a), Dec. 5, 1980, 94 Stat. 2737; amended Pub. L. 99–339, title II, § 201(a), June 19, 1986, 100 Stat. 653.)

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–339 inserted ''or natural gas storage operations, or'' after ''production''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–2, 300j–2 of this title.

§ 300h–5. Regulation of State programs

Not later than 18 months after June 19, 1986, the Administrator shall modify regulations issued under this chapter for Class I injection wells to identify monitoring methods, in addition to those in effect on November 1, 1985, including groundwater monitoring. In accordance with such regulations, the Administrator, or delegated State authority, shall determine the applicability of such monitoring methods, wherever appropriate, at locations and in such a manner as to provide the earliest possible detection of fluid migration into, or in the direction of, underground sources of drinking water from such wells, based on its assessment of the potential for fluid migration from the injection zone that may be harmful to human health or the environment. For purposes of this subsection, a class I injection well is defined in accordance with 40 CFR 146.05 as in effect on November 1, 1985.

(July 1, 1944, ch. 373, title XIV, § 1426, as added Pub. L. 99–339, title II, § 201(b), June 19, 1986, 100 Stat. 653; amended Pub. L. 104–66, title II, § 2021(f), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title V, § 501(f)(2), Aug. 6, 1996, 110 Stat. 1691.)

AMENDMENTS

1996—Pub. L. 104–182 directed technical amendment of section catchline and subsec. (a) designation. The provision directing amendment of subsec. (a) designation could not be executed because section does not contain a subsec. (a).

1995—Pub. L. 104–66 struck out subsec. (a) designation and heading before ''Not later than'' and struck out heading and text of subsec. (b). Text read as follows: ''The Administrator shall submit a report to Congress, no later than September 1987, summarizing the results of State surveys required by the Administrator under this section. The report shall include each of the following items of information:

''(1) The numbers and categories of class V wells which discharge nonhazardous waste into or above an underground source of drinking water.

''(2) The primary contamination problems associated with different categories of these disposal wells.

''(3) Recommendations for minimum design, construction, installation, and siting requirements that should be applied to protect underground sources of drinking water from such contamination wherever necessary.''

§ 300h–6. Sole source aquifer demonstration program

(a) Purpose

The purpose of this section is to establish procedures for development, implementation, and assessment of demonstration programs designed to protect critical aquifer protection areas lo-

cated within areas designated as sole or principal source aquifers under section 300h–3(e) of this title.

(b) "Critical aquifer protection area" defined

For purposes of this section, the term ''critical aquifer protection area'' means either of the following:

(1) All or part of an area located within an area for which an application or designation as a sole or principal source aquifer pursuant to section 300h–3(e) of this title, has been submitted and approved by the Administrator and which satisfies the criteria established by the Administrator under subsection (d) of this section.

(2) All or part of an area which is within an aquifer designated as a sole source aquifer as of June 19, 1986, and for which an areawide ground water quality protection plan has been approved under section 208 of the Clean Water Act [33 U.S.C. 1288] prior to June 19, 1986.

(c) Application

Any State, municipal or local government or political subdivision thereof or any planning entity (including any interstate regional planning entity) that identifies a critical aquifer protection area over which it has authority or jurisdiction may apply to the Administrator for the selection of such area for a demonstration program under this section. Any applicant shall consult with other government or planning entities with authority or jurisdiction in such area prior to application. Applicants, other than the Governor, shall submit the application for a demonstration program jointly with the Governor.

(d) Criteria

Not later than 1 year after June 19, 1986, the Administrator shall, by rule, establish criteria for identifying critical aquifer protection areas under this section. In establishing such criteria, the Administrator shall consider each of the following:

(1) The vulnerability of the aquifer to contamination due to hydrogeologic characteristics.

(2) The number of persons or the proportion of population using the ground water as a drinking water source.

(3) The economic, social and environmental benefits that would result to the area from maintenance of ground water of high quality.

(4) The economic, social and environmental costs that would result from degradation of the quality of the ground water.

(e) Contents of application

An application submitted to the Administrator by any applicant for a demonstration program under this section shall meet each of the following requirements:

(1) The application shall propose boundaries for the critical aquifer protection area within its jurisdiction.

(2) The application shall designate or, if necessary, establish a planning entity (which shall be a public agency and which shall include representation of elected local and State governmental officials) to develop a comprehensive management plan (hereinafter in this section referred to as the ''plan'') for the critical protection area. Where a local government planning agency exists with adequate authority to carry out this section with respect to any proposed critical protection area, such agency shall be designated as the planning entity.

(3) The application shall establish procedures for public participation in the development of the plan, for review, approval, and adoption of the plan, and for assistance to municipalities and other public agencies with authority under State law to implement the plan.

(4) The application shall include a hydrogeologic assessment of surface and ground water resources within the critical protection area.

(5) The application shall include a comprehensive management plan for the proposed protection area.

(6) The application shall include the measures and schedule proposed for implementation of such plan.

(f) Comprehensive plan

(1) The objective of a comprehensive management plan submitted by an applicant under this section shall be to maintain the quality of the ground water in the critical protection area in a manner reasonably expected to protect human health, the environment and ground water resources. In order to achieve such objective, the plan may be designed to maintain, to the maximum extent possible, the natural vegetative and hydrogeological conditions. Each of the following elements shall be included in such a protection plan:

(A) A map showing the detailed boundary of the critical protection area.

(B) An identification of existing and potential point and nonpoint sources of ground water degradation.

(C) An assessment of the relationship between activities on the land surface and ground water quality.

(D) Specific actions and management practices to be implemented in the critical protection area to prevent adverse impacts on ground water quality.

(E) Identification of authority adequate to implement the plan, estimates of program costs, and sources of State matching funds.

(2) Such plan may also include the following:

(A) A determination of the quality of the existing ground water recharged through the special protection area and the natural recharge capabilities of the special protection area watershed.

(B) Requirements designed to maintain existing underground drinking water quality or improve underground drinking water quality if prevailing conditions fail to meet drinking water standards, pursuant to this chapter and State law.

(C) Limits on Federal, State, and local government, financially assisted activities and projects which may contribute to degradation of such ground water or any loss of natural surface and subsurface infiltration of purifi-

cation capability of the special protection watershed.

(D) A comprehensive statement of land use management including emergency contingency planning as it pertains to the maintenance of the quality of underground sources of drinking water or to the improvement of such sources if necessary to meet drinking water standards pursuant to this chapter and State law.

(E) Actions in the special protection area which would avoid adverse impacts on water quality, recharge capabilities, or both.

(F) Consideration of specific techniques, which may include clustering, transfer of development rights, and other innovative measures sufficient to achieve the objectives of this section.

(G) Consideration of the establishment of a State institution to facilitate and assist funding a development transfer credit system.

(H) A program for State and local implementation of the plan described in this subsection in a manner that will insure the continued, uniform, consistent protection of the critical protection area in accord with the purposes of this section.

(I) Pollution abatement measures, if appropriate.

(g) Plans under section 208 of Clean Water Act

A plan approved before June 19, 1986, under section 208 of the Clean Water Act [33 U.S.C. 1288] to protect a sole source aquifer designated under section 300h–3(e) of this title shall be considered a comprehensive management plan for the purposes of this section.

(h) Consultation and hearings

During the development of a comprehensive management plan under this section, the planning entity shall consult with, and consider the comments of, appropriate officials of any municipality and State or Federal agency which has jurisdiction over lands and waters within the special protection area, other concerned organizations and technical and citizen advisory committees. The planning entity shall conduct public hearings at places within the special protection area for the purpose of providing the opportunity to comment on any aspect of the plan.

(i) Approval or disapproval

Within 120 days after receipt of an application under this section, the Administrator shall approve or disapprove the application. The approval or disapproval shall be based on a determination that the critical protection area satisfies the criteria established under subsection (d) of this section and that a demonstration program for the area would provide protection for ground water quality consistent with the objectives stated in subsection (f) of this section. The Administrator shall provide to the Governor a written explanation of the reasons for the disapproval of any such application. Any petitioner may modify and resubmit any application which is not approved. Upon approval of an application, the Administrator may enter into a cooperative agreement with the applicant to establish a demonstration program under this section.

(j) Grants and reimbursement

Upon entering a cooperative agreement under subsection (i) of this section, the Administrator may provide to the applicant, on a matching basis, a grant of 50 per centum of the costs of implementing the plan established under this section. The Administrator may also reimburse the applicant of an approved plan up to 50 per centum of the costs of developing such plan, except for plans approved under section 208 of the Clean Water Act [33 U.S.C. 1288]. The total amount of grants under this section for any one aquifer, designated under section 300h–3(e) of this title, shall not exceed $4,000,000 in any one fiscal year.

(k) Activities funded under other law

No funds authorized under this section may be used to fund activities funded under other sections of this chapter or the Clean Water Act [33 U.S.C. 1251 et seq.], the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.], the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9601 et seq.] or other environmental laws.

***(l)* Savings provision**

Nothing under this section shall be construed to amend, supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws; or any requirement imposed or right provided under any Federal or State environmental or public health statute.

(m) Authorization of appropriations

There are authorized to be appropriated to carry out this section not more than the following amounts:

Fiscal year:	*Amount*
1987	$10,000,000
1988	15,000,000
1989	17,500,000
1990	17,500,000
1991	17,500,000
1992–2003	15,000,000.

Matching grants under this section may also be used to implement or update any water quality management plan for a sole or principal source aquifer approved (before June 19, 1986) by the Administrator under section 208 of the Federal Water Pollution Control Act [33 U.S.C. 1288].

(July 1, 1944, ch. 373, title XIV, § 1427, as added and amended Pub. L. 99–339, title II, § 203, title III, § 301(f), June 19, 1986, 100 Stat. 657, 664; Pub. L. 104–66, title II, § 2021(g), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title I, § 120(a), title V, § 501(b)(2), (f)(3), Aug. 6, 1996, 110 Stat. 1650, 1691.)

REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (k), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (k), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82

(§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (k), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–182, § 501(f)(3), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b)(1). Pub. L. 104–182, § 120(a)(1), struck out ''not later than 24 months after June 19, 1986,'' after ''by the Administrator''.

Subsec. (k). Pub. L. 104–182, § 501(b)(2), substituted ''this section'' for ''this subsection''.

Subsec. (m). Pub. L. 104–182, § 120(a)(2), inserted table item relating to fiscal years 1992 through 2003.

1995—Subsecs. (*l*) to (n). Pub. L. 104–66 redesignated subsecs. (m) and (n) as (*l*) and (m), respectively, and struck out heading and text of former subsec. (*l*). Text read as follows: ''Not later than December 31, 1989, each State shall submit to the Administrator a report assessing the impact of the program on ground water quality and identifying those measures found to be effective in protecting ground water resources. No later than September 30, 1990, the Administrator shall submit to Congress a report summarizing the State reports, and assessing the accomplishments of the sole source aquifer demonstration program including an identification of protection methods found to be most effective and recommendations for their application to protect ground water resources from contamination whenever necessary.''

1986—Subsec. (n). Pub. L. 99–339 added subsec. (n).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–14 of this title.

§ 300h–7. State programs to establish wellhead protection areas

(a) State programs

The Governor or Governor's designee of each State shall, within 3 years of June 19, 1986, adopt and submit to the Administrator a State program to protect wellhead areas within their jurisdiction from contaminants which may have any adverse effect on the health of persons. Each State program under this section shall, at a minimum—

(1) specify the duties of State agencies, local governmental entities, and public water supply systems with respect to the development and implementation of programs required by this section;

(2) for each wellhead, determine the wellhead protection area as defined in subsection (e) of this section based on all reasonably available hydrogeologic information on ground water flow, recharge and discharge and other information the State deems necessary to adequately determine the wellhead protection area;

(3) identify within each wellhead protection area all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

(4) describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training, and demonstration projects to protect the water supply within wellhead protection areas from such contaminants;

(5) include contingency plans for the location and provision of alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants; and

(6) include a requirement that consideration be given to all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system.

(b) Public participation

To the maximum extent possible, each State shall establish procedures, including but not limited to the establishment of technical and citizens' advisory committees, to encourage the public to participate in developing the protection program for wellhead areas and source water assessment programs under section 300j–13 of this title. Such procedures shall include notice and opportunity for public hearing on the State program before it is submitted to the Administrator.

(c) Disapproval

(1) In general

If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) of this section is not adequate to protect public water systems as required by subsection (a) of this section or a State program under section 300j–13 of this title or section 300g–7(b) of this title does not meet the applicable requirements of section 300j–13 of this title or section 300g–7(b) of this title, the Administrator shall disapprove such program or portion thereof. A State program developed pursuant to subsection (a) of this section shall be deemed to be adequate unless the Administrator determines, within 9 months of the receipt of a State program, that such program (or portion thereof) is inadequate for the purpose of protecting public water systems as required by this section from contaminants that may have any adverse effect on the health of persons. A State program developed pursuant to section 300j–13 of this title or section 300g–7(b) of this title shall be deemed to meet the applicable requirements of section 300j–13 of this title or section 300g–7(b) of this title unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements. If the Administrator determines that a proposed State program (or any portion thereof) is disapproved, the Administrator shall submit a written statement of the reasons for such determination to the Governor of the State.

(2) Modification and resubmission

Within 6 months after receipt of the Administrator's written notice under paragraph (1) that any proposed State program (or portion thereof) is disapproved, the Governor or Governor's designee, shall modify the program based upon the recommendations of the Administrator and resubmit the modified program to the Administrator.

(d) Federal assistance

After the date 3 years after June 19, 1986, no State shall receive funds authorized to be appropriated under this section except for the purpose of implementing the program and requirements of paragraphs (4) and (6) of subsection (a) of this section.

(e) "Wellhead protection area" defined

As used in this section, the term ''wellhead protection area'' means the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield. The extent of a wellhead protection area, within a State, necessary to provide protection from contaminants which may have any adverse effect on the health of persons is to be determined by the State in the program submitted under subsection (a) of this section. Not later than one year after June 19, 1986, the Administrator shall issue technical guidance which States may use in making such determinations. Such guidance may reflect such factors as the radius of influence around a well or wellfield, the depth of drawdown of the water table by such well or wellfield at any given point, the time or rate of travel of various contaminants in various hydrologic conditions, distance from the well or wellfield, or other factors affecting the likelihood of contaminants reaching the well or wellfield, taking into account available engineering pump tests or comparable data, field reconnaissance, topographic information, and the geology of the formation in which the well or wellfield is located.

(f) Prohibitions

(1) Activities under other laws

No funds authorized to be appropriated under this section may be used to support activities authorized by the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.], the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9601 et seq.], or other sections of this chapter.

(2) Individual sources

No funds authorized to be appropriated under this section may be used to bring individual sources of contamination into compliance.

(g) Implementation

Each State shall make every reasonable effort to implement the State wellhead area protection program under this section within 2 years of submitting the program to the Administrator. Each State shall submit to the Administrator a biennial status report describing the State's progress in implementing the program. Such report shall include amendments to the State program for water wells sited during the biennial period.

(h) Federal agencies

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any potential source of contaminants identified by a State program pursuant to the provisions of subsection (a)(3) of this section shall be subject to and comply with all requirements of the State program developed according to subsection (a)(4) of this section applicable to such potential source of contaminants, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable charges and fees. The President may exempt any potential source under the jurisdiction of any department, agency, or instrumentality in the executive branch if the President determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to the lack of an appropriation unless the President shall have specifically requested such appropriation as part of the budgetary process and the Congress shall have failed to make available such requested appropriations.

(i) Additional requirement

(1) In general

In addition to the provisions of subsection (a) of this section, States in which there are more than 2,500 active wells at which annular injection is used as of January 1, 1986, shall include in their State program a certification that a State program exists and is being adequately enforced that provides protection from contaminants which may have any adverse effect on the health of persons and which are associated with the annular injection or surface disposal of brines associated with oil and gas production.

(2) "Annular injection" defined

For purposes of this subsection, the term ''annular injection'' means the reinjection of brines associated with the production of oil or gas between the production and surface casings of a conventional oil or gas producing well.

(3) Review

The Administrator shall conduct a review of each program certified under this subsection.

(4) Disapproval

If a State fails to include the certification required by this subsection or if in the judgment of the Administrator the State program certified under this subsection is not being adequately enforced, the Administrator shall disapprove the State program submitted under subsection (a) of this section.

(j) Coordination with other laws

Nothing in this section shall authorize or require any department, agency, or other instrumentality of the Federal Government or State or local government to apportion, allocate or otherwise regulate the withdrawal or beneficial use of ground or surface waters, so as to abrogate or modify any existing rights to water established pursuant to State or Federal law, including interstate compacts.

(k) Authorization of appropriations

Unless the State program is disapproved under this section, the Administrator shall make

grants to the State for not less than 50 or more than 90 percent of the costs incurred by a State (as determined by the Administrator) in developing and implementing each State program under this section. For purposes of making such grants there is authorized to be appropriated not more than the following amounts:

Fiscal year:	*Amount*
1987	$20,000,000
1988	20,000,000
1989	35,000,000
1990	35,000,000
1991	35,000,000
1992–2003	30,000,000.

(July 1, 1944, ch. 373, title XIV, § 1428, as added and amended Pub. L. 99–339, title II, § 205, title III, § 301(e), June 19, 1986, 100 Stat. 660, 664; Pub. L. 104–182, title I, §§ 120(b), 132(b), title V, § 501(f)(4), Aug. 6, 1996, 110 Stat. 1650, 1674, 1692.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (f)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (f)(1), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (f)(1), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–182, § 501(f)(4), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b). Pub. L. 104–182, § 132(b)(4), inserted before period at end of first sentence ''and source water assessment programs under section 300j–13 of this title''.

Subsec. (c)(1). Pub. L. 104–182, § 132(b)(3), which directed substitution of ''is disapproved'' for ''is inadequate'' in third sentence, was executed by making the substitution in fourth sentence to reflect the probable intent of Congress and the amendment by Pub. L. 104–182, § 132(b)(2). See below.

Pub. L. 104–182, § 132(b)(2), inserted after second sentence ''A State program developed pursuant to section 300j–13 of this title or section 300g–7(b) of this title shall be deemed to meet the applicable requirements of section 300j–13 of this title or section 300g–7(b) of this title unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.''

Pub. L. 104–182, § 132(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''If, in the judgment of the Administrator, a State program (or portion thereof, including the definition of a wellhead protection area), is not adequate to protect public water systems as required by this section, the Administrator shall disapprove such program (or portion thereof).''

Subsec. (c)(2). Pub. L. 104–182, § 132(b)(3), substituted ''is disapproved'' for ''is inadequate''.

Subsec. (k). Pub. L. 104–182, § 120(b), inserted table item relating to fiscal years 1992 through 2003.

1986—Subsec. (k). Pub. L. 99–339, § 301(e), added subsec. (k).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300j–12, 300j–13, 300j–14 of this title.

§ 300h–8. State ground water protection grants

(a) In general

The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

(b) Guidance

Not later than 1 year after August 6, 1996, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

(c) Conditions of grants

(1) In general

The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

(2) Innovative program grants

The Administrator may also award a grant pursuant to this subsection for innovative programs proposed by a State for the prevention of ground water contamination.

(3) Allocation of funds

The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this section are allocated to each State that submits an application that is approved by the Administrator pursuant to this section.

(4) Limitation on grants

No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

(d) Amount of grants

The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

(e) Evaluations and reports

Not later than 3 years after August 6, 1996, and every 3 years thereafter, the Administrator

shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this section and report to the Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1997 through 2003.

(July 1, 1944, ch. 373, title XIV, § 1429, as added Pub. L. 104–182, title I, § 131, Aug. 6, 1996, 110 Stat. 1672.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–8 of this title.

PART D—EMERGENCY POWERS

§ 300i. Emergency powers

(a) Actions authorized against imminent and substantial endangerment to health

Notwithstanding any other provision of this subchapter the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system or an underground source of drinking water may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), including orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment, and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Penalties for violations; separate offenses

Any person who violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) of this section may, in an action brought in the appropriate United States district court to enforce such order, be subject to a civil penalty of not to exceed $15,000 for each day in which such violation occurs or failure to comply continues.

(July 1, 1944, ch. 373, title XIV, § 1431, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1680; amended Pub. L. 99–339, title II, § 204, June 19, 1986, 100 Stat. 660; Pub. L. 104–182, title I, § 113(d), Aug. 6, 1996, 110 Stat. 1636.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–182 substituted ''$15,000'' for ''$5,000''.

1986—Subsec. (a). Pub. L. 99–339, § 204(1), (2), inserted ''or an underground source of drinking water'' after ''to enter a public water system'' and ''including orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment,'' after ''including travelers),''.

Subsec. (b). Pub. L. 99–339, § 204(3), struck out ''willfully'' after ''person who'' and substituted ''subject to a civil penalty of not to exceed'' for ''fined not more than''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7412, 9606 of this title.

§ 300i–1. Tampering with public water systems

(a) Tampering

Any person who tampers with a public water system shall be imprisoned for not more than 5 years, or fined in accordance with title 18, or both.

(b) Attempt or threat

Any person who attempts to tamper, or makes a threat to tamper, with a public drinking water system be imprisoned for not more than 3 years, or fined in accordance with title 18, or both.

(c) Civil penalty

The Administrator may bring a civil action in the appropriate United States district court (as determined under the provisions of title 28) against any person who tampers, attempts to tamper, or makes a threat to tamper with a public water system. The court may impose on such person a civil penalty of not more than $50,000 for such tampering or not more than $20,000 for such attempt or threat.

(d) "Tamper" defined

For purposes of this section, the term ''tamper'' means—

(1) to introduce a contaminant into a public water system with the intention of harming persons; or

(2) to otherwise interfere with the operation of a public water system with the intention of harming persons.

(July 1, 1944, ch. 373, title XIV, § 1432, as added Pub. L. 99–339, title I, § 108, June 19, 1986, 100 Stat. 651; amended Pub. L. 104–182, title V, § 501(f)(5), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

PART E—GENERAL PROVISIONS

§ 300j. Assurances of availability of adequate supplies of chemicals necessary for treatment of water

(a) Certification of need application

If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when re-

quired for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a ''certification of need'') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

(b) Application requirements; publication in Federal Register; waiver; certification, issuance or denial

(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

(3) Within 30 days after—

(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

(c) Certification of need; issuance; executive orders; implementation of orders; equitable apportionment of orders; factors considered

(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufactures, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

(3) Subject to subsection (f) of this section, any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

(d) Breach of contracts; defense

There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1) of this section, that such delay or failure was caused solely by compliance with such order.

(e) Penalties for noncompliance with orders; temporary restraining orders and preliminary or permanent injunctions

(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) of this section shall be fined not more than $5,000 for each such failure to comply.

(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) of this section shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1) of this section, he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

(f) Termination date

No certification of need or order issued under this section may remain in effect for more than one year.

(July 1, 1944, ch. 373, title XIV, § 1441, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1680; amended Pub. L. 95–190, § 7, Nov. 16, 1977, 91 Stat. 1396; Pub. L. 96–63, § 3, Sept. 6, 1979, 93 Stat. 411; Pub. L. 99–339, title III, § 301(d), June 19, 1986, 100 Stat. 664; Pub. L. 104–182, title V, § 501(c), Aug. 6, 1996, 110 Stat. 1691.)

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–182 inserted a period after ''year''.

1986—Subsec. (f). Pub. L. 99–339 substituted ''in effect for more than one year'' for ''in effect— (1) for more than one year, or (2) September 30, 1982, whichever occurs first.''

1979—Subsec. (f)(2). Pub. L. 96–63 substituted ''September 30, 1982'' for ''September 30, 1979''.

1977—Subsec. (f). Pub. L. 95–190 substituted ''September 30, 1979'' for ''June 30, 1977''.

EX. ORD. NO. 11879. DELEGATION OF FUNCTIONS TO SECRETARY OF COMMERCE RELATING TO ORDERS FOR PROVISION OF CHEMICALS OR SUBSTANCES NECESSARY FOR TREATMENT OF WATER

Ex. Ord. No. 11879, Sept. 17, 1975, 40 F.R. 43197, provided:

By virtue of the authority vested in me by Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (88 Stat. 1680, 42 U.S.C. 300j), and as President of the United States, the Secretary of Commerce is hereby delegated, with power to redelegate to agencies, officers and employees of the Government, the functions of the President contained in said section 1441 [this section]. Those functions shall be administered under regulations or agreements which are identical or compatible with other regulations and agreements, including those provided pursuant to Executive Order No. 10480, as amended [formerly set out as a note under section 2153 of Title 50, Appendix, War and National Defense], for the allocation of similar chemicals or substances.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300g–3 of this title.

§ 300j–1. Research, technical assistance, information, training of personnel

(a) Specific powers and duties of Administrator

(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this subchapter, the Administrator is authorized to—

(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this subchapter.

(3) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after December 16, 1974, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water

sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after December 16, 1974, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(b) Emergency situations

The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph[1] shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph[1] as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.[1]

(c) Establishment of training programs and grants for training; training fees

The Administrator shall—

(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies or units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this subchapter (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 300j–2(c) of this title)).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section other than subsection (a)(2)(B)[2] of this section and provisions relating to research $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; $35,000,000 for the fiscal year ending June 30, 1977; $17,000,000 for each of the fiscal years 1978 and 1979; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982. There are authorized to be appropriated to carry out subsection (a)(2)(B)[2] of this section $8,000,000 for each of the fiscal years 1978 through 1982. There are authorized to be appropriated to carry out subsection (a)(2)(B)[2] of this section not more than the following amounts:

Fiscal year:	*Amount*
1987	$7,650,000
1988	7,650,000
1989	8,050,000
1990	8,050,000
1991	8,050,000

There are authorized to be appropriated to carry out the provisions of this section (other than subsection (g)[3] of this section, subsection (a)(2)(B)[2] of this section, and provisions relating to research), not more than the following amounts:

Fiscal year:	*Amount*
1987	$35,600,000
1988	35,600,000

[1] So in original. Probably should be ''this subsection''.

[2] See References in Text note below.

[3] So in original. Probably should be subsection ''(e)''.

Fiscal year:	*Amount*
1989	38,020,000
1990	38,020,000
1991	38,020,000

(e) Technical assistance

The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations. Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations. The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to the Administrator to be used for such technical assistance $15,000,000 for each of the fiscal years 1997 through 2003. No portion of any State loan fund established under section 300j–12 of this title (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses. Of the total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes.

(July 1, 1944, ch. 373, title XIV, § 1442, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1682; amended Pub. L. 95–190, §§ 2(a), 3(a), (b), (e)(1), 4, 9, 10(b), 13, Nov. 16, 1977, 91 Stat. 1393–1395, 1397–1399; Pub. L. 96–63, § 1, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96–502, § 5, Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title I, § 107, title III, §§ 301(a), (g), 304(a), June 19, 1986, 100 Stat. 651, 663, 665, 667; Pub. L. 104–66, title II, § 2021(h), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title I, §§ 121, 122, Aug. 6, 1996, 110 Stat. 1651.)

REFERENCES IN TEXT

Subsection (a)(2)(B) of this section, referred to in subsec. (d), was redesignated subsec. (b) of this section by Pub. L. 104–182, title I, § 121(3), Aug. 6, 1996, 110 Stat. 1651.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–182, § 121(4)(A), added heading and text of par. (2) and struck out former par. (2) which read as follows: ''(2)(A) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 300j–2(c)(1) of this title).''

Subsec. (a)(2)(B). Pub. L. 104–182, § 121(3), redesignated subpar. (B) as subsec. (b) and transferred that subsec. to appear after subsec. (a).

Subsec. (a)(3), (11). Pub. L. 104–182, § 121(4)(B), (C), redesignated par. (11) as (3), transferred that par. to appear before par. (4), and struck out former par. (3) which provided that the Administrator was to conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 300g–1 of this title.

Subsec. (b). Pub. L. 104–182, § 121(2), (3), redesignated subsec. (a)(2)(B) as subsec. (b), transferred that subsec. to appear after subsec. (a), and struck out former subsec. (b) which read as follows: ''In carrying out this subchapter, the Administrator is authorized to—

''(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

''(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this subchapter;''.

Subsecs. (b)(3), (c)(3). Pub. L. 104–182, § 121(1), which directed redesignation of subsec. (b)(3) as par. (3) of subsec. (d) and transfer of that par. to follow par. (2) of subsec. (d), was executed by redesignating subsec. (b)(3) as par. (3) of subsec. (c) and transferring that par. to follow par. (2) of subsec. (c) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (c) by Pub. L. 104–66. See 1995 Amendment note below. Moreover, subsec. (d) does not have any pars.

Subsec. (e). Pub. L. 104–182, § 122, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Administrator is authorized to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include 'circuit-rider' programs, training, and preliminary engineering studies. There are authorized to be appropriated to carry out this subsection $10,000,000 for each of the fiscal years 1987 through 1991. Not less than the greater of—

''(1) 3 percent of the amounts appropriated under this subsection, or

''(2) $280,000

shall be utilized for technical assistance to public water systems owned or operated by Indian tribes.''

1995—Subsecs. (c) to (g). Pub. L. 104–66 redesignated subsecs. (d), (f), and (g) as (c), (d), and (e), respectively, and struck out former subsec. (c) which read as follows: ''Not later than eighteen months after November 16, 1977, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data complied by the National Water Commission and others shall be utilized to the extent possible.''

1986—Subsec. (e). Pub. L. 99–339, § 304(a), struck out subsec. (e) which authorized the Administrator to make grants to public water systems which are required, under State or local law, to meet standards relating to drinking turbidity which are more stringent than the standards in effect under this subchapter.

Subsec. (f). Pub. L. 99–339, § 301(a), authorized appropriations to carry out subsec. (a)(2)(B) of this section for fiscal years 1987 to 1991 and to carry out provisions of this section other than subsecs. (a)(2)(B) and (g) and provisions relating to research for fiscal years 1987 to 1991.

Subsec. (g). Pub. L. 99–339, § 301(g), authorized appropriations to carry out this subsection of $10,000,000 for each of fiscal years 1987 through 1991 and specified amount to be utilized for public water systems owned or operated by Indian tribes.

Pub. L. 99–339, § 107 added subsec. (g).

1980—Subsecs. (e), (f). Pub. L. 96–502 added subsec. (e) and redesignated former subsec. (e) as (f).

1979—Subsec. (e). Pub. L. 96–63 authorized appropriations of $21,405,000 for fiscal year ending Sept. 30, 1980, $30,000,000 for fiscal year ending Sept. 30, 1981, and $35,000,000 for fiscal year ending Sept. 30, 1982 for purposes other than those of subsec. (a)(2)(B) of this section and for purposes of subsec. (a)(2)(B) of this section, $8,000,000 for fiscal years 1980 through 1982.

1977—Subsec. (a)(2). Pub. L. 95–190, §§9, 13, designated existing provisions as subpar. (A), added subpar. (B) and, in subpar. (B) as added, substituted provisions authorizing Administrator to make grants and provide technical assistance for any emergency situation affecting public water systems and criteria for such grants and assistance for provisions authorizing Administrator to make grants and provide technical assistance for any emergency situation respecting drinking water and criteria for determination of such situations.

Subsec. (a)(3). Pub. L. 95–190, §3(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10), (11). Pub. L. 95–190, §3(e)(1), added pars. (10) and (11).

Subsec. (b)(3)(C). Pub. L. 95–190, §10(b), substituted ''300j–2(c)'' for ''300j–2(d)''.

Subsecs. (c), (d). Pub. L. 95–190, §§3(b), 4, added subsecs. (c) and (d). Former subsec. (c) redesignated (e).

Subsec. (e). Pub. L. 95–190, §§2(a), 3(b), redesignated former subsec. (c) as (e) and inserted provisions authorizing appropriations for fiscal years 1978 and 1979, and provisions relating to appropriations for subsec. (a)(2)(B) of this section and for research.

SCIENTIFIC RESEARCH REVIEW

Section 202 of Pub. L. 104–182 provided that:

''(a) IN GENERAL.—The Administrator shall—

''(1) develop a strategic plan for drinking water research activities throughout the Environmental Protection Agency (in this section referred to as the 'Agency');

''(2) integrate that strategic plan into ongoing Agency planning activities; and

''(3) review all Agency drinking water research to ensure the research—

''(A) is of high quality; and

''(B) does not duplicate any other research being conducted by the Agency.

''(b) PLAN.—The Administrator shall transmit the plan to the Committees on Commerce and Science of the House of Representatives and the Committee on Environment and Public Works of the Senate and the plan shall be made available to the public.''

NATIONAL CENTER FOR GROUND WATER RESEARCH

Section 203 of Pub. L. 104–182 provided that: ''The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration. No funds are authorized by this section.''

COMPARATIVE HEALTH EFFECTS ASSESSMENT

Section 304(b) of Pub. L. 99–339 provided that: ''The Administrator of the Environmental Protection Agency shall conduct a comparative health effects assessment, using available data, to compare the public health effects (both positive and negative) associated with water treatment chemicals and their byproducts to the public health effects associated with contaminants found in public water supplies. Not later than 18 months after the date of the enactment of this Act [June 19, 1986], the Administrator shall submit a report to the Congress setting forth the results of such assessment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–1, 300j–3b, 300j–12 of this title.

§ 300j–2. Grants for State programs

(a) Public water systems supervision programs; applications for grants; allotment of sums; waiver of grant restrictions; notice of approval or disapproval of application; authorization of appropriations

(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State. The prohibitions contained in the preceding two sentences shall not apply to such grants when made to Indian Tribes.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

(4) In each fiscal year the Administrator shall, in accordance, with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under

this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning of fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

(A) within ninety days after receipt of such application, or

(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.

(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated $100,000,000 for each of fiscal years 1997 through 2003.

(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

(9) STATE LOAN FUNDS.—

(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 300j–12 of this title (relating to State loan funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of August 6, 1996.

(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State each of the activities that would be required of the State if the State had primary enforcement authority under section 300g–2 of this title.

(b) Underground water source protection programs; applications for grants; allotment of sums; authorization of appropriations

(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 300h of this title. The prohibition contained in the preceding sentence shall not apply to such grants when made to Indian Tribes.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's cost (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, and underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, $7,500,000 for the fiscal year ending June 30, 1977, $10,000,000 for each of the fiscal years 1978 and 1979, $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982. For the purpose of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

Fiscal year:	*Amount*
1987	$19,700,000
1988	19,700,000
1989	20,850,000
1990	20,850,000
1991	20,850,000
1992–2003	15,000,000.

(c) Definitions

For purposes of this section:

(1) The term ''public water system supervision program'' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 300g–4 and 300g–5 of this title) which are no less stringent than the national primary drinking water regulations under section 300g–1 of this title, and for keeping records and making reports required by section 300g–2(a)(3) of this title.

(2) The term ''underground water source protection program'' means a program for the adoption and enforcement of a program which meets the requirements of regulations under

section 300h of this title, and for keeping records and making reports required by section 300h–1(b)(1)(A)(ii) of this title. Such term includes, where applicable, a program which meets the requirements of section 300h–4 of this title.

(d) New York City watershed protection program

(1) In general

The Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects that demonstrate, assess, or provide for comprehensive monitoring and surveillance and projects necessary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

(2) Report

Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

(3) Matching requirements

Federal assistance provided under this subsection shall not exceed 50 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

(4) Authorization

There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years 1997 through 2003, $15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).

(July 1, 1944, ch. 373, title XIV, § 1443, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1684; amended Pub. L. 95–190, §§ 2(b), (c), 5(a), Nov. 16, 1977, 91 Stat. 1393, 1395; Pub. L. 96–63, § 2, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96–502, §§ 2(c), 4(d), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title III, §§ 301(b), (c), 302(d), June 19, 1986, 100 Stat. 664, 666; Pub. L. 104–182, title I, §§ 120(c), 124, 128, Aug. 6, 1996, 110 Stat. 1651, 1653, 1659.)

AMENDMENTS

1996—Subsec. (a)(7). Pub. L. 104–182, § 124(1), inserted heading and amended text generally. Prior to amendment, text read as follows: ''For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, $25,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, $45,000,000 for fiscal year 1979, $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982. For the purposes of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

''Fiscal year:	*Amount*
1987	$37,200,000
1988	37,200,000
1989	40,150,000
1990	40,150,000
1991	40,150,000''.

Subsec. (a)(8), (9). Pub. L. 104–182, § 124(2), added pars. (8) and (9).

Subsec. (b)(5). Pub. L. 104–182, § 120(c), inserted table item relating to fiscal years 1992 through 2003.

Subsec. (d). Pub. L. 104–182, § 128, added subsec. (d).

1986—Subsec. (a)(2). Pub. L. 99–339, § 302(d)(1), inserted provision that prohibitions contained in preceding two sentences not apply to such grants when made to Indian Tribes.

Subsec. (a)(7). Pub. L. 99–339, § 301(b), authorized appropriations for grants under par. (1) of not more than $37,200,000 for fiscal years 1987 and 1988 and of not more than $40,150,000 for fiscal years 1989 to 1991.

Subsec. (b)(2). Pub. L. 99–339, § 302(d)(2), inserted provision that prohibition contained in preceding sentence not apply to such grants when made to Indian Tribes.

Subsec. (b)(5). Pub. L. 99–339, § 301(c), authorized appropriations for grants under par. (1) of not more than $19,700,000 for fiscal years 1987 and 1988 and of not more than $20,850,000 for fiscal years 1989 to 1991.

1980—Subsec. (b)(2). Pub. L. 96–502, § 4(d), substituted provisions that no grant may be made to any State under par. (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 300h of this title for provisions that the Administrator may not approve an application of a State for its first grant under par. (1) unless he determines that the State has established or will establish within two years from the date of such grant an underground water source protection, and will, within such two years, assume primary enforcement responsibility for underground water sources within the State and that no grant may be made to a State under par. (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

Subsec. (c)(2). Pub. L. 96–502, § 2(c), inserted provision that such term includes, where applicable, a program which meets requirements of section 300h–4 of this title.

1979—Subsec. (a)(7). Pub. L. 96–63, § 2(a), authorized appropriation of $29,450,000, $32,000,000, and $34,000,000 for fiscal years ending Sept. 30, 1980, through 1982, respectively.

Subsec. (b)(5). Pub. L. 96–63, § 2(b), authorized appropriation of $7,795,000, $18,000,000, and $21,000,000 for fiscal years ending Sept. 30, 1980, through 1982, respectively.

1977—Subsec. (a)(5), (6). Pub. L. 95–190, § 5(a), added pars. (5) and (6). Former par. (5) redesignated (7).

Subsec. (a)(7). Pub. L. 95–190, §§ 2(b), 5(a), redesignated former par. (5) as (7) and authorized appropriations for fiscal years 1978 and 1979.

Subsec. (b)(5). Pub. L. 95–190, § 2(c), inserted provisions authorizing appropriations for fiscal years 1978 and 1979.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–6, 300j–1, 300j–12 of this title.

§ 300j–3. Special project grants and guaranteed loans

(a) Special study and demonstration project grants

The Administrator may make grants to any person for the purposes of—

(1) assisting in the development and demonstration (including construction) of any

project which will demonstrate a new or improved method, approach, or technology, for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Limitations

Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

(c) Authorization of appropriations

For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

(d) Loan guarantees to public water systems; conditions; indebtedness limitation; regulations

The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations prescribed under section 300g–1 of this title. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

(July 1, 1944, ch. 373, title XIV, § 1444, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1685; amended Pub. L. 99–339, title I, § 101(c)(3), June 19, 1986, 100 Stat. 646.)

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–339 struck out ''(including interim regulations)'' before ''prescribed'' in first sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–3b of this title.

§ 300j–3a. Grants to public sector agencies

(a) Assistance for development and demonstration projects

The Administrator of the Environmental Protection Agency shall offer grants to public sector agencies for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health and conservation implications involved in the reclamation, recycling, and reuse of wastewaters for drinking and agricultural use or the processes and methods for the preparation of safe and acceptable drinking water.

(b) Limitations

Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consultation, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(c) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $25,000,000 for fiscal year 1978.

(Pub. L. 95–155, § 5, Nov. 8, 1977, 91 Stat. 1258; Pub. L. 95–477, § 7(a)(1), Oct. 18, 1978, 92 Stat. 1511.)

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–477 inserted ''agricultural use or'' after ''drinking and''.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 7(a)(2) of Pub. L. 95–477 provided that: ''This subsection [amending this section] shall become effective October 1, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–3b of this title.

§ 300j–3b. Contaminant standards or treatment technique guidelines

(1) Not later than nine months after October 18, 1978, the Administrator shall promulgate guidelines establishing supplemental standards or treatment technique requirements for microbiological, viral, radiological, organic, and inorganic contaminants, which guidelines shall be conditions, as provided in paragraph (2), of any grant for a demonstration project for water reclamation, recycling, and reuse funded under section 300j–3a of this title or under section 300j–3(a)(2) of this title, where such project involves direct human consumption of treated wastewater. Such guidelines shall provide for sufficient control of each such contaminant, such that in the Administrator's judgement, no adverse effects on the health of persons may reasonably be anticipated to occur, allowing an adequate margin of safety.

(2) A grant referred to in paragraph (1) for a project which involves direct human consumption of treated wastewater may be awarded on or after the date of promulgation of guidelines under this section only if the applicant demonstrates to the satisfaction of the Administrator that the project—

(A) will comply with all national primary drinking water regulations under section 300g–1 of this title;

(B) will comply with all guidelines under this section; and

(C) will in other respects provide safe drinking water.

Any such grant awarded before the date of promulgation of such guidelines shall be conditioned on the applicant's agreement to comply to the maximum feasible extent with such guidelines as expeditiously as practicable following the date of promulgation thereof.

(3) Guidelines under this section may, in the discretion of the Administrator—

(A) be nationally and uniformly applicable to all projects funded under section 300j–3a of this title or section 300j–1(a)(2)[1] of this title;

(B) vary for different classes or categories of such projects (as determined by the Administrator);

(C) be established and applicable on a project-by-project basis; or

(D) any combination of the above.

(4) Nothing in this section shall be construed to prohibit or delay the award of any grant referred to in paragraph (1) prior to the date of promulgation of such guidelines.

(Pub. L. 95–477, § 7(b), Oct. 18, 1978, 92 Stat. 1511.)

REFERENCES IN TEXT

Section 300j–1(a)(2) of this title, referred to in par. (3)(A), was amended by Pub. L. 104–182, title I, § 121(3), (4)(A), Aug. 6, 1996, 110 Stat. 1651, to redesignate par. (2)(B) as subsec. (b) of section 300j–1, strike par. (2)(A), and add a new par. (2) relating to information and research facilities.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the Public Health Service Act which comprises this chapter.

§ 300j–3c. National assistance program for water infrastructure and watersheds

(a) Technical and financial assistance

The Administrator of the Environmental Protection Agency may provide technical and financial assistance in the form of grants to States (1) for the construction, rehabilitation, and improvement of water supply systems, and (2) consistent with nonpoint source management programs established under section 1329 of title 33, for source water quality protection programs to address pollutants in navigable waters for the purpose of making such waters usable by water supply systems.

(b) Limitation

Not more than 30 percent of the amounts appropriated to carry out this section in a fiscal year may be used for source water quality protection programs described in subsection (a)(2) of this section.

(c) Condition

As a condition to receiving assistance under this section, a State shall ensure that such assistance is carried out in the most cost-effective manner, as determined by the State.

(d) Authorization of appropriations

(1) Unconditional authorization

There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003. Such sums shall remain available until expended.

(2) Conditional authorization

In addition to amounts authorized under paragraph (1), there are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003, pro-

[1] See References in Text note below.

vided that such authorization shall be in effect for a fiscal year only if at least 75 percent of the total amount of funds authorized to be appropriated for such fiscal year by section 300j–12(m) of this title are appropriated.

(e) Acquisition of lands

Assistance provided with funds made available under this section may be used for the acquisition of lands and other interests in lands; however, nothing in this section authorizes the acquisition of lands or other interests in lands from other than willing sellers.

(f) Federal share

The Federal share of the cost of activities for which grants are made under this section shall be 50 percent.

(g) Definitions

In this section, the following definitions apply:

(1) State

The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) Water supply system

The term ''water supply system'' means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves at least 25 individuals and a draw and fill system for the provision to the public of water for human consumption. Such term does not include a system owned by a Federal agency. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment facilities not under such control that are used primarily in connection with such system.

(Pub. L. 104–182, title IV, § 401, Aug. 6, 1996, 110 Stat. 1690.)

CODIFICATION

Section was enacted as part of the Safe Drinking Water Act Amendments of 1996, and not as part of the Public Health Service Act which comprises this chapter.

§ 300j–4. Records and inspections

(a) Provision of information to Administrator; monitoring program for unregulated contaminants

(1)(A) Every person who is subject to any requirement of this subchapter or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter, in administering any program of financial assistance under this subchapter, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.

(B) Every person who is subject to a national primary drinking water regulation under section 300g–1 of this title shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this subchapter.

(C) Every person who is subject to a national primary drinking water regulation under section 300g–1 of this title shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 300g–1 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

(D) The Administrator shall not later than 2 years after August 6, 1996, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.

(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found, ensuring that only a representative sample of systems serving 10,000 persons or fewer are required to monitor.

(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

(i) INITIAL LIST.—Not later than 3 years after August 6, 1996, and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g) of this section.

(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Gov-

ernor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State may develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer in that State. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 300j–12(*o*) of this title or appropriated under subparagraph (H), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system.

(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) of this section in lieu of monitoring for particular contaminants under this paragraph.

(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of the fiscal years 1997 through 2003.

(b) Entry of establishments, facilities, or other property; inspections; conduct of certain tests; audit and examination of records; entry restrictions; prohibition against informing of a proposed entry

(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to (A) a national primary drinking water regulation prescribed under section 300g–1 of this title, (B) an applicable underground injection control program, or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a) of this section, or person in charge of any of the property of such supplier or other person referred to in clause (A), (B), or (C), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this subchapter, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) of this section or which are pertinent to any financial assistance under this subchapter.

(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

(c) Penalty

Whoever fails or refuses to comply with any requirement of subsection (a) of this section or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) of this section shall be subject to a civil penalty of not to exceed $25,000.

(d) Confidential information; trade secrets and secret processes; information disclosure; "information required under this section" defined

(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section (A) may be disclosed to other officers, em-

ployees, or authorized representatives of the United States concerned with carrying out this subchapter or to committees of the Congress, or when relevant in any proceeding under this subchapter, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term ''information required under this section'' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) "Grantee" and "person" defined

For purposes of this section, (1) the term ''grantee'' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this subchapter, and (2) the term ''person'' includes a Federal agency.

(f) Information regarding drinking water coolers

The Administrator may utilize the authorities of this section for purposes of part F of this subchapter. Any person who manufactures, imports, sells, or distributes drinking water coolers in interstate commerce shall be treated as a supplier of water for purposes of applying the provisions of this section in the case of persons subject to part F of this subchapter.

(g) Occurrence data base

(1) In general

Not later than 3 years after August 6, 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) of this section or subsection (a)(2) of this section and reliable information from other public and private sources.

(2) Public input

In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water contaminant occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

(3) Use

The data shall be used by the Administrator in making determinations under section 300g–1(b)(1) of this title with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

(4) Public recommendations

The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water contaminant occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2) of this section. Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

(A) the contaminant occurs or is likely to occur in drinking water; and

(B) the contaminant poses a risk to public health.

(5) Public availability

The information from the data base shall be available to the public in readily accessible form.

(6) Regulated contaminants

With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

(7) Unregulated contaminants

With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

(A) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under subsection (a) of this section;

(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

(C) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.

(h) Availability of information on small system technologies

For purposes of sections 300g–1(b)(4)(E) and 300g–4(e) of this title (relating to small system variance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 300g–1(b)(4)(E) and 300g–4(e) of this title.

(i) Screening methods

The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.

(July 1, 1944, ch. 373, title XIV, § 1445, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1686; amended Pub. L. 95–190, § 12(c), (d), Nov. 16, 1977,

91 Stat. 1398; Pub. L. 99–339, title I, § 106, title III, § 301(h), June 19, 1986, 100 Stat. 650, 665; Pub. L. 100–572, § 5, Oct. 31, 1988, 102 Stat. 2889; Pub. L. 104–182, title I, §§ 111(b), 125(a), (c), (d), 126, Aug. 6, 1996, 110 Stat. 1633, 1653, 1656–1658.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–182, § 125(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 300g–1 of this title or to an applicable underground injection control program (as defined in section 300h–1(c) of this title), who is or may be subject to the permit requirement of section 300h–3 of this title, or to an order issued under section 300j of this title, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter in administering any program of financial assistance under this subchapter, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.''

Subsec. (a)(2) to (8). Pub. L. 104–182, § 125(c), added heading and text of par. (2) and struck out former pars. (2) to (8) which directed Administrator, not later than 18 months after June 19, 1986, to promulgate regulations requiring every public water system to conduct a monitoring program for unregulated contaminants, specified contents of regulations, provided for reporting and notification of availability of results of monitoring, waiver of monitoring requirements, and compliance by small systems, and authorized appropriations for fiscal year ending Sept. 30, 1987.

Subsec. (g). Pub. L. 104–182, § 126, added subsec. (g).

Subsec. (h). Pub. L. 104–182, § 111(b), added subsec. (h).

Subsec. (i). Pub. L. 104–182, § 125(d), added subsec. (i).

1988—Subsec. (f). Pub. L. 100–572 added subsec. (f).

1986—Subsec. (a)(1). Pub. L. 99–339, § 106(a), (b), designated existing provisions as par. (1) and inserted provisions permitting Administrator to consider size of system and contaminants likely to be found.

Subsec. (a)(2) to (7). Pub. L. 99–339, § 106(b), added pars. (2) to (7).

Subsec. (a)(8). Pub. L. 99–339, § 301(h), added par. (8).

Subsec. (c). Pub. L. 99–339, § 106(c), substituted ''shall be subject to a civil penalty of not to exceed $25,000'' for ''may be fined not more than $5,000''.

1977—Subsec. (a). Pub. L. 95–190, § 12(c), inserted provisions relating to evaluating and advising of health risks of unregulated contaminants.

Subsec. (b)(1). Pub. L. 95–190, § 12(d), designated existing provisions as cls. (A) and (B) and added cl. (C) and reference to such cls. (A) to (C).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–1, 300g–3, 300j–12, 7412, 9606 of this title.

§ 300j–5. National Drinking Water Advisory Council

(a) Establishment; membership; representation of interests; term of office, vacancies; reappointment

There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply, of which two such members shall be associated with small, rural public water systems. Each member of the Council shall hold office for a term of three 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 shall expire as follows: Five shall expire three years after December 16, 1974, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

(b) Functions

The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this subchapter.

(c) Compensation and allowances; travel expenses

Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b)[1] of title 5.

(d) Advisory committee termination provision inapplicable

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

(July 1, 1944, ch. 373, title XIV, § 1446, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1688; amended Pub. L. 104–182, title I, § 127, Aug. 6, 1996, 110 Stat. 1659.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (d), is section 14(a) of Pub. L.

[1] See References in Text note below.

92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–182 inserted ‘‘, of which two such members shall be associated with small, rural public water systems’’ before period at end of second sentence.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300f of this title.

§ 300j–6. Federal agencies

(a) In general

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) owning or operating any facility in a wellhead protection area;

(2) engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area;

(3) owning or operating any public water system; or

(4) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 300h(d)(2) of this title),

shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting the protection of such wellhead areas, respecting such public water systems, and respecting any underground injection in the same manner and to the same extent as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local regulatory program respecting the protection of wellhead areas or public water systems or respecting any underground injection. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court[1] with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the protection of wellhead areas or public water systems or concerning underground injection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State requirement adopted pursuant to this subchapter, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President’s making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(b) Administrative penalty orders

(1) In general

If the Administrator finds that a Federal agency has violated an applicable requirement under this subchapter, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

(2) Penalties

The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

[1] So in original. Probably should not be capitalized.

(3) Procedure

Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5.

(4) Public review

(A) In general

Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

(B) Record

The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

(C) Standard of review

The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

(D) Prohibition on additional penalties

The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.

(c) Limitation on State use of funds collected from Federal Government

Unless a State law in effect on August 6, 1996, or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) of this section shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.

(d) Indian rights and sovereignty as unaffected; "Federal agency" defined

(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indian lands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

(2) For the purposes of this chapter, the term ''Federal agency'' shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.

(e) Washington Aqueduct

The Secretary of the Army shall not pass the cost of any penalty assessed under this subchapter on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.

(July 1, 1944, ch. 373, title XIV, § 1447, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1688; amended Pub. L. 95–190, § 8(a), (d), Nov. 16, 1977, 91 Stat. 1396, 1397; Pub. L. 104–182, title I, § 129(a), (c), Aug. 6, 1996, 110 Stat. 1660, 1662.)

REFERENCES IN TEXT

The Safe Drinking Water Amendments of 1977, referred to in subsec. (d)(1), is Pub. L. 95–190, Nov. 16, 1977, 91 Stat. 1393. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 201 of this title and Tables.

AMENDMENTS

1996—Subsecs. (a) to (d). Pub. L. 104–182, § 129(a), added subsecs. (a) to (c), redesignated former subsec. (c) as (d), and struck out former subsecs. (a) and (b) which related to compliance by Federal agencies with Federal, State, and local requirements respecting provision of safe drinking water and respecting underground injection programs, liability for civil penalties, and waiver of compliance requirements when necessary in interest of national security.

Subsec. (e). Pub. L. 104–182, § 129(c), added subsec. (e).

1977—Subsec. (a). Pub. L. 95–190, § 8(a), substituted provisions relating to compliance by Federal agencies having jurisdiction over federally owned or maintained public water systems, or engaged in underground injection activities with Federal, State, and local requirements, etc., for provisions relating to compliance by Federal agencies having jurisdiction over federally owned or maintained public water systems with national primary drinking water regulations.

Subsec. (c). Pub. L. 95–190, § 8(d), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300j–8 of this title.

§ 300j–7. Judicial review

(a) Courts of appeals; petition for review: actions respecting regulations; filing period; grounds arising after expiration of filing period; exclusiveness of remedy

A petition for review of—

(1) actions pertaining to the establishment of national primary drinking water regulations (including maximum contaminant level goals) may be filed only in the United States Court of Appeals for the District of Columbia circuit; and

(2) any other final action of the Administrator under this chapter may be filed in the circuit in which the petitioner resides or transacts business which is directly affected by the action.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or any other final Agency action with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Admin-

istrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement. In any petition concerning the assessment of a civil penalty pursuant to section 300g–3(g)(3)(B) of this title, the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

(b) District courts; petition for review: actions respecting variances or exemptions; filing period; grounds arising after expiration of filing period; exclusiveness of remedy

The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 300g–4 or 300g–5 of this title or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(c) Judicial order for additional evidence before Administrator; modified or new findings; recommendation for modification or setting aside of original determination

In any judicial proceeding in which review is sought of a determination under this subchapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such term and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(July 1, 1944, ch. 373, title XIV, § 1448, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1689; amended Pub. L. 99–339, title III, § 303, June 19, 1986, 100 Stat. 667; Pub. L. 104–182, title I, § 113(c), Aug. 6, 1996, 110 Stat. 1636.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–182, § 113(c)(2), (3), in concluding provisions, substituted ''or any other final Agency action'' for ''or issuance of the order'' and inserted at end ''In any petition concerning the assessment of a civil penalty pursuant to section 300g–3(g)(3)(B) of this title, the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.''

Subsec. (a)(2). Pub. L. 104–182, § 113(c)(1), substituted ''any other final action'' for ''any other action''.

1986—Subsec. (a)(1). Pub. L. 99–339, § 303(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''action of the Administrator in promulgating any national primary drinking water regulation under section 300g–1 of this title, any regulation under section 300g–2(b)(1) of this title, any regulation under section 300g–3(c) of this title, any regulation for State underground injection control programs under section 300h of this title, or any general regulation for the administration of this subchapter may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and''.

Subsec. (a)(2). Pub. L. 99–339, § 303(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''action of the Administrator in promulgating any other regulation under this subchapter, issuing any order under this subchapter, or making any determination under this subchapter may be filed only in the United States court of appeals for the appropriate circuit.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–1, 300h–2, 300j–8 of this title.

§ 300j–8. Citizen's civil action

(a) Persons subject to civil action; jurisdiction of enforcement proceedings

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this subchapter;

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this subchapter which is not discretionary with the Administrator; or

(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 300h–8(b)[1] of this title, to pay the penalty.

[1] So in original. Probably should be section ''300j–6(b)''.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this subchapter which occurred within the 27-month period beginning on the first day of the month in which this subchapter is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this subchapter or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

(b) Conditions for commencement of civil action; notice

No civil action may be commenced—

(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this subchapter—

(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator; or

(3) under subsection (a)(3) of this section prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) of this section to require a State to prescribe a schedule under section 300g–4 or 300g–5 of this title for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

(c) Intervention of right

In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) Costs; attorney fees; expert witness fees; filing of bond

The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Availability of other relief

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this subchapter or to seek any other relief. Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this subchapter, except as provided in section 300j–7 of this title. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 300j–6 of this title.

(July 1, 1944, ch. 373, title XIV, § 1449, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1690; amended Pub. L. 95–190, § 8(c), Nov. 16, 1977, 91 Stat. 1397; Pub. L. 104–182, title I, § 129(b), Aug. 6, 1996, 110 Stat. 1662.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–182, § 129(b)(1), added par. (3).

Subsec. (b)(3). Pub. L. 104–182, § 129(b)(2), added par. (3).

1977—Subsec. (e). Pub. L. 95–190 inserted provisions relating to suits by State or local governments for enforcement of safe drinking water, etc., requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300h–2 of this title.

§ 300j–9. General provisions

(a) Regulations; delegation of functions

(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this subchapter.

(2) The Administrator may delegate any of his functions under this subchapter (other than prescribing regulations) to any officer or employee of the Agency.

(b) Utilization of officers and employees of Federal agencies

The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this subchapter.

(c) Assignment of Agency personnel to State or interstate agencies

Upon the request of a State or interstate agency, the Administrator may assign personnel of

the Agency to such State or interstate agency for the purposes of carrying out the provisions of this subchapter.

(d) Payments of grants; adjustments; advances; reimbursement; installments; conditions; eligibility for grants; "nonprofit agency or institution" defined

(1) The Administrator may make payments of grants under this subchapter (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term ''nonprofit agency or institution'' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) Labor standards

The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(f) Appearance and representation of Administrator through Attorney General or attorney appointees

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this subchapter to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

(g) Authority of Administrator under other provisions unaffected

The provisions of this subchapter shall not be construed as affecting any authority of the Administrator under part G of subchapter II of this chapter.

(h) Reports to Congressional committees; review by Office of Management and Budget: submittal of comments to Congressional committees

Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report respecting the activities of the Agency under this subchapter and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this subchapter. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

(i) Discrimination prohibition; filing of complaint; investigation; orders of Secretary; notice and hearing; settlements; attorneys' fees; judicial review; filing of petition; procedural requirements; stay of orders; exclusiveness of remedy; civil actions for enforcement of orders; appropriate relief; mandamus proceedings; prohibition inapplicable to undirected but deliberate violations

(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this subchapter or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

(B) testified or is about to testify in any such proceeding, or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this subchapter.

(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the ''Secretary'') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28.

(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this subchapter.

(July 1, 1944, ch. 373, title XIV, § 1450, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1691; amended Pub. L. 98–620, title IV, § 402(38), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 103–437, § 15(a)(2), Nov. 2, 1994, 108 Stat. 4591.)

REFERENCES IN TEXT

Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a—276a–5), referred to in subsec. (e), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (e), is set out in the Appendix to Title 5, Government Organization and Employees.

Part C of subchapter II of this chapter, referred to in subsec. (g), is classified to section 264 of this title.

AMENDMENTS

1994—Subsec. (h). Pub. L. 103–437 substituted ''Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House'' for ''Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House''.

1984—Subsec. (i)(4). Pub. L. 98–620 struck out provision which required civil actions filed under par. (4) to be heard and decided expeditiously.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81.

§ 300j–10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation

To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act [42 U.S.C. 300f et seq.] (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS–18 of the General Schedule under section 5332 of title 5.

(Pub. L. 95–190, § 11(b), Nov. 16, 1977, 91 Stat. 1398.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIV of the Public Health Service Act is classified generally to this subchapter (§ 300f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Section was enacted as part of the Safe Drinking Water Amendments of 1977, and not as part of the Public Health Service Act which comprises this chapter.

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.

§ 300j–11. Indian Tribes

(a) In general

Subject to the provisions of subsection (b) of this section, the Administrator—

(1) is authorized to treat Indian Tribes as States under this subchapter,

(2) may delegate to such Tribes primary enforcement responsibility for public water systems and for underground injection control, and

(3) may provide such Tribes grant and contract assistance to carry out functions provided by this subchapter.

(b) EPA regulations

(1) Specific provisions

The Administrator shall, within 18 months after June 19, 1986, promulgate final regulations specifying those provisions of this subchapter for which it is appropriate to treat Indian Tribes as States. Such treatment shall be authorized only if:

(A) the Indian Tribe is recognized by the Secretary of the Interior and has a governing body carrying out substantial governmental duties and powers;

(B) the functions to be exercised by the Indian Tribe are within the area of the Tribal Government's jurisdiction; and

(C) the Indian Tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this subchapter and of all applicable regulations.

(2) Provisions where treatment as State inappropriate

For any provision of this subchapter where treatment of Indian Tribes as identical to States is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this subchapter, the Administrator may include in the regulations promulgated under this section, other means for administering such provision in a manner that will achieve the purpose of the provision. Nothing in this section shall be construed to allow Indian Tribes to assume or maintain primary enforcement responsibility for public water systems or for underground injection control in a manner less protective of the health of persons than such responsibility may be assumed or maintained by a State. An Indian tribe[1] shall not be required to exercise criminal enforcement jurisdiction for purposes of complying with the preceding sentence.

(July 1, 1944, ch. 373, title XIV, § 1451, as added Pub. L. 99–339, title III, § 302(a), June 19, 1986, 100 Stat. 665; amended Pub. L. 104–182, title V, § 501(f)(6), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

[1] So in original. Probably should be capitalized.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300h–1 of this title.

§ 300j–12. State revolving loan funds

(a) General authority

(1) Grants to States to establish State loan funds

(A) In general

The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this subchapter, promote the efficient use of fund resources, and for other purposes as are specified in this subchapter.

(B) Establishment of fund

To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a ''State loan fund'') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this subchapter. No funds authorized by other provisions of this subchapter to be used for other purposes specified in this subchapter shall be deposited in any State loan fund.

(C) Extended period

The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

(D) Allotment formula

Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 300j–2 of this title in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h) of this section, except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

(E) Reallotment

The grants not obligated by the last day of the period for which the grants are available shall be reallotted according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) of this section and none of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

(F) Nonprimacy States

The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 300j–2(a)(9)(A) of this title such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this subchapter in such State and the remainder shall be reallotted to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 300g–2(b) of this title that the requirements of section 300g–2(a) of this title are no longer being met by a State, additional grants for such State under this subchapter shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of August 6, 1996.

(G) Other programs

(i) New system capacity

Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 300g–9(a) of this title (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 300g–9(c) of this title (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 300g–9 of this title (relating to capacity development).

(ii) Operator certification

The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 300g–8[1] of this title (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 300g–8 of this title (relating to operator certification).

(2) Use of funds

Except as otherwise authorized by this subchapter, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial assistance under this section may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 300g–1 of this title or otherwise significantly further the health protection objectives of this subchapter. The funds may also be used to provide loans to a system referred to in section 300f(4)(B) of this title for the purpose of providing the treatment described in section 300f(4)(B)(i)(III) of this title. The funds shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

(3) Limitation

(A) In general

Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that—

(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this subchapter; or

(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

[1] So in original. Probably should be preceded by ''section''.

(B) Restructuring

A public water system described in subparagraph (A) may receive assistance under this section if—

(i) the use of the assistance will ensure compliance; and

(ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this subchapter over the long term.

(C) Review

Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

(b) Intended use plans

(1) In general

After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

(2) Contents

An intended use plan shall include—

(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

(B) the criteria and methods established for the distribution of funds; and

(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

(3) Use of funds

(A) In general

An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

(i) address the most serious risk to human health;

(ii) are necessary to ensure compliance with the requirements of this subchapter (including requirements for filtration); and

(iii) assist systems most in need on a per household basis according to State affordability criteria.

(B) List of projects

Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

(c) Fund management

Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

(d) Assistance for disadvantaged communities

(1) Loan subsidy

Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) of this section to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

(2) Total amount of subsidies

For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

(3) "Disadvantaged community" defined

In this subsection, the term ''disadvantaged community'' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

(e) State contribution

Each agreement under subsection (a) of this section shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

(f) Types of assistance

Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

(1) to make loans, on the condition that—

(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged commu-

nity (as defined in subsection (d)(3) of this section), a State may provide an extended term for a loan, if the extended term—

(i) terminates not later than the date that is 30 years after the date of project completion; and

(ii) does not exceed the expected design life of the project;

(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and

(D) the State loan fund will be credited with all payments of principal and interest on each loan;

(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

(5) to earn interest on the amounts deposited into the State loan fund.

(g) Administration of State loan funds

(1) Combined financial administration

Notwithstanding subsection (c) of this section, a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that—

(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a) of this section; and

(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with the State agency having primary responsibility for administration of the State program under section 300g–2 of this title, after consultation with other appropriate State agencies (as determined by the State): *Provided*, That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

(2) Cost of administering fund

Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after August 6, 1996, and to provide technical assistance to public water systems within the State. For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section—

(A) for public water system supervision programs under section 300j–2(a) of this title;

(B) to administer or provide technical assistance through source water protection programs;

(C) to develop and implement a capacity development strategy under section 300g–9(c) of this title; and

(D) for an operator certification program for purposes of meeting the requirements of section 300g–8 of this title,

if the State matches the expenditures with at least an equal amount of State funds. At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State. Funds utilized under subparagraph (B) shall not be used for enforcement actions.

(3) Guidance and regulations

The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this subchapter and applicable State laws;

(B) guidance to prevent waste, fraud, and abuse; and

(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth.

The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(4) State report

Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States pur-

suant to this section in accordance with procedures established by the Comptroller General.

(h) Needs survey

The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after August 6, 1996, and every 4 years thereafter.

(i) Indian Tribes

(1) In general

1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaska Native villages that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. The grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2) of this section.

(2) Use of funds

Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

(3) Alaska Native villages

In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

(4) Needs assessment

The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h) of this section, prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

(j) Other areas

Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 300j–2(a)(4) of this title for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2) of this section. The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

(k) Other authorized activities

(1) In general

Notwithstanding subsection (a)(2) of this section, a State may take each of the following actions:

(A) Provide assistance, only in the form of a loan, to one or more of the following:

(i) Any public water system described in subsection (a)(2) of this section to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 300j–13 of this title, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 300g–1 of this title or otherwise significantly further the health protection objectives of this subchapter. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

(iii) Any community water system to provide funding in accordance with section 300j–14(a)(1)(B)(i) of this title.

(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 300g–9(c) of this title.

(C) Make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 300j–13 of this title, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 300h–7 of this title.

(2) Limitation

For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

(E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

(3) Statutory construction

Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

(*l*) Savings

The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this subchapter.

(m) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this section $599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal years 1995 through 2003. To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year (prior to the fiscal year 2004). Such sums shall remain available until expended.

(n) Health effects studies

From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 300j–18(c) of this title), disinfection byproducts (as authorized by section 300j–18(c) of this title), and arsenic (as authorized by section 300g–1(b)(12)(A) of this title), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 300j–18(a) of this title).

(*o*) Monitoring for unregulated contaminants

From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 300j–4(a)(2)(C) of this title.

(p) Demonstration project for State of Virginia

Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on August 6, 1996, and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

(q) Small system technical assistance

The Administrator may reserve up to 2 percent of the total funds appropriated pursuant to subsection (m) of this section for each of the fiscal years 1997 through 2003 to carry out the provisions of section 300j–1(e) of this title (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 300j–1(e) of this title) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 300j–1(e) of this title.

(r) Evaluation

The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, an appropriations request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.

(July 1, 1944, ch. 373, title XIV, § 1452, as added Pub. L. 104–182, title I, § 130, Aug. 6, 1996, 110 Stat. 1662.)

REFERENCES IN TEXT

The Safe Drinking Water Act Amendments of 1996, referred to in subsec. (n), is Pub. L. 104–182, Aug. 6, 1996, 110 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of this title and Tables.

COMBINING FUND ASSETS FOR ENHANCEMENT OF LENDING CAPACITY

Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2498, provided in part: ''That, consistent with section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)), section 302 of the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) [set out as a note below] and the accompanying joint explanatory statement of the committee of conference (H. Rept. No. 104–741 to accompany S. 1316, the Safe Drinking Water Act Amendments of 1996), and notwithstanding any other provision of law, beginning in fiscal year 1999 and thereafter, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the state match for either program, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act [this subchapter] and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] in the same portion as the funds are used as security for the bonds''.

TRANSFER OF FUNDS

Section 302 of Pub. L. 104–182 provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, at any time after the date 1 year after a

State establishes a State loan fund pursuant to section 1452 of the Safe Drinking Water Act [this section] but prior to fiscal year 2002, a Governor of the State may—

''(1) reserve up to 33 percent of a capitalization grant made pursuant to such section 1452 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

''(2) reserve in any year a dollar amount up to the dollar amount that may be reserved under paragraph (1) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1452 of the Safe Drinking Water Act.

''(b) REPORT.—Not later than 4 years after the date of enactment of this Act [Aug. 6, 1996], the Administrator shall submit a report to the Congress regarding the implementation of this section, together with the Administrator's recommendations, if any, for modifications or improvement.

''(c) STATE MATCH.—Funds reserved pursuant to this section shall not be considered to be a State match of a capitalization grant required pursuant to section 1452 of the Safe Drinking Water Act or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300f, 300g–4, 300g–5, 300g–8, 300g–9, 300j–1, 300j–2, 300j–3c, 300j–4, 300j–13, 300j–14, 300j–15, 300j–18 of this title.

§ 300j–13. Source water quality assessment

(a) Source water assessment

(1) Guidance

Within 12 months after August 6, 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries. Each State adopting modifications to monitoring requirements pursuant to section 300g–7(b) of this title shall, prior to adopting such modifications, have an approved source water assessment program under this section and shall carry out the program either directly or through delegation.

(2) Program requirements

A source water assessment program under this subsection shall—

(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

(B) identify for contaminants regulated under this subchapter for which monitoring is required under this subchapter (or any unregulated contaminants selected by the State, in its discretion, which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

(3) Approval, implementation, and monitoring relief

A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in section 300h–7(c) of this title. States shall begin implementation of the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 300g–7(a) of this title shall be eligible for monitoring relief, consistent with section 300g–7(b) of this title, upon completion of the assessment in the delineated source water assessment area or areas concerned.

(4) Timetable

The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 300j–12 of this title (relating to State loan funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months.

(5) Demonstration project

The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

(6) Use of other programs

To avoid duplication and to encourage efficiency, the program under this section may make use of any of the following:

(A) Vulnerability assessments, sanitary surveys, and monitoring programs.

(B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.

(C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 136a(d) of title 7.

(D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule

(section 141.70 of title 40, Code of Federal Regulations).

(E) Delineations or assessments of surface or ground water sources under programs or plans pursuant to the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(7) Public availability

The State shall make the results of the source water assessments conducted under this subsection available to the public.

(b) Approval and disapproval

For provisions relating to program approval and disapproval, see section 300h–7(c) of this title.

(July 1, 1944, ch. 373, title XIV, § 1453, as added Pub. L. 104–182, title I, § 132(a), Aug. 6, 1996, 110 Stat. 1673.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (a)(6)(E), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–7, 300h–7, 300j–12, 300j–14 of this title.

§ 300j–14. Source water petition program

(a) Petition program

(1) In general

(A) Establishment

A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

(B) Funding

Each State may—

(i) use funds set aside pursuant to section 300j–12(k)(1)(A)(iii) of this title by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under section 300j–13(a) of this title; and

(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsection (b)(2)(B) of this section.

(2) Objectives

The objectives of a petition submitted under this subsection shall be to—

(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

(B) obtain assistance from the State in identifying resources which are available to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) that affect the drinking water supply of a community.

(3) Contaminants addressed by a petition

A petition submitted to a State under this subsection may address only those contaminants—

(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 300g–1 of this title; or

(B) for which a national primary drinking water regulation has been promulgated or proposed and that are detected by adequate monitoring methods in the source water at the intake structure or in any collection, treatment, storage, or distribution facilities by the community water systems at levels—

(i) above the maximum contaminant level; or

(ii) that are not reliably and consistently below the maximum contaminant level.

(4) Contents

A petition submitted under this subsection shall, at a minimum—

(A) include a delineation of the source water area in the State that is the subject of the petition;

(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under section 300j–13 of this title;

(C) identify any deficiencies in information that will impair the development of rec-

ommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under section 300j–13 of this title; and

(ii) each person in the source water area delineated under section 300j–13 of this title—

(I) who is likely to be affected by recommendations of the voluntary local partnership; and

(II) whose participation is essential to the success of the partnership;

(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under section 300j–13 of this title under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

(b) Approval or disapproval of petitions

(1) In general

After providing notice and an opportunity for public comment on a petition submitted under subsection (a) of this section, the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

(2) Approval

The State may approve a petition if the petition meets the requirements established under subsection (a) of this section. The notice of approval shall, at a minimum, include for informational purposes—

(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.)) or section 300j–12 of this title;

(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the program established under section 1455b of title 16;

(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

(iv) the sole source aquifer protection program established under section 300h–6 of this title;

(v) the community wellhead protection program established under section 300h–7 of this title;

(vi) any pesticide or ground water management plan;

(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

(viii) any abandoned well closure program; and

(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

(3) Disapproval

If the State disapproves a petition submitted under subsection (a) of this section, the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

(A) new information becomes available;

(B) conditions affecting the source water that is the subject of the petition change; or

(C) modifications are made in the type of assistance being requested.

(c) Grants to support State programs

(1) In general

The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

(2) Approval

In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under subsection (d) of this section. The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d) of this section.

(d) Guidance

(1) In general

Not later than 1 year after August 6, 1996, the Administrator, in consultation with the States, shall publish guidance to assist—

(A) States in the development of a source water quality protection partnership program; and

(B) municipal or local governments or political subdivisions of a State and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

(2) Contents of the guidance

The guidance shall, at a minimum—

(A) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (a) of this section;

(B) recommend procedures for the submission of petitions developed under subsection (a) of this section;

(C) recommend criteria for the assessment of source water areas within a State; and

(D) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (a) of this section.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 1997 through 2003. Each State with a plan for a program approved under subsection (b) of this section shall receive an equitable portion of the funds available for any fiscal year.

(f) Statutory construction

Nothing in this section—

(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

(B) limits any authority of a State, political subdivision, or community water system; or

(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.

(July 1, 1944, ch. 373, title XIV, § 1454, as added Pub. L. 104–182, title I, § 133(a), Aug. 6, 1996, 110 Stat. 1675.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(2)(A)(iii), (B)(i), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. Title VI of the Act is classified generally to subchapter VI (§ 1381 et seq.) of chapter 26 of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(2)(B)(iii), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 2 of subtitle D of title XII of the Act was classified generally to part II (§ 3838 et seq.) of subchapter IV of chapter 58 of Title 16, Conservation, prior to repeal by Pub. L. 104–127, title III, § 336(h), Apr. 4, 1996, 110 Stat. 1007. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

§ 300j–15. Water conservation plan

(a) Guidelines

Not later than 2 years after August 6, 1996, the Administrator shall publish in the Federal Register guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, public water systems serving between 3,300 and 10,000 persons, and public water systems serving more than 10,000 persons, taking into consideration such factors as water availability and climate.

(b) Loans or grants

Within 1 year after publication of the guidelines under subsection (a) of this section, a State exercising primary enforcement responsibility for public water systems may require a public water system, as a condition of receiving a loan or grant from a State loan fund under section 300j–12 of this title, to submit with its application for such loan or grant a water conservation plan consistent with such guidelines.

(July 1, 1944, ch. 373, title XIV, § 1455, as added Pub. L. 104–182, title I, § 134, Aug. 6, 1996, 110 Stat. 1679.)

§ 300j–16. Assistance to colonias

(a) Definitions

As used in this section:

(1) Border State

The term ''border State'' means Arizona, California, New Mexico, and Texas.

(2) Eligible community

The term ''eligible community'' means a low-income community with economic hardship that—

(A) is commonly referred to as a colonia;

(B) is located along the United States-Mexico border (generally in an unincorporated area); and

(C) lacks a safe drinking water supply or adequate facilities for the provision of safe drinking water for human consumption.

(b) Grants to alleviate health risks

The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities to facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this subchapter.

(c) Use of funds

Each grant awarded pursuant to subsection (b) of this section shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system.

(d) Cost sharing

The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the

costs of carrying out the project that is the subject of the grant.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.

(July 1, 1944, ch. 373, title XIV, § 1456, as added Pub. L. 104–182, title I, § 135, Aug. 6, 1996, 110 Stat. 1679.)

§ 300j–17. Estrogenic substances screening program

In addition to the substances referred to in section 346a(p)(3)(B) of title 21 the Administrator may provide for testing under the screening program authorized by section 346a(p) of title 21, in accordance with the provisions of section 346a(p) of title 21, of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance.

(July 1, 1944, ch. 373, title XIV, § 1457, as added Pub. L. 104–182, title I, § 136, Aug. 6, 1996, 110 Stat. 1680.)

§ 300j–18. Drinking water studies

(a) Subpopulations at greater risk

(1) In general

The Administrator shall conduct a continuing program of studies to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. The study shall examine whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

(2) Report

Not later than 4 years after August 6, 1996, and periodically thereafter as new and significant information becomes available, the Administrator shall report to the Congress on the results of the studies.

(b) Biological mechanisms

The Administrator shall conduct biomedical studies to—

(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

(c) Studies on harmful substances in drinking water

(1) Development of studies

The Administrator shall, not later than 180 days after August 6, 1996, and after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, conduct the studies described in paragraph (2) to support the development and implementation of the most current version of each of the following:

(A) Enhanced Surface Water Treatment Rule (59 Fed. Reg. 38832 (July 29, 1994)).

(B) Disinfectant and Disinfection Byproducts Rule (59 Fed. Reg. 38668 (July 29, 1994)).

(C) Ground Water Disinfection Rule (availability of draft summary announced at (57 Fed. Reg. 33960; July 31, 1992)).

(2) Contents of studies

The studies required by paragraph (1) shall include, at a minimum, each of the following:

(A) Toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points.

(B) Toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants.

(C) The development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus.

(3) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

(d) Waterborne disease occurrence study

(1) System

The Director of the Centers for Disease Control and Prevention, and the Administrator shall jointly—

(A) within 2 years after August 6, 1996, conduct pilot waterborne disease occurrence studies for at least 5 major United States communities or public water systems; and

(B) within 5 years after August 6, 1996, prepare a report on the findings of the pilot studies, and a national estimate of waterborne disease occurrence.

(2) Training and education

The Director and Administrator shall jointly establish a national health care provider training and public education campaign to inform both the professional health care provider community and the general public about waterborne disease and the symptoms that may be caused by infectious agents, including

microbial contaminants. In developing such a campaign, they shall seek comment from interested groups and individuals, including scientists, physicians, State and local governments, environmental groups, public water systems, and vulnerable populations.

(3) Funding

There are authorized to be appropriated for each of the fiscal years 1997 through 2001, $3,000,000 to carry out this subsection. To the extent funds under this subsection are not fully appropriated, the Administrator may use not more than $2,000,000 of the funds from amounts reserved under section 300j–12(n) of this title for health effects studies for purposes of this subsection. The Administrator may transfer a portion of such funds to the Centers for Disease Control and Prevention for such purposes.

(July 1, 1944, ch. 373, title XIV, § 1458, as added Pub. L. 104–182, title I, § 137, Aug. 6, 1996, 110 Stat. 1680.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

PART F—ADDITIONAL REQUIREMENTS TO REGULATE SAFETY OF DRINKING WATER

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300j–4 of this title.

§ 300j–21. Definitions

As used in this part—

(1) Drinking water cooler

The term ''drinking water cooler'' means any mechanical device affixed to drinking water supply plumbing which actively cools water for human consumption.

(2) Lead free

The term ''lead free'' means, with respect to a drinking water cooler, that each part or component of the cooler which may come in contact with drinking water contains not more than 8 percent lead, except that no drinking water cooler which contains any solder, flux, or storage tank interior surface which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface contains more than 0.2 percent lead. The Administrator may establish more stringent requirements for treating any part or component of a drinking water cooler as lead free for purposes of this part whenever he determines that any such part may constitute an important source of lead in drinking water.

(3) Local educational agency

The term ''local educational agency'' means—

(A) any local educational agency as defined in section 8801 of title 20,

(B) the owner of any private, nonprofit elementary or secondary school building, and

(C) the governing authority of any school operating under the defense dependent's education system provided for under the Defense Dependent's Education Act of 1978 (20 U.S.C. 921 and following).

(4) Repair

The term ''repair'' means, with respect to a drinking water cooler, to take such corrective action as is necessary to ensure that water cooler is lead free.

(5) Replacement

The term ''replacement'', when used with respect to a drinking water cooler, means the permanent removal of the water cooler and the installation of a lead free water cooler.

(6) School

The term ''school'' means any elementary school or secondary school as defined in section 8801 of title 20 and any kindergarten or day care facility.

(7) Lead-lined tank

The term ''lead-lined tank'' means a water reservoir container in a drinking water cooler which container is constructed of lead or which has an interior surface which is not lead free.

(July 1, 1944, ch. 373, title XIV, § 1461, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2884; amended Pub. L. 103–382, title III, § 391(p), Oct. 20, 1994, 108 Stat. 4024; Pub. L. 104–182, title V, § 501(f)(7), Aug. 6, 1996, 110 Stat. 1692.)

REFERENCES IN TEXT

The Defense Dependent's Education Act of 1978, referred to in par. (3)(C), probably means the Defense Dependents' Education Act of 1978, title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§ 921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and first word of text.

1994—Par. (3)(A). Pub. L. 103–382, § 391(p)(1), substituted ''section 8801 of title 20'' for ''section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381)''.

Par. (6). Pub. L. 103–382, § 391(p)(2), substituted ''section 8801 of title 20'' for ''section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854)''.

§ 300j–22. Recall of drinking water coolers with lead-lined tanks

For purposes of the Consumer Product Safety Act [15 U.S.C. 2051 et seq.], all drinking water coolers identified by the Administrator on the list under section 300j–23 of this title as having a lead-lined tank shall be considered to be imminently hazardous consumer products within the meaning of section 12 of such Act (15 U.S.C. 2061). After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after October 31, 1988. For purposes of enforcement, such order shall be treated as an order under section 15(d) of that Act (15 U.S.C. 2064(d)).

(July 1, 1944, ch. 373, title XIV, § 1462, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2885;

amended Pub. L. 104–182, title V, § 501(f)(8), Aug. 6, 1996, 110 Stat. 1692.)

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in text, is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, as amended, which is classified generally to chapter 47 (§ 2051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of Title 15 and Tables.

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and first word of text.

§ 300j–23. Drinking water coolers containing lead

(a) Publication of lists

The Administrator shall, after notice and opportunity for public comment, identify each brand and model of drinking water cooler which is not lead free, including each brand and model of drinking water cooler which has a lead-lined tank. For purposes of identifying the brand and model of drinking water coolers under this subsection, the Administrator shall use the best information available to the Environmental Protection Agency. Within 100 days after October 31, 1988, the Administrator shall publish a list of each brand and model of drinking water cooler identified under this subsection. Such list shall separately identify each brand and model of cooler which has a lead-lined tank. The Administrator shall continue to gather information regarding lead in drinking water coolers and shall revise and republish the list from time to time as may be appropriate as new information or analysis becomes available regarding lead contamination in drinking water coolers.

(b) Prohibition

No person may sell in interstate commerce, or manufacture for sale in interstate commerce, any drinking water cooler listed under subsection (a) of this section or any other drinking water cooler which is not lead free, including a lead-lined drinking water cooler.

(c) Criminal penalty

Any person who knowingly violates the prohibition contained in subsection (b) of this section shall be imprisoned for not more than 5 years, or fined in accordance with title 18, or both.

(d) Civil penalty

The Administrator may bring a civil action in the appropriate United States District Court (as determined under the provisions of title 28) to impose a civil penalty on any person who violates subsection (b) of this section. In any such action the court may impose on such person a civil penalty of not more than $5,000 ($50,000 in the case of a second or subsequent violation).

(July 1, 1944, ch. 373, title XIV, § 1463, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104–182, title V, § 501(f)(9), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300j–22, 300j–24 of this title.

§ 300j–24. Lead contamination in school drinking water

(a) Distribution of drinking water cooler list

Within 100 days after October 31, 1988, the Administrator shall distribute to the States a list of each brand and model of drinking water cooler identified and listed by the Administrator under section 300j–23(a) of this title.

(b) Guidance document and testing protocol

The Administrator shall publish a guidance document and a testing protocol to assist schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States within 100 days after October 31, 1988.

(c) Dissemination to schools, etc.

Each State shall provide for the dissemination to local educational agencies, private nonprofit elementary or secondary schools and to day care centers of the guidance document and testing protocol published under subsection (b) of this section, together with the list of drinking water coolers published under section 300j–23(a) of this title.

(d) Remedial action program

(1) Testing and remedying lead contamination

Within 9 months after October 31, 1988, each State shall establish a program, consistent with this section, to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies.

(2) Public availability

A copy of the results of any testing under paragraph (1) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such testing results.

(3) Coolers

In the case of drinking water coolers, such program shall include measures for the reduction or elimination of lead contamination from those water coolers which are not lead free and which are located in schools. Such measures shall be adequate to ensure that within 15 months after October 31, 1988, all

such water coolers in schools under the jurisdiction of such agencies are repaired, replaced, permanently removed, or rendered inoperable unless the cooler is tested and found (within the limits of testing accuracy) not to contribute lead to drinking water.

(July 1, 1944, ch. 373, title XIV, § 1464, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2886; amended Pub. L. 104–182, title V, § 501(f)(10), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–25 of this title.

§ 300j–25. Federal assistance for State programs regarding lead contamination in school drinking water

(a) School drinking water programs

The Administrator shall make grants to States to establish and carry out State programs under section 300j–24 of this title to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from drinking water coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies. Such grants may be used by States to reimburse local educational agencies for expenses incurred after October 31, 1988, for such testing and remedial action.

(b) Limits

Each grant under this section shall be used by the State for testing water coolers in accordance with section 300j–24 of this title, for testing for lead contamination in other drinking water supplies under section 300j–24 of this title, or for remedial action under State programs under section 300j–24 of this title. Not more than 5 percent of the grant may be used for program administration.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section not more than $30,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991.

(July 1, 1944, ch. 373, title XIV, § 1465, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2887; amended Pub. L. 104–182, title V, § 501(d), (f)(11), Aug. 6, 1996, 110 Stat. 1691, 1692.)

AMENDMENTS

1996—Pub. L. 104–182, § 501(f)(11), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b). Pub. L. 104–182, § 501(d), substituted ''by the State'' for ''as by the State''.

§ 300j–26. Certification of testing laboratories

The Administrator of the Environmental Protection Agency shall assure that programs for the certification of testing laboratories which test drinking water supplies for lead contamination certify only those laboratories which provide reliable accurate testing. The Administrator (or the State in the case of a State to which certification authority is delegated under this subsection) shall publish and make available to the public upon request the list of laboratories certified under this subsection.[1]

(Pub. L. 100–572, § 4, Oct. 31, 1988, 102 Stat. 2889.)

CODIFICATION

Section enacted as part of the Lead Contamination Control Act of 1988, and not as part of the Public Health Service Act which comprises this chapter.

SUBCHAPTER XIII—PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

§ 300k. Establishment of program of grants to States

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States on the basis of an established competitive review process for the purpose of carrying out programs—

(1) to screen women for breast and cervical cancer as a preventive health measure;

(2) to provide appropriate referrals for medical treatment of women screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services and support services such as case management;

(3) to develop and disseminate public information and education programs for the detection and control of breast and cervical cancer;

(4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer;

(5) to establish mechanisms through which the States can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures; and

(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

(b) Grant and contract authority of States

(1) In general

A State receiving a grant under subsection (a) of this section may, subject to paragraphs (2) and (3), expend the grant to carry out the purpose described in such subsection through grants to public and nonprofit private entities and through contracts with public and private entities.

(2) Certain applications

If a nonprofit private entity and a private entity that is not a nonprofit entity both submit applications to a State to receive an award of a grant or contract pursuant to paragraph (1), the State may give priority to the application submitted by the nonprofit private entity in any case in which the State determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity.

[1] So in original. Probably should be ''section.''

(3) Payments for screenings

The amount paid by a State to an entity under this subsection for a screening procedure under subsection (a)(1) of this section may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.] if payment were made under such part for furnishing the procedure to a woman enrolled under such part.

(c) Special consideration for certain States

In making grants under subsection (a) of this section to States whose initial grants under such subsection are made for fiscal year 1995 or any subsequent fiscal year, the Secretary shall give special consideration to any State whose proposal for carrying out programs under such subsection—

(1) has been approved through a process of peer review; and

(2) is made with respect to geographic areas in which there is—

(A) a substantial rate of mortality from breast or cervical cancer; or

(B) a substantial incidence of either of such cancers.

(d) Coordinating committee regarding year 2000 health objectives

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a committee to coordinate the activities of the agencies of the Public Health Service (and other appropriate Federal agencies) that are carried out toward achieving the objectives established by the Secretary for reductions in the rate of mortality from breast and cervical cancer in the United States by the year 2000. Such committee shall be comprised of Federal officers or employees designated by the heads of the agencies involved to serve on the committee as representatives of the agencies, and such representatives from other public or private entities as the Secretary determines to be appropriate.

(July 1, 1944, ch. 373, title XV, §1501, as added Pub. L. 101–354, §2, Aug. 10, 1990, 104 Stat. 409; amended Pub. L. 103–43, title XX, §2008(c)(1), June 10, 1993, 107 Stat. 211; Pub. L. 103–183, title I, §101(a), (b), (f), (g)(1), Dec. 14, 1993, 107 Stat. 2227–2229; Pub. L. 105–340, title II, §203(a), (b), Oct. 31, 1998, 112 Stat. 3194; Pub. L. 105–392, title IV, §401(b)(5), Nov. 13, 1998, 112 Stat. 3587.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title XVIII of the Act is classified generally to part B (§1395j et seq.) of subchapter XVIII of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 300k, Pub. L. 93–641, §2, Jan. 4, 1975, 88 Stat. 2226, set forth Congressional findings relating to national health planning and development, prior to omission in connection with repeal of former section 300k–1 et seq. of this title.

A prior section 1501 of act July 1, 1944, ch. 373, title XV, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2227; amended Oct. 4, 1979, Pub. L. 96–79, title I, §101(a)(1)(A), (2), (3), 93 Stat. 593; Dec. 17, 1980, Pub. L. 96–538, title III, §301, 94 Stat. 3190, which related to guidelines for national health policy, was classified to section 300k–1 of this title, prior to repeal by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Prior sections 300k–2 and 300k–3 were repealed by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300k–2, act July 1, 1944, ch. 373, title XV, §1502, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2227; amended Nov. 9, 1978, Pub. L. 95–619, title III, §303(a), 92 Stat. 3248; Oct. 4, 1979, Pub. L. 96–79, title I, §§102(a), 103(a), (b), 93 Stat. 594, 595, related to national health priorities and strengthening competition in supply of services.

Section 300k–3, act July 1, 1944, ch. 373, title XV, §1503, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2228; amended Aug. 1, 1977, Pub. L. 95–83, title I, §106(a), 91 Stat. 384; July 10, 1979, Pub. L. 96–32, §7(g), 93 Stat. 84; Oct. 4, 1979, Pub. L. 96–79, title I, §102(b), 93 Stat. 594; Oct. 17, 1979, Pub. L. 96–88, title V, §509(b), 93 Stat. 695, related to National Council on Health Planning and Development.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–340, §203(a), inserted ''and support services such as case management'' before semicolon at end.

Subsec. (b)(1). Pub. L. 105–340, §203(b)(1), substituted ''through grants to public and nonprofit private entities and through contracts with public and private entities.'' for ''through grants to, and contracts with, public or nonprofit private entities.''

Subsec. (b)(2). Pub. L. 105–340, §203(b)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) of this section through entering into contracts with private entities that are not nonprofit entities.''

Subsecs. (c), (d). Pub. L. 105–392 redesignated subsec. (c), relating to coordinating committee regarding year 2000 health objectives, as (d).

1993—Subsec. (a). Pub. L. 103–183, §101(g)(1), substituted ''Control and Prevention'' for ''Control'' in introductory provisions.

Subsec. (b). Pub. L. 103–183, §101(a), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)'' in par. (1), added pars. (2) and (3), and struck out heading and text of former par. (2). Text read as follows: ''In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) of this section through entering into contracts with private entities. The amount paid by a State to a private entity under the preceding sentence for a screening procedure may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act if payment were made under such part for furnishing the procedure to a woman enrolled under such part.''

Pub. L. 103–43, §2008(c)(1), designated existing provisions as par. (1), inserted par. heading, substituted ''may, subject to paragraph (2), expend'' for ''may expend'', and added par. (2).

Subsec. (c). Pub. L. 103–183, §101(f), added subsec. (c) relating to coordinating committee regarding year 2000 health objectives.

Pub. L. 103–183, §101(b), added subsec. (c) relating to special consideration for certain States.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300*l*, 300*l*–1, 300m, 300n, 300n–1, 300n–2, 300n–3, 300n–4, 300n–4a of this title.

§ 300*l*. Requirement of matching funds

(a) In general

The Secretary may not make a grant under section 300k of this title unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under subsection (b) of this section) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

(b) Determination of amount of non-Federal contribution

(1) In general

Non-Federal contributions required in subsection (a) of this section may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) Maintenance of effort

In making a determination of the amount of non-Federal contributions for purposes of subsection (a) of this section, the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in section 300k of this title for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

(3) Inclusion of relevant non-Federal contributions for medicaid

In making a determination of the amount of non-Federal contributions for purposes of subsection (a) of this section, the Secretary shall, subject to paragraphs (1) and (2) of this subsection, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] by the State involved toward the purpose described in paragraphs (1) and (2) of section 300k(a) of this title.

(July 1, 1944, ch. 373, title XV, § 1502, as added Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 410.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 300*l*, act July 1, 1944, ch. 373, title XV, § 1511, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2229; amended Apr. 22, 1976, Pub. L. 94–278, title XI, § 1106(a), 90 Stat. 416; Aug. 1, 1977, Pub. L. 95–83, title I, § 106(b), 91 Stat. 384; Oct. 4, 1979, Pub. L. 96–79, title I, § 104(a)(1), (b), 93 Stat. 595, 596, related to establishment of health service areas, prior to repeal by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

A prior section 1502 of act July 1, 1944, ch. 373, title XV, was classified to section 300k–2 of this title prior to repeal by Pub. L. 99–660.

§ 300*l*–1. Requirement regarding medicaid

The Secretary may not make a grant under section 300k of this title for a program in a State unless the State plan under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State includes the screening procedures specified in subparagraphs (A) and (B) of section 300m(a)(2) of this title as medical assistance provided under the plan.

(July 1, 1944, ch. 373, title XV, § 1502A, as added Pub. L. 102–531, title III, § 307, Oct. 27, 1992, 106 Stat. 3495.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

Prior sections 300*l*–1 to 300*l*–5 were repealed by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300*l*–1, act July 1, 1944, ch. 373, title XV, § 1512, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2232; amended Mar. 19, 1976, Pub. L. 94–237, § 14(b), 90 Stat. 249; Oct. 12, 1976, Pub. L. 94–484, title IX, § 902(a), 90 Stat. 2324; Aug. 1, 1977, Pub. L. 95–83, title I, § 106(c), (d), 91 Stat. 384; Oct. 4, 1979, Pub. L. 96–79, title I, §§ 108(a)–(d)(1), (e), 109, 110(a)–(d)(1), (e)(1), (2)(A), (3), 111(a), (b), 112, 113(a), 114, 93 Stat. 601–607; Aug. 13, 1981, Pub. L. 97–35, title IX, § 935(d), 95 Stat. 571; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095, related to composition and operation of health systems agencies.

Section 300*l*–2, act July 1, 1944, ch. 373, title XV, § 1513, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2235; amended Mar. 19, 1976, Pub. L. 94–237, § 14(a), 90 Stat. 249; Aug. 1, 1977, Pub. L. 95–83, title I, § 106(e)–(i), 91 Stat. 384, 385; July 10, 1979, Pub. L. 96–32, § 7(m), 93 Stat. 84; Oct. 4, 1979, Pub. L. 96–79, title I, §§ 101(b)(1), 103(c), 107(a), 110(e)(4), (f), 115(b)(1), (2), (c)(2), (d)(1), (2), (e), (f), (h), (i)(1), 118(a)(1), (b)(1), (c), 119(b), 120(a), 121, 122(a), 123(c)(1)(B), 93 Stat. 593, 595, 600, 604, 607–610, 620–625; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695; Jan. 2, 1980, Pub. L. 96–181, § 15(b), 93 Stat. 1316; Oct. 7, 1980, Pub. L. 96–398, title VIII, § 804(d), 94 Stat. 1608; Aug. 13, 1981, Pub. L. 97–35, title IX, § 902(g)(4), 95 Stat. 561, related to functions of health systems agencies.

Section 300*l*–3, act July 1, 1944, ch. 373, title XV, § 1514, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2239; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 106(j), 91 Stat. 385; Oct. 4, 1979, Pub. L. 96–79, title I, § 105(f), 93 Stat. 598, provided for assistance to entities desiring to be designated as health systems agencies.

Section 300*l*–4, act July 1, 1944, ch. 373, title XV, § 1515, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2239; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 106(k), 91 Stat. 385; Dec. 19, 1977, Pub. L. 95–215, § 6(a)(1), 91 Stat. 1507; Oct. 4, 1979, Pub. L. 96–79, title I, § 105(a)–(d)(1)(A), (2), (e), (g), (h), 93 Stat. 596–598; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695, provided for designation of health systems agencies.

Section 300*l*–5, act July 1, 1944, ch. 373, title XV, § 1516, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2241; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 102(a), 91 Stat. 383; Dec. 19, 1977, Pub. L. 95–215, § 6(a)(2), 91 Stat. 1507; Oct. 4, 1979, Pub. L. 96–79, title I, §§ 106, 107(b), 127(a), 93 Stat. 598, 600, 629; Dec. 17, 1980, Pub. L. 96–538, title III, § 302, 94 Stat. 3190; Aug. 13, 1981, Pub. L. 97–35, title IX, §§ 933(a)(1), 934(a), 95 Stat. 570, 571, provided for planning grants to health systems agencies.

§300m. Requirements with respect to type and quality of services

(a) Requirement of provision of all services by date certain

The Secretary may not make a grant under section 300k of this title unless the State involved agrees—

(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of section 300k(a) of this title, including making available screening procedures for both breast and cervical cancers;

(2) subject to subsection (b) of this section, to ensure that—

(A) in the case of breast cancer, both a physical examination of the breasts and the screening procedure known as a mammography are conducted; and

(B) in the case of cervical cancer, both a pelvic examination and the screening procedure known as a pap smear are conducted;

(3) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in section 300k(a) of this title is provided; and

(4) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

(b) Use of improved screening procedures

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that, if any screening procedure superior to a procedure described in subsection (a)(2) of this section becomes commonly available and is recommended for use, any entity providing screening procedures pursuant to the grant will utilize the superior procedure rather than the procedure described in such subsection.

(c) Quality assurance regarding screening procedures

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the State will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to such section.

(July 1, 1944, ch. 373, title XV, §1503, as added Pub. L. 101–354, §2, Aug. 10, 1990, 104 Stat. 410; amended Pub. L. 103–183, title I, §101(c)(1), Dec. 14, 1993, 107 Stat. 2227.)

PRIOR PROVISIONS

Prior sections 300m to 300m–6 were repealed by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300m, act July 1, 1944, ch. 373, title XV, §1521, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2242; amended Aug. 1, 1977, Pub. L. 95–83, title I, §106(*l*), (m), 91 Stat. 385; Dec. 19, 1977, Pub. L. 95–215, §6(b), 91 Stat. 1507; July 16, 1979, Pub. L. 96–33, 93 Stat. 86; Oct. 4, 1979, Pub. L. 96–79, title I, §123(a), (b)(1)(A), (2), (d), (f), (g)(2), 93 Stat. 624–627; Oct. 17, 1979, Pub. L. 96–88, title V, §509(b), 93 Stat. 695; Jan. 2, 1980, Pub. L. 96–181, §15(b), 93 Stat. 1316; Dec. 17, 1980, Pub. L. 96–538, title III, §303(b), 94 Stat. 3190; Aug. 13, 1981, Pub. L. 97–35, title IX, §§902(g)(5), 936(b), 95 Stat. 561, 572; Jan. 4, 1983, Pub. L. 97–414, §9(b), 96 Stat. 2064, provided for designation of State health planning and development agencies.

A prior section 1503 of act July 1, 1944, ch. 373, title XV, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2228; amended Aug. 1, 1977, Pub. L. 95–83, title I, §106(a), 91 Stat. 384; July 10, 1979, Pub. L. 96–32, §7(g), 93 Stat. 84; Oct. 4, 1979, Pub. L. 96–79, title I, §102(b), 93 Stat. 594; Oct. 17, 1979, Pub. L. 96–88, title V, §509(b), 93 Stat. 695, which related to National Council on Health Planning and Development, was classified to section 300k–3 of this title.

Section 300m–1, act July 1, 1944, ch. 373, title XV, §1522, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2244; amended 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Oct. 4, 1979, Pub. L. 96–79, title I, §§101(b)(2), 111(c), 115(b)(3), 117(b)(4), 120(b), 122(b), 123(c)(1)(A), (e)(1), 93 Stat. 594, 605, 607, 620, 622, 624, 625, 626; Oct. 17, 1979, Pub. L. 96–88, title V, §509(b), 93 Stat. 695, related to State administrative programs.

Section 300m–2, act July 1, 1944, ch. 373, title XV, §1523, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2246; amended Aug. 1, 1977, Pub. L. 95–83, title I, §106(n), 91 Stat. 385; Oct. 4, 1979, Pub. L. 96–79, title I, §§115(c)(1)(A)–(C), (i)(2), 117(b)(1), (2), 118(a)(2), (b)(2), 123(c)(2), (3), (e)(2), (g)(1), 93 Stat. 607, 608, 610, 618, 619, 621, 625–627; Oct. 7, 1980, Pub. L. 96–398, title III, §303, 94 Stat. 1588, related to State health planning and development functions.

Section 300m–3, act July 1, 1944, ch. 373, title XV, §1524, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2247; amended Oct. 4, 1979, Pub. L. 96–79, title I, §§110(d)(2), 113(b), 115(a), (c)(1)(D), (d)(3), (g), (i)(2)–(4), 119(a), 124, 93 Stat. 604, 606–610, 621, 627; Jan. 2, 1980, Pub. L. 96–181, §15(b), 93 Stat. 1316; Dec. 17, 1980, Pub. L. 96–538, title III, §§304, 305, 94 Stat. 3191; Aug. 13, 1981, Pub. L. 97–35, title IX, §902(g)(6), 95 Stat. 561, related to composition and functions of Statewide Health Coordinating Councils.

Section 300m–4, act July 1, 1944, ch. 373, title XV, §1525, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2249; amended Aug. 1, 1977, Pub. L. 95–83, title I, §102(b), 91 Stat. 383; Oct. 4, 1979, Pub. L. 96–79, title I, §§107(c), 127(b), 93 Stat. 600, 629; Aug. 13, 1981, Pub. L. 97–35, title IX, §933(a)(2), 95 Stat. 570, provided for grants for State health planning and development.

Section 300m–5, act July 1, 1944, ch. 373, title XV, §1526, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2249; amended Aug. 1, 1977, Pub. L. 95–83, title I, §§102(c), 106(*o*), 91 Stat. 383, 385; Oct. 4, 1979, Pub. L. 96–79, title I, §§107(d), 120(c), 127(c), 93 Stat. 600, 622, 629, provided for grants for rate regulation.

Section 300m–6, act July 1, 1944, ch. 373, title XV, §1527, as added Oct. 4, 1979, Pub. L. 96–79, title I, §117(a), 93 Stat. 614; amended Dec. 17, 1980, Pub. L. 96–538, title III, §§306, 307, 94 Stat. 3191; Aug. 13, 1981, Pub. L. 97–35, title IX, §949(c), 95 Stat. 578, related to certificate of need program.

AMENDMENTS

1993—Subsecs. (c) to (e). Pub. L. 103–183 added subsec. (c) and struck out former subsecs. (c) which related to quality assurance regarding screening for breast cancer, (d) which related to quality assurance regarding screening for cervical cancer, and (e) which related to issuance by Secretary of guidelines with respect to quality of mammography and cytological services.

TRANSITION RULE REGARDING MAMMOGRAPHIES

Section 101(c)(2) of Pub. L. 103–183 provided that: "With respect to the screening procedure for breast cancer known as a mammography, the requirements in effect on the day before the date of the enactment of this Act [Dec. 14, 1993] under section 1503(c) of the Public Health Service Act [subsec. (c) of this section] remain in effect (for an individual or facility conducting such procedures pursuant to a grant to a State under section 1501 of such Act [section 300k of this title]) until there is in effect for the facility a certificate (or

provisional certificate) issued under section 354 of such Act [section 263b of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300*l*–1 of this title.

§ 300n. Additional required agreements

(a) Priority for low-income women

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that low-income women will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of section 300k(a) of this title.

(b) Limitation on imposition of fees for services

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the woman involved; and

(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(c) Statewide provision of services

(1) In general

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that services and activities under the grant will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 450b of title 25).

(2) Waiver

The Secretary may waive the requirement established in paragraph (1) for a State if the Secretary determines that compliance by the State with the requirement would result in an inefficient allocation of resources with respect to carrying out the purpose described in section 300k(a) of this title.

(3) Grants to tribes and tribal organizations

(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to tribes and tribal organizations (as such terms are used in paragraph (1)) for the purpose of carrying out programs described in section 300k(a) of this title. This subchapter applies to such a grant (in relation to the jurisdiction of the tribe or organization) to the same extent and in the same manner as such subchapter applies to a grant to a State under section 300k of this title (in relation to the jurisdiction of the State).

(B) If a tribe or tribal organization is receiving a grant under subparagraph (A) and the State in which the tribe or organization is located is receiving a grant under section 300k of this title, the requirement established in paragraph (1) for the State regarding the tribe or organization is deemed to have been waived under paragraph (2).

(d) Relationship to items and services under other programs

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(2) by an entity that provides health services on a prepaid basis.

(e) Coordination with other breast and cervical cancer programs

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the services and activities funded through the grant shall be coordinated with other Federal, State, and local breast and cervical cancer programs.

(f) Limitation on administrative expenses

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(g) Restrictions on use of grant

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

(h) Records and audits

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that—

(1) the State will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section; and

(2) upon request, the State will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the State of the grant.

(i) Reports to Secretary

The Secretary may not make a grant under section 300k of this title unless the State involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

(July 1, 1944, ch. 373, title XV, § 1504, as added Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 412; amended Pub. L. 103–183, title I, § 101(d), Dec. 14, 1993, 107 Stat. 2228.)

PRIOR PROVISIONS

A prior section 300n, act July 1, 1944, ch. 373, title XV, § 1531, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2250; amended Mar. 19, 1976, Pub. L. 94–237, § 14(c), 90 Stat. 249; Oct. 12, 1976, Pub. L. 94–484, title IX, § 902(b), 90 Stat. 2324; Oct. 4, 1979, Pub. L. 96–79, title I,

§§104(c)(2), 108(d)(2), 117(b)(3), 126(a)(1), (b), 93 Stat. 596, 602, 619, 628; Dec. 17, 1980, Pub. L. 96–538, title III, §§308, 309, 94 Stat. 3192; Aug. 13, 1981, Pub. L. 97–35, title IX, §936(a), 95 Stat. 572, defined terms applicable to this subchapter, prior to repeal by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

AMENDMENTS

1993—Subsec. (c)(3). Pub. L. 103–183 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300n–4 of this title.

§ 300n–1. Description of intended uses of grant

The Secretary may not make a grant under section 300k of this title unless—

(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant;

(2) the description identifies the populations, areas, and localities in the State with a need for the services or activities described in section 300k(a) of this title;

(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public and private entities; and

(4) the description provides assurances that the grant funds will be used in the most cost-effective manner.

(July 1, 1944, ch. 373, title XV, §1505, as added Pub. L. 101–354, §2, Aug. 10, 1990, 104 Stat. 414; amended Pub. L. 103–43, title XX, §2008(c)(2), June 10, 1993, 107 Stat. 211; Pub. L. 103–183, title I, §101(g)(2), Dec. 14, 1993, 107 Stat. 2229; Pub. L. 105–392, title IV, §401(b)(6), Nov. 13, 1998, 112 Stat. 3587.)

PRIOR PROVISIONS

A prior section 300n–1, act July 1, 1944, ch. 373, title XV, §1532, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2251; amended Oct. 8, 1976, Pub. L. 94–460, title I, §117(a), 90 Stat. 1954; Nov. 9, 1978, Pub. L. 95–619, title III, §303(b), (c), 92 Stat. 3248; Oct. 4, 1979, Pub. L. 96–79, title I, §§103(d), 116, 117(b)(5), 93 Stat. 595, 610, 620; Dec. 17, 1980, Pub. L. 96–538, title III, §310, 94 Stat. 3192, provided for procedures and criteria for review of proposed health system changes, prior to repeal by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

AMENDMENTS

1998—Par. (3). Pub. L. 105–392 struck out ''nonprofit'' before ''private entities''.

1993—Par. (3). Pub. L. 103–183, §101(g)(2)(A), substituted ''public and nonprofit private entities; and'' for ''public or nonprivate entities (and additionally, in the case of services and activities under section 300k(a)(1) of this title, with any similar services or activities of private entities); and''.

Pub. L. 103–43 inserted before semicolon ''(and additionally, in the case of services and activities under section 300k(a)(1) of this title, with any similar services or activities of private entities)''.

Par. (4). Pub. L. 103–183, §101(g)(2)(B), inserted ''will'' after ''grant funds''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300n–2 of this title.

§ 300n–2. Requirement of submission of application

The Secretary may not make a grant under section 300k of this title unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 300n–1 of this title, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subchapter.

(July 1, 1944, ch. 373, title XV, §1506, as added Pub. L. 101–354, §2, Aug. 10, 1990, 104 Stat. 414.)

PRIOR PROVISIONS

A prior section 300n–2, act July 1, 1944, ch. 373, title XV, §1533, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88 Stat. 2253, provided for technical assistance to health systems agencies and State agencies, prior to repeal by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

§ 300n–3. Technical assistance and provision of supplies and services in lieu of grant funds

(a) Technical assistance

The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 300k of this title. The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

(b) Provision of supplies and services in lieu of grant funds

(1) In general

Upon the request of a State receiving a grant under section 300k of this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such section and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant under section 300k of this title to the State involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch. 373, title XV, §1507, as added Pub. L. 101–354, §2, Aug. 10, 1990, 104 Stat. 414.)

PRIOR PROVISIONS

A prior section 300n–3, act July 1, 1944, ch. 373, title XV, §1534, as added Jan. 4, 1975, Pub. L. 93–641, §3, 88

Stat. 2255; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 102(d), 91 Stat. 383; Oct. 4, 1979, Pub. L. 96–79, title I, §§ 125, 127(d), 93 Stat. 628, 629; Aug. 13, 1981, Pub. L. 97–35, title IX, § 933(a)(3), 95 Stat. 570, provided for developing new centers for health planning, prior to repeal by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300n–5 of this title.

§ 300n–4. Evaluations and reports

(a) Evaluations

The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 300k of this title. Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 300k(a)(2) of this title and with section 300n(c) of this title.

(b) Report to Congress

The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 300n–5(a)[1] of this title, and annually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) of this section during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this subchapter as the Secretary determines to be appropriate, including recommendations regarding compliance by the States with section 300k(a)(2) of this title and with section 300n(c) of this title.

(July 1, 1944, ch. 373, title XV, § 1508, as added Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 415; amended Pub. L. 103–183, title I, § 101(e), Dec. 14, 1993, 107 Stat. 2228.)

REFERENCES IN TEXT

Section 300n–5(a) of this title, referred to in subsec. (b), was in the original a reference to section 1509(a), meaning section 1509(a) of act July 1, 1944. Section 1509 was renumbered section 1510 by Pub. L. 103–183, title I, § 102(a)(1), Dec. 14, 1993, 107 Stat. 2229.

PRIOR PROVISIONS

A prior section 300n–4, act July 1, 1944, ch. 373, title XV, § 1535, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2256, provided for review by Secretary of operations of designated health systems agencies and State agencies, prior to repeal by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–183, § 101(e)(1), inserted at end "Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 300k(a)(2) of this title and with section 300n(c) of this title."

Subsec. (b). Pub. L. 103–183, § 101(e)(2), inserted before period at end ", including recommendations regarding compliance by the States with section 300k(a)(2) of this title and with section 300n(c) of this title".

[1] See References in Text note below.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300n–4a. Supplemental grants for additional preventive health services

(a) Demonstration projects

In the case of States receiving grants under section 300k of this title, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to not more than 3 such States to carry out demonstration projects for the purpose of—

(1) providing preventive health services in addition to the services authorized in such section, including screenings regarding blood pressure and cholesterol, and including health education;

(2) providing appropriate referrals for medical treatment of women receiving services pursuant to paragraph (1) and ensuring, to the extent practicable, the provision of appropriate follow-up services; and

(3) evaluating activities conducted under paragraphs (1) and (2) through appropriate surveillance or program-monitoring activities.

(b) Status as participant in program regarding breast and cervical cancer

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that services under the grant will be provided only through entities that are screening women for breast or cervical cancer pursuant to a grant under section 300k of this title.

(c) Applicability of provisions of general program

This subchapter applies to a grant under subsection (a) of this section to the same extent and in the same manner as such subchapter applies to a grant under section 300k of this title.

(d) Funding

(1) In general

Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003.

(2) Limitation regarding funding with respect to breast and cervical cancer

The authorization of appropriations established in paragraph (1) is not effective for a fiscal year unless the amount appropriated under section 300n–5(a) of this title for the fiscal year is equal to or greater than $100,000,000.

(July 1, 1944, ch. 373, title XV, § 1509, as added Pub. L. 103–183, title I, § 102(a)(2), Dec. 14, 1993, 107 Stat. 2229; amended Pub. L. 105–340, title II, § 203(c)(1), Oct. 31, 1998, 112 Stat. 3194.)

PRIOR PROVISIONS

A prior section 1509 of act July 1, 1944, was renumbered section 1510 and is classified to section 300n–5 of this title.

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105–340 substituted ''2003'' for ''1998''.

§ 300n–5. Funding for general program

(a) Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated $50,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993, $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003.

(b) Set-aside for technical assistance and provision of supplies and services

Of the amounts appropriated under subsection (a) of this section for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out section 300n–3 of this title.

(July 1, 1944, ch. 373, title XV, § 1510, formerly § 1509, as added Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 415; renumbered § 1510 and amended Pub. L. 103–183, title I, §§ 102(a)(1), (b), 103, Dec. 14, 1993, 107 Stat. 2229, 2230; Pub. L. 105–340, title II, § 203(c)(2), Oct. 31, 1998, 112 Stat. 3194.)

PRIOR PROVISIONS

Prior sections 300n–5 and 300n–6 were repealed by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300n–5, act July 1, 1944, ch. 373, title XV, § 1536, as added Jan. 4, 1975, Pub. L. 93–641, § 3, 88 Stat. 2257; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 106(p), (q), 91 Stat. 385; Oct. 4, 1979, Pub. L. 96–79, title I, § 104(c)(1), 93 Stat. 596; Aug. 13, 1981, Pub. L. 97–35, title IX, § 935(a), 95 Stat. 571; Jan. 4, 1983, Pub. L. 97–414, § 8(p), 96 Stat. 2062, made special provisions for certain States and territories.

Section 300n–6, act July 1, 1944, ch. 373, title XV, § 1537, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 933(b), 95 Stat. 570, authorized appropriations for grants and contracts under former sections 300*l*–5(a), 300m–4(a), and 300n–3(a) of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–340 substituted ''2003'' for ''1998''.

1993—Pub. L. 103–183, § 102(b), inserted ''for general program'' after ''Funding'' in section catchline.

Subsec. (a). Pub. L. 103–183, § 103, struck out ''and'' after ''1991,'' and inserted before period at end '', $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300n–4, 300n–4a of this title.

SUBCHAPTER XIV—HEALTH RESOURCES DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1395x of this title; title 40 App. section 214.

§§ 300*o* to 300*o*–3. Repealed. Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632

Sections 300*o* to 300*o*–3, act July 1, 1944, ch. 373, title XVI, §§ 1601–1604, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2258–2260; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 106(r)–(v), 91 Stat. 385, were repealed by Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632.

Section 300*o* related to statement of purpose.

Section 300*o*–1 provided for promulgation of regulations and required provisions.

Section 300*o*–2 related to State medical facilities plans, submission and approval of plans as prerequisite for approval of project assistance applications, required provisions, and procedure upon disapproval of plans.

Section 300*o*–3 provided for medical facility project applications, covering in submission of applications, required provisions, waivers, and projects subject to requirements, criteria for approval, procedure for disapproval, amendment of approved applications, and review by health systems agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

§§ 300p to 300p–3. Repealed. Pub. L. 96–79, title II, § 201(a), Oct. 4, 1979, 93 Stat. 630

Sections 300p to 300p–3, act July 1, 1944, ch. 373, title XVI, §§ 1610–1613, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2262–2264; amended Apr. 22, 1976, Pub. L. 94–278, title XI, § 1106(b), 90 Stat. 416; Aug. 1, 1977, Pub. L. 95–83, title I, §§ 103(a), 106(w), 91 Stat. 383, 385, were repealed by Pub. L. 96–79, title II, § 201(a), Oct. 4, 1979, 93 Stat. 632.

Section 300p related to allotments to States for health resources development.

Section 300p–1 related to payments to States for approved medical facility projects.

Section 300p–2 related to compliance provisions and withholding of payments for noncompliance.

Section 300p–3 authorized appropriations for allotments to States.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

PART A—LOANS AND LOAN GUARANTEES

AMENDMENTS

1979—Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632, repealed part A relating to purpose, State plan, and project approval, and comprising former sections 300*o* to 300*o*–3 of this title, and redesignated former part C as part A relating to loans and loan guarantees.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300s, 300s–1 of this title.

§ 300q. Loan and loan guarantee authority

(a) Covered projects: duration; payment of principal and interest on loans for covered projects: duration; payments for reduction of interest rate

(1) The Secretary, during the period ending September 30, 1982, may, in accordance with this part, make loans from the fund established under section 300q–2(d) of this title to any public or nonprofit private entity for projects for—

(A) the discontinuance of unneeded hospital services or facilities,

(B) the conversion of unneeded hospital services and facilities to needed health services and medical facilities, including outpatient medical facilities and facilities for long-term care;

(C) the renovation and modernization of medical facilities, particularly projects for the

prevention or elimination of safety hazards, projects to avoid noncompliance with licensure or accreditation standards, or projects to replace obsolete facilities;

(D) the construction of new outpatient medical facilities; and

(E) the construction of new inpatient medical facilities in areas which have experienced (as determined by the Secretary) recent rapid population growth.

(2)(A) The Secretary, during the period ending September 30, 1982, may, in accordance with this part, guarantee to—

(i) non-Federal lenders for their loans to public and nonprofit private entities for medical facilities projects described in paragraph (1), and

(ii) the Federal Financing Bank for its loans to public and nonprofit private entities for such projects,

payment of principal and interest on such loans.

(B) In the case of a guarantee of any loan to a public or nonprofit private entity under subparagraph (A)(i) which is located in an urban or rural poverty area, the Secretary may pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by not more than one half the net effective interest rate otherwise payable on such loan if the Secretary finds that without such assistance the project could not be undertaken.

(b) Amount of loans for medical facilities projects and such projects in urban or rural poverty areas

The principal amount of a loan directly made or guaranteed under subsection (a) of this section for a medical facilities project, when added to any other assistance provided such project under part B, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under part B, may cover up to 100 per centum of such costs.

(c) Limitation on cumulative total of principal of outstanding loans

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

(d) Administrative assistance of Department of Housing and Urban Development

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

(July 1, 1944, ch. 373, title XVI, § 1601, formerly § 1620, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2264; amended Pub. L. 94–273, § 2(21), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–83, title I, § 106(x)(1), Aug. 1, 1977, 91 Stat. 385; renumbered § 1601 and amended Pub. L. 96–79, title II, §§ 201(b)(1), 203(a)(1), (2), Oct. 4, 1979, 93 Stat. 630, 635.)

PRIOR PROVISIONS

A prior section 1601 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2258, was classified to section 300*o* of this title, prior to repeal by Pub. L. 96–79, § 202(a).

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–79, §§ 201(b)(1), 203(a)(2), added par. (1); substituted reference to section 1602(d) for 1622(d), set out in text as ''section 300q–2(d) of this title''; incorporated in par. (2) former subsec. (b) provisions made applicable for period ending Sept. 30, 1982, previously covering period beginning July 1, 1974, and ending Sept. 30, 1978, extended provisions to public entities, struck out existing condition that applications for assistance under subchapter be approved under former section 300*o*–3 of this title, substituted in subpar. (2)(B) provision for payment of amounts sufficient to reduce by not more than one half net effective interest otherwise payable on the loan for prior provision for amounts sufficient to reduce by 3 per centum per annum net effective interest rate on the loan, and struck out provision granting contractual right of holder of a guaranteed loan to receive from the United States such interest payments.

Subsec. (b). Pub. L. 96–79, § 201(b)(1), added subsec. (b) and incorporated existing provisions of subsec. (b) relating to loan guarantee authority for payment of principal and interest on loans for approved projects, their duration, and payments for reduction of interest rate in subsec. (a)(2) of this section.

1977—Subsecs. (a), (b)(1). Pub. L. 95–83 substituted ''September 30, 1978'' for ''September 30, 1977''.

1976—Subsecs. (a), (b)(1). Pub. L. 94–273 substituted ''September'' for ''June''.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 204 of Pub. L. 96–79 provided that: ''The amendments made by this title [enacting sections 300s, 300s–1, and 300s–6, amending this section and sections 201, 300q–2, 300r, 300s–1a, 300s–3, and 300s–5, and repealing sections 300*o* to 300*o*–3, 300p to 300p–3, 300q–1, and 300s of this title] shall take effect October 1, 1979, except that the amendments made by section 201(b) [amending this section and section 300q–2 of this title] respecting the payment of an interest subsidy for a loan or loan guarantee made under part A of title XVI of the Public Health Service Act [this part] shall apply only with respect to loans and loan guarantees made after October 1, 1979, and with respect to loans and loan guarantees made under such part before such date the Secretary shall continue to pay the interest subsidy authorized for such loans and loan guarantees before such date.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q–2 of this title.

§ 300q–1. Repealed. Pub. L. 96–79, title II, § 203(a)(1), Oct. 4, 1979, 93 Stat. 635

Section, act July 1, 1944, ch. 373, title XVI, § 1621, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2265, related to allocation among States of total amount of principal, criteria, availability of unobligated amounts, and reallotments.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

§ 300q–2. General provisions

(a) Loan guarantees; criteria for approval; recovery of payments by United States; modification, etc., of terms and conditions; incontestability

(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Loans; criteria for approval; terms and conditions; waiver of recovery of payments by United States

(1) The Secretary may not approve a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus any interest subsidy made in accordance with section 300q(a)(2)(B) of this title with respect to a loan made for a project located in an urban or rural poverty area, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds

(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of title 12 or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3)(A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A)—

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was

made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d) of this section.

(5) If any loan to a public entity under this part is sold and guaranteed by the Secretary under this subsection, interest paid on such loan after its sale and any interest subsidy paid, under paragraph (3)(A)(ii), by the Secretary with respect to such loan which is received by the purchaser of the loan (or the purchaser's successor in interest) shall be included in the gross income of the purchaser or successor for the purpose of chapter 1 of title 26.

(d) Loan and loan guarantee fund; establishment; amounts authorized to be appropriated; issuance, purchase, and sale of notes, obligations, etc.; interest rates; public debt transactions

(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the ''fund'') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts—

(A) to enable him to make loans under this part,

(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

(C) for payment of interest under section 300q(a)(2)(B) of this title on loans guaranteed under this part,

(D) for repurchase of loans under subsection (c)(3)(B) of this section,

(E) for payment of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f) of this section.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary—

(A) to make payments of interest under section 300q(a)(2)(B) of this title,

(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

(D) to repurchase loans under subsection (c)(3)(B) of this section,

(E) to make payments of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f) of this section,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which the securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Transfers to and additional capitalization of loan and loan guarantee fund

(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 291j–6 of this title shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) of this section there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(f) Default prevention measures; terms and conditions; implementation of reforms; foreclosures; protection of Federal interest on default

(1) The Secretary may take such action as may be necessary to prevent a default on a loan made or guaranteed under this part or under subchapter IV of this chapter, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a medical facility shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

(2) The Secretary may take such action, consistent with State law respecting foreclosure procedures, as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this part or under subchapter IV of this chapter, including selling real property pledged as security for such a loan or loan guarantee and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.

(July 1, 1944, ch. 373, title XVI, § 1602, formerly § 1622, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2265; amended Pub. L. 95–83, title I, § 106(x)(2), (y), Aug. 1, 1977, 91 Stat. 385; renumbered § 1602 and amended Pub. L. 96–79, title II, §§ 201(b)(2), (3), 203(a)(1), (3), (g), Oct. 4, 1979, 93 Stat. 631, 635; Pub. L. 97–414, § 8(q), Jan. 4, 1983, 96 Stat. 2062; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Subchapter IV of this chapter, referred to in subsec. (f), is classified to section 291 et seq. of this title.

CODIFICATION

In subsec. (d), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act'' and ''that Act'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1602 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2258; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 106(r), (s), 91 Stat. 385, was classified to section 300*o*–1 of this title, prior to repeal by Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632.

AMENDMENTS

1986—Subsec. (c)(5). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1983—Subsec. (f)(2). Pub. L. 97–414 inserted ''selling real property pledged as security for such a loan or loan guarantee and'' after ''including''.

1979—Subsec. (b)(2)(D). Pub. L. 96–79, § 201(b)(2), substituted ''minus any interest subsidy made in accordance with section 300q(a)(2)(B) of this title (with respect to a loan made for a project located in an urban or rural poverty area'' for ''minus 3 per centum per annum''.

Subsec. (d)(1). Pub. L. 96–79, § 203(a)(3), (g)(2), substituted in subpar. (C) reference to section ''300q(a)(2)(B)'' for ''300q(b)(2)'' of this title, and added subpar. (F).

Subsec. (d)(2). Pub. L. 96–79, § 203(a)(3), (g)(3), substituted in subpar. (A) reference to section ''300q(a)(2)(B)'' for ''300q(b)(2)'' of this title, and added subpar. (F).

Subsec. (e)(2). Pub. L. 96–79, § 201(b)(3), authorized appropriations for fiscal years ending Sept. 30, 1979 through 1982.

Subsec. (f). Pub. L. 96–79, § 203(g)(1), added subsec. (f).

1977—Subsec. (c)(5). Pub. L. 95–83, § 106(y), added subsec. (c)(5).

Subsec. (e)(2). Pub. L. 95–83, § 106(x)(2), substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year ending June 30, 1977.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, except that amendment of subsec. (b)(2)(D) respecting interest subsidy payments for loans or loan guarantees applicable only with respect to loans and loan guarantees made after Oct. 1, 1979, and that subsidies for such commitments made before Oct. 1, 1979, payable as authorized before Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q of this title.

PART B—PROJECT GRANTS

AMENDMENTS

1979—Pub. L. 96–79, title II, §§ 201(a), 202(a), Oct. 4, 1979, 93 Stat. 630, 632, repealed part B relating to allotments, and comprising former sections 300p to 300p–3 of this title, and redesignated former part D as part B relating to project grants.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300q, 300s, 300s–1, 300s–3 of this title.

§ 300r. Grants for construction or modernization projects

(a) Authority; objectives; eligible grantees; maximum amounts; authorization of appropriations; availability of unobligated funds

(1)(A) The Secretary may make grants for construction or modernization projects designed to—

(i) eliminate or prevent in medical facilities imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or

(ii) avoid noncompliance by medical facilities with State or voluntary licensure or accreditation standards.

(B) A grant under subparagraph (A) may only be made to—

(i) a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for any medical facility owned or operated by the State or political subdivision; and

(ii) a nonprofit private entity for any medical facility owned or operated by the entity but only if the Secretary determines—

(I) the level of community service provided by the facility and the proportion of its patients who are unable to pay for services rendered in the facility is similar to such level and proportion in a medical facility of a State or political subdivision, and

(II) that without a grant under subparagraph (A) there would be a disruption of the provision of health care to low-income individuals.

(2) The amount of any grant under paragraph (1) may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(3) There are authorized to be appropriated for grants under paragraph (1) $40,000,000 for the fiscal year ending September 30, 1980, $50,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982. Funds available for obligation under this subsection (as in effect before October 4, 1979) in the fiscal year ending September 30, 1979, shall remain available for obligation under this subsection in the succeeding fiscal year.

(b) Projects for medically underserved populations; eligible grantees; maximum amounts; authorization of appropriations

(1) The Secretary may make grants to public and nonprofit private entities for projects for (A) construction or modernization of outpatient medical facilities which are located apart from hospitals and which will provide services for medically underserved populations, and (B) conversion of existing facilities into outpatient medical facilities or facilities for long-term care to provide services for such populations.

(2) The amount of any grant under paragraph (1) may not exceed 80 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(3) There are authorized to be appropriated for grants under paragraph (1) $15,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

(July 1, 1944, ch. 373, title XVI, § 1610, formerly § 1625, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2268; amended Pub. L. 95–83, title I, § 103(b), Aug. 1, 1977, 91 Stat. 383; renumbered § 1610 and amended Pub. L. 96–79, title II, §§ 201(c), 203(b), Oct. 4, 1979, 93 Stat. 631, 635.)

PRIOR PROVISIONS

A prior section 1610 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2262; amended Aug. 1, 1977, Pub. L. 95–83, title I, § 106(w), 91 Stat. 385, was classified to section 300p of this title, prior to repeal by Pub. L. 96–79, title II, § 201(a), Oct. 4, 1979, 93 Stat. 630.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–79, § 201(c), incorporated existing provisions in par. (1); inserted in subpar. (A) in cls. (i) and (ii) the phrases ''in medical facilities'' and ''by medical facilities''; substituted in subpar. (B)(i) ''for any medical facility owned or operated by the State or political subdivision'' for ''for a project described in the preceding sentence for any medical facility owned or operated by it''; added cl. (a)(1)(B)(ii); redesignated former subsec. (c) as par. (2); and added par. (3).

Subsec. (b). Pub. L. 96–79, § 201(c), inserted provisions respecting projects for medically underserved populations and struck out provisions respecting criteria for approval of applications under former section 300*o*–3 of this title.

Subsec. (c). Pub. L. 96–79, § 201(c), redesignated subsec. (c) as par. (2) of subsec. (a).

Subsec. (d). Pub. L. 96–79, § 201(c), struck out subsec. (d) which related to provisions making available 22 per centum of sums appropriated under former section 300p–3 of this title for subsec. (a) grants, including an additional appropriations authorization of $67,500,000 for such grants for fiscal year ending Sept. 30, 1978.

1977—Subsec. (d). Pub. L. 95–83 authorized additional grant appropriations of $67,500,000 for fiscal year ending Sept. 30, 1978.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

PART C—GENERAL PROVISIONS

AMENDMENTS

1979—Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632, redesignated former part E as part C relating to general provisions and former part C as part A.

§ 300s. General regulations

The Secretary shall by regulation—

(1) prescribe the manner in which he shall determine the priority among projects for which assistance is available under part A or B, based on the relative need of different areas for such projects and giving special consideration—

(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(2) prescribe for medical facilities projects assisted under part A or B general standards of construction, modernization, and equipment, which standards may vary on the basis of the class of facilities and their location; and

(3) prescribe the general manner in which each entity which receives financial assistance

under part A or B or has received financial assistance under part A or B or subchapter IV of this chapter shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (3) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

(July 1, 1944, ch. 373, title XVI, § 1620, as added Pub. L. 96–79, title II, § 202(b), Oct. 4, 1979, 93 Stat. 632.)

PRIOR PROVISIONS

A prior section 300s, act July 1, 1944, ch. 373, title XVI, § 1630, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2269, provided for judicial review by the United States Court of Appeals, prior to repeal by Pub. L. 96–79, § 202(b), eff. Oct. 1, 1979.

A prior section 1620 of act July 1, 1944, was renumbered section 1601 by Pub. L. 96–79, title II, § 203(a)(1), Oct. 4, 1979, 93 Stat. 635, and is classified to section 300q of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300s–1 of this title.

§ 300s–1. Medical facility project applications

(a) Submissions

No loan, loan guarantee, or grant may be made under part A or B for a medical facilities project unless an application for such project has been submitted to and approved by the Secretary. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b) Form; required provisions; waiver; projects subject to requirements

(1) An application for a medical facilities project shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall, except as provided in paragraph (2), set forth—

(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) in the case of an application for a grant, assurances satisfactory to the Secretary that (i) the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for, and (ii) in the case of a project to construct a new medical facility, it would be inappropriate to convert an existing medical facility to provide the services to be provided through the new medical facility;

(C) in the case of a project for the discontinuance of a service or facility or the conversion of a service or a facility, an evaluation of the impact of such discontinuance or conversion on the provision of health care in the health service area in which such service was provided or facility located;

(D) a description of the site of such project;

(E) plans and specifications therefor which meet the requirements of the regulations prescribed under section 300s(2) of this title;

(F) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(G) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(H) the type of assistance being sought under part A or B for the project;

(I) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 276c of title 40;

(J) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(K) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2)(A) The Secretary may waive—

(i) the requirements of subparagraph (D) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 300s(2) of this title, and

(ii) the requirement of subparagraph (E) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B) of this paragraph.

(B) A project referred to in subparagraph (A) is a project—

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 300s–3 of this title or as designated by a health systems agency, and

(ii) for which the applicant seeks a loan under part A the principal amount of which does not exceed $20,000.

(July 1, 1944, ch. 373, title XVI, § 1621, as added Pub. L. 96–79, title II, § 202(b), Oct. 4, 1979, 93 Stat. 633.)

REFERENCES IN TEXT

Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act), referred to in subsec. (b)(1)(I), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

PRIOR PROVISIONS

A prior section 300s–1 was redesignated 300s–1a and amended as part of the general revision of this subchapter by Pub. L. 96–79.

A prior section 1621 of act July 1, 1944, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2265, which related to the allocation among States of the total amount of principal of loans and loan guarantees, was classified to section 300q–1 of this title, prior to repeal as part of the general revision of this subchapter by Pub. L. 96–79.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300s–1a, 300s–5 of this title.

§ 300s–1a. Recovery of expenditures under certain conditions

(a) Persons liable

If any facility with respect to which funds have been paid under this subchapter shall, at any time within 20 years after the completion of construction or modernization—

(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 300s–1 or 300t–12 of this title 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) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c) of this section.

(b) Notice to Secretary

The transferor of a facility which is sold or transferred as described in subsection (a)(1) of this section, or the owner of a facility the use of which is changed as described in subsection (a)(2) of this section, shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

(c) Amount of recovery; interest; interest period

(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) of this section is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved 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 construction or modernization of such project or projects.

(2)(A) After the expiration of—

(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section in the case of a facility which is sold or transferred or the use of which changes after July 18, 1984, or

(ii) thirty days after July 18, 1984, or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section, in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section.[1]

(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b) of this section, upon the expiration of 180 days after the receipt of such notice, or

(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b) of this section, on the date of the sale, transfer, or changes of use for which such notice was to be provided,

[1] So in original. The period probably should be a comma.

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

(d) Waiver

(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) of this section with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

(A) has established an irrevocable trust—

(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 300s–1(b)(1)(K) of this title or the amount, determined under subsection (c) of this section, that the United States is entitled to recover, and

(ii) which will only be used by the entity to provide the care required by clause (ii) of section 300s–1(b)(1)(K) of this title; and

(B) will meet the obligation of the facility under clause (i) of section 300s–1(b)(1)(K) of this title.

(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) of this section with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

(e) Lien

The right of recovery of the United States under subsection (a) of this section shall not constitute a lien on any facility with respect to which funds have been paid under this subchapter.

(July 1, 1944, ch. 373, title XVI, § 1622, formerly § 1631, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2269; amended Pub. L. 94–278, title XI, § 1106(c), Apr. 22, 1976, 90 Stat. 416; renumbered § 1622 and amended Pub. L. 96–79, title II, §§ 202(b), 203(c), Oct. 4, 1979, 93 Stat. 632, 635; Pub. L. 98–369, div. B. title III, § 2381(b), July 18, 1984, 98 Stat. 1114.)

CODIFICATION

Section was formerly classified to section 300s–1 of this title prior to the general revision of this subchapter by Pub. L. 96–79.

PRIOR PROVISIONS

A prior section 1622 of act July 1, 1944, as added Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2265, was renumbered section 1602 as part of the general revision of this subchapter by Pub. L. 96–79 and is classified to section 300q–2 of this title.

AMENDMENTS

1984—Pub. L. 98–369 amended section generally. Prior to the amendment, section read as follows:

''(a) If any facility constructed, modernized, or converted with funds provided under this subchapter is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

''(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 300s–1 or 300t–12 of this title 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 as a medical facility, 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 transferor 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 such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

''(b) The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility in any State—

''(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) of this section with respect to such facility is applied to the development, expansion, or support of another medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 300m–3(c) of this title; or

''(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) of this section exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.''

1979—Subsec. (a)(1)(A). Pub. L. 96–79, § 203(c), substituted ''section 300s–1 or 300t–12 of this title'' for ''section 300*o*–3 of this title''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

REGULATIONS AND PERSONNEL

Requirements for regulations and personnel to implement this section, see section 2381(c) of Pub. L. 98–369, set out as a note under section 291i of this title.

§ 300s–2. State supervision or control of operations of facilities receiving funds

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee, the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter.

(July 1, 1944, ch. 373, title XVI, § 1623, formerly § 1632, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2270; renumbered § 1623, Pub. L. 96–79, title II, § 202(b), Oct. 4, 1979, 93 Stat. 632.)

§ 300s–3. Definitions

Except as provided in section 300t–12(e) of this title, for purposes of this subchapter—

(1) The term ''hospital'' includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient

departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professonal[1] personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(2) The term ''public health center'' means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(3) The term ''nonprofit'' as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term ''outpatient medical facility'' means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(A) which is operated in connection with a hospital,

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(5) The term ''rehabilitation facility'' means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(6) The term ''facility for long-term care'' means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services—

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(7) The term ''construction'' means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(8) The term ''cost'' as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part B of this subchapter, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(9) The term ''modernization'' includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(10) The term ''title,''[2] when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this subchapter, or (B) the term of repayment of a loan made or guaranteed under this subchapter in the case of a project assisted by a loan or loan guarantee.

(11) The term ''medical facility'' means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(12) The term ''State Agency'' means the State health planning and development agency of a State designated under subchapter XIII of this chapter.[3]

(13) The term ''urban or rural poverty area'' means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is—

(A) not more than the percentage of the total population of the United States with incomes below the poverty level (as so defined) plus five per centum, and

[1] So in original. Probably should be ''professional''.

[2] So in original. The comma probably should follow the ending quotations.

[3] See References in Text note below.

(B) not less than such percentage minus five per centum.

(14) The term ''medically underserved population'' means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities.

(July 1, 1944, ch. 373, title XVI, § 1624, formerly § 1633, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2270; amended Pub. L. 94–484, title IX, § 905(b)(1), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–83, title I, § 106(z), Aug. 1, 1977, 91 Stat. 386; renumbered § 1624 and amended Pub. L. 96–79, title II, §§ 202(b), 203(e)(1), title III, § 301(b), Oct. 4, 1979, 93 Stat. 632, 635, 640.)

REFERENCES IN TEXT

Subchapter XIII of this chapter, referred to in par. (12), was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799.

CODIFICATION

''Part B of this subchapter'' substituted for ''Part D of this subchapter'' in par. (8) pursuant to the redesignation of former part D of this subchapter as B by Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632.

AMENDMENTS

1979—Pub. L. 96–79, § 301(b), inserted ''Except as provided in section 300t–12(e) of this title''.

Pars. (1) to (16). Pub. L. 96–79, § 203(e)(1), struck out pars. (1) and (2) which defined ''State'' and ''Federal share'' and redesignated pars. (3) through (16) as pars. (1) through (14), respectively.

1977—Par. (14). Pub. L. 95–83 substituted ''subchapter XIII'' for ''subchapter XII''.

1976—Par. (1). Pub. L. 94–484 defined ''State'' to include Northern Mariana Islands.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290dd–1, 300s–1, 6372 of this title.

§ 300s–4. Reporting and audit requirements for recipients

(a) Filing of financial statement with appropriate State Agency; form and contents

In the case of any facility for which an allotment payment, grant, loan, or loan guarantee has been made under this subchapter, the applicant for such payment, grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs of the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

(b) Maintenance of records; access to books, etc., for audit and examination

(1) Each entity receiving Federal assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1).

(c) Filing of financial statement with Secretary; form and contents

Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility constructed or modernized with such assistance, and

(2) the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.

(July 1, 1944, ch. 373, title XVI, § 1625, formerly § 1634, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2273; renumbered § 1625, Pub. L. 96–79, title II, § 202(b), Oct. 4, 1979, 93 Stat. 632.)

PRIOR PROVISIONS

A prior section 1625 of act July 1, 1944, was renumbered section 1610 by Pub. L. 96–79, title II, § 203(b), Oct. 4, 1979, 93 Stat. 635, and is classified to section 300r of this title.

§ 300s–5. Availability of technical and other nonfinancial assistance to eligible applicants

The Secretary shall provide (either through the Department of Health and Human Services or by contract) all necessary technical and other nonfinancial assistance to any public or other entity which is eligible to apply for assistance under this subchapter to assist such entity in developing applications to be submitted to the Secretary under section 300s–1 or 300t–12 of this title. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this subchapter.

(July 1, 1944, ch. 373, title XVI, § 1626, formerly § 1635, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2273; renumbered § 1626 and amended Pub. L. 96–79, title II, §§ 202(b), 203(f), Oct. 4, 1979, 93 Stat. 632, 635; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1979—Pub. L. 96–79, § 203(f), substituted ''other entity'' for ''other nonprofit entity'' and ''section 300s–1 or 300t–12 of this title'' for ''section 300*o*–3 of this title.''

CHANGE OF NAME

''Department of Health and Human Services'' substituted in text for ''Department of Health, Education, and Welfare'' pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

§ 300s–6. Enforcement of assurances

The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this subchapter or which has received financial assistance under subchapter IV of this chapter or this subchapter, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall report such noncompliance to the health systems agency for the health service area in which such entity is located and the State health planning and development agency of the State in which the entity is located and shall take any action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within six months after the date on which the complaint was filed with the Secretary.

(July 1, 1944, ch. 373, title XVI, § 1627, as added Pub. L. 96–79, title II, § 202(c), Oct. 4, 1979, 93 Stat. 634.)

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

PART D—AREA HEALTH SERVICES DEVELOPMENT FUNDS

AMENDMENTS

1979—Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632, redesignated former part F as part D relating to area health services development funds and former part D as part B.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 38 section 8156.

§ 300t. Development grants for health systems agencies

(a) Eligible recipients; purpose of grants

The Secretary shall make in each fiscal year a grant to each health system agency—

(1) with which there is in effect a designation agreement under section 300*l*–4(c)[1] of this title,

(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

(3) which, as determined under the review made under section 300n–4(c)[1] of this title, is organized and operated in the manner prescribed by section 300*l*–1(b)[1] of this title and is performing its functions under section 300*l*–2[1] of this title in a manner satisfactory to the Secretary,

to enable the agency to establish and maintain an Area Health Service Development Fund from which it may make grants and enter into contracts in accordance with section 300*l*–2(c)(3)[1] of this title.

(b) Determination of amounts; maximum amounts

(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) of this section shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

(2) The amount of any grant under subsection (a) of this section to a health systems agency for any fiscal year may not exceed the product of $1 and the population of the health service area for which such agency is designated.

(c) Applications; submission and approval as prerequisite; form and contents

No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

(d) Authorization of appropriations

For the purpose of making payments pursuant to grants under subsection (a) of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $120,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1981, and $30,000,000 for the fiscal year ending September 30, 1982.

(July 1, 1944, ch. 373, title XVI, § 1640, as added Pub. L. 93–641, § 4, Jan. 4, 1975, 88 Stat. 2273; amended Pub. L. 95–83, title I, § 103(c), Aug. 1, 1977, 91 Stat. 383; Pub. L. 96–79, title I, § 127(e), Oct. 4, 1979, 93 Stat. 629.)

REFERENCES IN TEXT

Sections 300*l*–2, 300*l*–4, and 300n–4 of this title, referred to in subsec. (a), were repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799.

Section 300*l*–1 of this title, referred to in subsec. (a)(3), was in the original a reference to section 1512 of act July 1, 1944, which was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799. Pub. L. 102–531, title III, § 307, Oct. 27, 1992, 106 Stat. 3495, enacted section 1502A of act July 1, 1944, which is classified to section 300*l*–1 of this title.

AMENDMENTS

1979—Subsec. (d). Pub. L. 96–79 authorized appropriations of $20,000,000 for fiscal year ending Sept. 30, 1981, and $30,000,000 for fiscal year ending Sept. 30, 1982.

[1] See References in Text note below.

1977—Subsec. (d). Pub. L. 95–83 substituted ''each for the fiscal years ending September 30, 1977, and September 30, 1978'' for ''for the fiscal year ending June 30, 1977''.

PART E—PROGRAM TO ASSIST AND ENCOURAGE VOLUNTARY DISCONTINUANCE OF UNNEEDED HOSPITAL SERVICES AND CONVERSION OF UNNEEDED HOSPITAL SERVICES TO OTHER HEALTH SERVICES NEEDED BY COMMUNITY

AMENDMENTS

1979—Pub. L. 96–79, title II, § 202(a), title III, § 301(a), Oct. 4, 1979, 93 Stat. 632, 636, added part E relating to program to assist and encourage voluntary discontinuance of unneeded hospital services and conversion of unneeded hospital services to other health services needed by the community and redesignated former part E as part C.

§ 300t–11. Grants and assistance for establishment of program

The Secretary shall, by April 1, 1980, establish a program under which—

(1) grants and technical assistance may be provided to hospitals in operation on October 4, 1979, (A) for the discontinuance of unneeded hospital services, and (B) for the conversion of unneeded hospital services to other health services needed by the community; and

(2) grants may be provided to State Agencies designated under section 300m(b)(3)[1] of this title for reducing excesses in resources and facilities of hospitals.

(July 1, 1944, ch. 373, title XVI, § 1641, as added Pub. L. 96–79, title III, § 301(a), Oct. 4, 1979, 93 Stat. 636.)

REFERENCES IN TEXT

Section 300m of this title, referred to in par. (2), was in the original a reference to section 1521 of act July 1, 1944, which was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799. Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 410, enacted section 1503 of act July 1, 1944, which is classified to section 300m of this title.

UNNEEDED HOSPITAL SERVICES; STUDY AND REPORT OF EFFECT OF ELIMINATION

Section 302 of Pub. L. 96–79, as amended by Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, which provided that the Secretary of Health and Human Services conduct a study of the effect on the elimination of unneeded hospital services made during the two fiscal year period ending Sept. 30, 1981, by the program authorized by this part, and not later than Jan. 1, 1982, report the results of the study to Congress, was repealed by Pub. L. 97–414, § 9(h), Jan. 4, 1983, 96 Stat. 2064.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300t–12 of this title.

§ 300t–12. Grants for discontinuance and conversion

(a) Terms and conditions; determination of amount; authorized uses

(1) A grant to a hospital under the program shall be subject to such terms and conditions as the Secretary may by regulation prescribe to assure that the grant is used for the purpose for which it was made.

(2) The amount of any such grant shall be determined by the Secretary. The recipient of such a grant may use the grant—

(A) in the case of a grantee which discontinues the provision of all hospital services or all inpatient hospital services or an identifiable part of a hospital facility which provides inpatient hospital services, for the liquidation of the outstanding debt on the facilities of the grantee used for the provision of the services or for the liquidation of the outstanding debt of the grantee on such identifiable part;

(B) in the case of a grantee which in discontinuing the provision of an inpatient hospital service converts or proposes to convert an identifiable part of a hospital facility used in the provision of the discontinued service to the delivery of other health services, for the planning, development (including construction and acquisition of equipment), and delivery of the health service;

(C) to provide reasonable termination pay for personnel of the grantee who will lose employment because of the discontinuance of hospital services made by the grantee, retraining of such personnel, assisting such personnel in securing employment, and other costs of implementing arrangements described in subsection (c) of this section; and

(D) for such other costs which the Secretary determines may need to be incurred by the grantee in discontinuing hospital services.

(b) Application; submission and approval; form; required provisions; review by health systems agency; basis of State Agency's recommendations; urban or rural poverty population considerations; approval by Secretary; restrictions and special considerations

(1) No grant may be made to a hospital unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form and submitted in such manner as the Secretary may prescribe and shall include—

(A) a description of each service to be discontinued and, if a part of a hospital is to be discontinued or converted to another use in connection with such discontinuance, a description of such part;

(B) an evaluation of the impact of such discontinuance and conversion on the provision of health care in the health service area in which such service is provided;

(C) an estimate of the change in the applicant's costs which will result from such discontinuance and conversion; and

(D) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 276c of title 40;

[1] See References in Text note below.

(E) such other information as the Secretary may require.

(2)(A) The health systems agency for the health service area in which is located a hospital applying for a grant under the program shall (i) in making the review of the applicant's application under section 300*l*–2(e)[1] of this title, determine the need for each service or part proposed to be discontinued by the applicant, (ii) in the case of an application for the conversion of a facility, determine the need for each service which will be provided as a result of the conversion, and (iii) make a recommendation to the State Agency for the State in which the applicant is located respecting approval by the Secretary of the applicant's application.

(B) A State Agency which has received a recommendation from a health systems agency under subparagraph (A) respecting an application shall, after consideration of such recommendation, make a recommendation to the Secretary respecting the approval by the Secretary of the application. A State Agency's recommendation under this subparagraph respecting the approval of an application (i) shall be based upon (I) the need for each service or part proposed to be discontinued by the applicant, (II) in the case of an application for the conversion of a facility, the need for each service which will be provided as a result of the conversion, and (III) such other criteria as the Secretary may prescribe, and (ii) shall be accompanied by the health systems agency's recommendation made with respect to the approval of the application.

(C) In determining, under subparagraphs (A) and (B), the need for the service (or services) or part proposed to be discontinued or converted by an applicant for a grant, a health systems agency and State Agency shall give special consideration to the unmet needs and existing access patterns of urban or rural poverty populations.

(3)(A) The Secretary may not approve an application of a hospital for a grant—

(i) if a State Agency recommended that the application not be approved, or

(ii) if the Secretary is unable to determine that the cost of providing inpatient health services in the health service area in which the applicant is located will be less than if the inpatient health services proposed to be discontinued were not discontinued.

(B) In considering applications of hospitals for grants the Secretary shall consider the recommendations of health systems agencies and State Agencies and shall give special consideration to applications (i) which will assist health systems agencies and State Agencies to meet the goals in their health systems plans and State health plans, or (ii) which will result in the greatest reduction in hospital costs within a health service area.

(c) Certification of protective arrangements for employment benefits and interests; guidelines; satisfactory arrangement determinations

(1) Except as provided in paragraph (3), the Secretary may not approve an application submitted under subsection (b) of this section unless the Secretary of Labor has certified that fair and equitable arrangements have been made to protect the interests of employees affected by the discontinuance of services against a worsening of their positions with respect to their employment, including arrangements to preserve the rights of employees under collective-bargaining agreements, continuation of collective-bargaining rights consistent with the provisions of the National Labor Relations Act [29 U.S.C. 151 et seq.], reassignment of affected employees to other jobs, retraining programs, protecting pension, health benefits, and other fringe benefits of affected employees, and arranging adequate severance pay, if necessary.

(2) The Secretary of Labor shall by regulation prescribe guidelines for arrangements for the protection of the interests of employees affected by the discontinuance of hospital services. The Secretary of Labor shall consult with the Secretary of Health and Human Services in the promulgation of such guidelines. Such guidelines shall first be promulgated not later than the promulgation of regulations by the Secretary for the administration of the grants authorized by section 300t–11 of this title.

(3) The Secretary of Labor shall review each application submitted under subsection (b) of this section to determine if the arrangements described in paragraph (1) have been made and if they are satisfactory and shall notify the Secretary respecting his determination. Such review shall be completed within—

(A) ninety days from the date of the receipt of the application from the Secretary of Health and Human Services, or

(B) one hundred and twenty days from such date if the Secretary of Labor has by regulation prescribed the circumstances under which the review will require at least one hundred and twenty days.

If within the applicable period, the Secretary of Labor does not notify the Secretary of Health and Human Services respecting his determination, the Secretary of Health and Human Services shall review the application to determine if the applicant has made the arrangements described in paragraph (1) and if such arrangements are satisfactory. The Secretary may not approve the application unless he determines that such arrangements have been made and that they are satisfactory.

(d) Records and audits requirements

The records and audits requirements of section 292e[2] of this title shall apply with respect to grants made under subsection (a) of this section.

(e) "Hospital" defined

For purposes of this part, the term ''hospital'' means, with respect to any fiscal year, an institution (including a distinct part of an institution participating in the programs established under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.])—

(1) which satisfies paragraphs (1) and (7) of section 1861(e) of such Act [42 U.S.C. 1395x(e)],

[1] See References in Text note below.

[2] See References in Text note below.

(2) imposes charges or accepts payments for services provided to patients, and

(3) the average duration of a patient's stay in which was thirty days or less in the preceding fiscal year,

but such term does not include a Federal hospital or a psychiatric hospital (as described in section 1861(f)(1) of the Social Security Act [42 U.S.C. 1395x(f)(1)]).

(July 1, 1944, ch. 373, title XVI, § 1642, as added Pub. L. 96–79, title III, § 301(a), Oct. 4, 1979, 93 Stat. 637; amended Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act), referred to in subsec. (b)(1)(D), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Section 300*l*–2, of this title, referred to in subsec. (b)(2)(A), was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799.

The National Labor Relations Act, referred to in subsec. (c)(1), is act July 5, 1935, ch. 372, 49 Stat. 452, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Section 292e of this title, referred to in subsec. (d), was in the original a reference to section 705 of act July 1, 1944. Section 705 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 705 of act July 1, 1944, relating to eligibility of borrowers and terms of insured loans, and a new section 706, relating to certificates of loan insurance, which are classified to sections 292d and 292e, respectively, of this title.

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (c)(2) and (3), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300s–1a, 300s–3, 300s–5, 300t–14 of this title.

§ 300t–13. Grants to States for reduction of excess hospital capacity

(a) "Excess hospital capacity" defined; particular activities

For the purpose of demonstrating the effectiveness of various means for reducing excesses in resources and facilities of hospitals (referred to in this section as "excess hospital capacity"), the Secretary may make grants to State Agencies designated under section 300m(b)(3)[1] of this title to assist such Agencies in—

(1) identifying (by geographic region or by health service) excess hospital capacity,

(2) developing programs to inform the public of the costs associated with excess hospital capacity,

(3) developing programs to reduce excess hospital capacity in a manner which will produce the greatest savings in the cost of health care delivery,

(4) developing means to overcome barriers to the reduction of excess hospital capacity,

(5) in planning, evaluating, and carrying out programs to decertify health care facilities providing health services that are not appropriate, and

(6) any other activity related to the reduction of excess hospital capacity.

(b) Terms and conditions

Grants under subsection (a) of this section shall be made on such terms and conditions as the Secretary may prescribe.

(July 1, 1944, ch. 373, title XVI, § 1643, as added Pub. L. 96–79, title III, § 301(a), Oct. 4, 1979, 93 Stat. 639.)

REFERENCES IN TEXT

Section 300m of this title, referred to in subsec. (a), was in the original a reference to section 1521 of act July 1, 1944, which was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799. Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 410, enacted section 1503 of act July 1, 1944, which is classified to section 300m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300t–14 of this title.

§ 300t–14. Authorization of appropriations

To make payments under grants under sections 300t–12 and 300t–13 of this title there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1980, $50,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982, except that in any fiscal year not more than 10 percent of the amount appropriated under this section may be obligated for grants under section 300t–13 of this title.

(July 1, 1944, ch. 373, title XVI, § 1644, as added Pub. L. 96–79, title III, § 301(a), Oct. 4, 1979, 93 Stat. 640.)

SUBCHAPTER XV—HEALTH INFORMATION AND HEALTH PROMOTION

§ 300u. General authority of Secretary

(a) Development, support, and implementation of programs, activities, etc.

The Secretary shall—

(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

(3) undertake and support necessary activities and programs to—

[1] See References in Text note below.

(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

(B) increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(7)(A) develop model programs through which employers in the public sector, and employers that are small businesses (as defined in section 632 of title 15), can provide for their employees a program to promote healthy behaviors and to discourage participation in unhealthy behaviors;

(B) provide technical assistance to public and private employers in implementing such programs (including private employers that are not small businesses and that will implement programs other than the programs developed by the Secretary pursuant to subparagraph (A)); and

(C) in providing such technical assistance, give preference to small businesses;

(8) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(9) provide technical assistance in the programs referred to in paragraph (8);

(10) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this subchapter; and

(11) establish in the Office of the Assistant Secretary for Health an Office of Disease Prevention and Health Promotion, which shall—

(A) coordinate all activities within the Department which relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care;

(B) coordinate such activities with similar activities in the private sector;

(C) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services (which may include information concerning models and standards for insurance coverage of such services), and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters; and

(D) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

The Secretary shall appoint a Director for the Office of Disease Prevention and Health Promotion established pursuant to paragraph (11) of this subsection. The Secretary shall administer this subchapter in cooperation with health care providers, educators, voluntary organizations, businesses, and State and local health agencies in order to encourage the dissemination of health information and health promotion activities.

(b) Authorization of appropriations

For the purpose of carrying out this section and sections 300u–1 through 300u–4 of this title, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2002.

(c) Application; submission and approval as prerequisite; form and content

No grant may be made or contract entered into under this subchapter unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this subchapter without regard to section 3324(a) and (b) of title 31 and section 5 of title 41.

(July 1, 1944, ch. 373, title XVII, § 1701, as added Pub. L. 94–317, title I, § 102, June 23, 1976, 90 Stat. 695; amended Pub. L. 96–32, § 7(n), July 10, 1979, 93 Stat. 85; Pub. L. 96–76, title II, § 209, Sept. 29, 1979, 93 Stat. 584; Pub. L. 98–551, § 2(a), Oct. 30, 1984, 98 Stat. 2815; Pub. L. 100–607, title III, § 312(a)(1), (b)(1), (c), Nov. 4, 1988, 102 Stat. 3113, 3114; Pub. L. 102–168, title I, § 101, Nov. 26, 1991, 105 Stat. 1102; Pub. L. 102–531, title III, § 311(b)(1), Oct. 27, 1992, 106 Stat. 3503; Pub. L. 105–392, title IV, § 414, Nov. 13, 1998, 112 Stat. 3590.)

CODIFICATION

In subsec. (c), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–392 substituted ''2002'' for ''1996''.

1992—Subsec. (a)(11)(C). Pub. L. 102–531 substituted ''preventive health services (which may include infor-

mation concerning models and standards for insurance coverage of such services),'' for ''preventive health services,''.

1991—Subsec. (b). Pub. L. 102–168 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''To carry out sections 300u through 300u–4 of this title, there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1985, $9,500,000 for the fiscal year ending September 30, 1986, $10,000,000 for the fiscal year ending September 30, 1987, and $10,000,000 for each of the fiscal years 1989 through 1991.''

1988—Subsec. (a). Pub. L. 100–607, § 312(c)(2), in concluding provisions, struck out ''The Secretary shall administer this subchapter in a manner consistent with the national health priorities set forth in section 300k–2 of this title.'' before ''The Secretary shall appoint'', and substituted ''paragraph (11)'' for ''paragraph (10)''.

Subsec. (a)(7), (8). Pub. L. 100–607, § 312(b)(1), added par. (7) and redesignated former par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 100–607, § 312(c)(1), substituted ''paragraph (8)'' for ''paragraph (7)''.

Pub. L. 100–607, § 312(b)(1)(A), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Subsec. (a)(10), (11). Pub. L. 100–607, § 312(b)(1)(A), redesignated pars. (9) and (10) as (10) and (11), respectively.

Subsec. (b). Pub. L. 100–607, § 312(a)(1), substituted ''sections 300u through 300u–4 of this title'' for ''this subchapter'', struck out ''and'' after ''September 30, 1986,'', and inserted '', and $10,000,000 for each of the fiscal years 1989 through 1991''.

1984—Subsec. (a). Pub. L. 98–551, § 2(a)(1), added par. (10), and in provisions following par. (10) struck out ''and with health planning and resource development activities undertaken under subchapters XIII and XIV of this chapter'' after ''section 300k–2 of this title'' and inserted provisions for appointment of a Director for Office of Disease Prevention and Health Promotion and cooperation in administration of this subchapter.

Subsec. (b). Pub. L. 98–551, § 2(a)(2), substituted ''To carry out this subchapter, there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1985, $9,500,000 for the fiscal year ending September 30, 1986, and $10,000,000 for the fiscal year ending September 30, 1987'' for ''For payments under grants and contracts under this subchapter (other than grants and contracts under sections 300u–6, 300u–7, and 300u–8 of this title) there are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, $14,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, $15,000,000 for the fiscal year ending September 30, 1981, and $16,000,000 for the fiscal year ending September 30, 1982.''

1979—Subsec. (b). Pub. L. 96–76 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1980, Sept. 30, 1981, and Sept. 30, 1982.

Pub. L. 96–32 inserted ''(other than grants and contracts under sections 300u–6, 300u–7, and 300u–8 of this title)'' after ''grants and contracts under this subchapter''.

SHORT TITLE

For short title of title I of Pub. L. 94–317, which enacted this subchapter as the ''National Consumer Health Information and Health Promotion Act of 1976'', see section 101 of Pub. L. 94–317, set out as a Short Title of 1976 Amendments note under section 201 of this title.

MODEL PROGRAMS FOR EMPLOYEE HEALTH PROMOTION AND DISEASE PREVENTION; DEVELOPMENT COMPLETION

Section 312(b)(2) of Pub. L. 100–607 required Secretary of Health and Human Services, not later than 18 months after Nov. 4, 1988, to complete development of model programs required in section 1701(a)(7)(A) of the Public Health Service Act (subsec. (a)(7)(A) of this section).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u–4 of this title.

§ 300u–1. Grants and contracts for research programs; authority of Secretary; review of applications; additional functions; periodic public survey

(a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course or severity;

(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

(5) develop a method for assessing the cost and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use (which measures and services may include blood pressure screening, cholesterol screening and control, smoking cessation programs, substance abuse programs, cancer screening, dietary and nutritional counseling, diabetes screening and education, intraocular pressure screening, and stress management).

(b) The Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health education organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

(July 1, 1944, ch. 373, title XVII, § 1702, as added Pub. L. 94–317, title I, § 102, June 23, 1976, 90 Stat. 696; amended Pub. L. 102–531, title III, § 311(b)(2), Oct. 27, 1992, 106 Stat. 3504.)

AMENDMENTS

1992—Subsec. (a)(6). Pub. L. 102–531 inserted before period ''(which measures and services may include blood pressure screening, cholesterol screening and control, smoking cessation programs, substance abuse programs, cancer screening, dietary and nutritional counseling, diabetes screening and education, intraocular pressure screening, and stress management)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u of this title.

§ 300u–2. Grants and contracts for community health programs

(a) Authority of Secretary; particular activities

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior;

(2) provide consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

(b) Grants to States and other public and nonprofit private entities; costs of demonstrating and evaluating programs; development of models

The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to section 300u–3(4) and 300u–3(5) of this title for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

(c) Private nonprofit entities; limitation on amount of grant or contract

The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. The amount of any grant or contract for a fiscal year beginning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

(July 1, 1944, ch. 373, title XVII, § 1703, as added Pub. L. 94–317, title I, § 102, June 23, 1976, 90 Stat. 697.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u of this title.

§ 300u–3. Grants and contracts for information programs; authority of Secretary; particular activities

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such activities may include at least the following:

(1) The publication of information, pamphlets, and other reports which are specially suited to interest and instruct the health con-

sumer, which information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health; shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention (particularly prevention of pulmonary disease, cardiovascular disease, and cancer), physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

(2) Securing the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

(July 1, 1944, ch. 373, title XVII, § 1704, as added Pub. L. 94–317, title I, § 102, June 23, 1976, 90 Stat. 698; amended Pub. L. 98–551, § 2(b), Oct. 30, 1984, 98 Stat. 2816.)

AMENDMENTS

1984—Par. (6). Pub. L. 98–551 struck out par. (6) which provided grant authority to the Secretary to assess, with respect to the effectiveness, safety, cost, and required training for and conditions of use, of new aspects of health care, and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300u, 300u–2 of this title.

§ 300u–4. Status reports to President and Congress; study of health education and preventive health services with respect to insurance coverage

(a) The Secretary shall, not later than two years after June 23, 1976, and biannually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include—

(1) a statement of the activities carried out under this subchapter since the last report and the extent to which each such activity achieves the purposes of this subchapter;

(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this subchapter designed to prepare teachers and other manpower for such programs;

(3) the goals and strategy formulated pursuant to section 300u(a)(1) of this title, the models and standards developed under this subchapter, and the results of the study required by subsection (b) of this section; and

(4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this subchapter.

(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

(July 1, 1944, ch. 373, title XVII, § 1705, as added Pub. L. 94–317, title I, § 102, June 23, 1976, 90 Stat. 699; amended Pub. L. 104–66, title I, § 1062(d), Dec. 21, 1995, 109 Stat. 720.)

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–66 substituted ''biannually'' for ''annually'' in introductory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247b, 300u of this title.

§ 300u–5. Centers for research and demonstration of health promotion and disease prevention

(a) Establishment; grants; contracts; research and demonstration projects

The Secretary shall make grants or enter into contracts with academic health centers for the establishment, maintenance, and operation of centers for research and demonstration with respect to health promotion and disease prevention. Centers established, maintained, or operated under this section shall undertake research and demonstration projects in health pro-

motion, disease prevention, and improved methods of appraising health hazards and risk factors, and shall serve as demonstration sites for the use of new and innovative research in public health techniques to prevent chronic diseases.

(b) Location; types of research and projects

Each center established, maintained, or operated under this section shall—

(1) be located in an academic health center with—

(A) a multidisciplinary faculty with expertise in public health and which has working relationships with relevant groups in such fields as medicine, psychology, nursing, social work, education and business;

(B) graduate training programs relevant to disease prevention;

(C) a core faculty in epidemiology, biostatistics, social sciences, behavioral and environmental health sciences, and health administration;

(D) a demonstrated curriculum in disease prevention;

(E) a capability for residency training in public health or preventive medicine; and

(F) such other qualifications as the Secretary may prescribe;

(2) conduct—

(A) health promotion and disease prevention research, including retrospective studies and longitudinal prospective studies in population groups and communities;

(B) demonstration projects for the delivery of services relating to health promotion and disease prevention to defined population groups using, as appropriate, community outreach and organization techniques and other methods of educating and motivating communities; and

(C) evaluation studies on the efficacy of demonstration projects conducted under subparagraph (B) of this paragraph.

The design of any evaluation study conducted under subparagraph (C) shall be established prior to the commencement of the demonstration project under subparagraph (B) for which the evaluation will be conducted.

(c) Equitable geographic distribution of centers; procedures

(1) In making grants and entering into contracts under this section, the Secretary shall provide for an equitable geographical distribution of centers established, maintained, and operated under this section and for the distribution of such centers among areas containing a wide range of population groups which exhibit incidences of diseases which are most amenable to preventive intervention.

(2) The Secretary, through the Director of the Centers for Disease Control and Prevention and in consultation with the Director of the National Institutes of Health, shall establish procedures for the appropriate peer review of applications for grants and contracts under this section by peer review groups composed principally of non-Federal experts.

(d) "Academic health center" defined

For purposes of this section, the term ''academic health center'' means a school of medicine, a school of osteopathy, or a school of public health, as such terms are defined in section 292a(4)[1] of this title.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2003.

(July 1, 1944, ch. 373, title XVII, § 1706, as added Pub. L. 98–551, § 2(d), Oct. 30, 1984, 98 Stat. 2816; amended Pub. L. 100–607, title III, § 312(a)(2), Nov. 4, 1988, 102 Stat. 3113; Pub. L. 102–168, title I, § 102, Nov. 26, 1991, 105 Stat. 1102; Pub. L. 102–531, title III, § 312(d)(12), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 103–183, title VII, § 705(d), Dec. 14, 1993, 107 Stat. 2241; Pub. L. 105–340, title II, § 204, Oct. 31, 1998, 112 Stat. 3195.)

REFERENCES IN TEXT

Section 292a of this title, referred to in subsec. (d), was in the original a reference to section 701 of act July 1, 1944. Section 701 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 701 of act July 1, 1944, relating to statement of purpose, and a new section 702, relating to scope and duration of loan insurance program, which are classified to sections 292 and 292a, respectively, of this title. For provisions relating to definitions, see section 295p of this title.

PRIOR PROVISIONS

A prior section 300u–5, act July 1, 1944, ch. 373, title XVII, § 1706, as added June 23, 1976, Pub. L. 94–317, title I, § 102, 90 Stat. 700; amended Nov. 10, 1978, Pub. L. 95–626, title V, § 501, 92 Stat. 3592; Jan. 4, 1983, Pub. L. 97–414, § 8(r), 96 Stat. 2062, related to establishment of the Office of Health Promotion, prior to repeal by Pub. L. 98–551, § 2(c), Oct. 30, 1984, 98 Stat. 2816.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–340 substituted ''2003'' for ''1998''.

1993—Subsec. (e). Pub. L. 103–183 substituted ''through 1998'' for ''through 1996''.

1992—Subsec. (c)(2). Pub. L. 102–531, which directed amendment of subsec. (c)(2)(B) by substituting ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'', was executed by making the substitution in subsec. (c)(2) to reflect the probable intent of Congress and the redesignation of subsec. (c)(2)(B) as subsec. (c)(2) by Pub. L. 102–168. See 1991 Amendment note below.

1991—Subsec. (c). Pub. L. 102–168, § 102(b), redesignated subpars. (A) and (B) of par. (2) as pars. (1) and (2), respectively, and struck out former par. (1), which read as follows: ''During fiscal year 1985, the Secretary shall make grants or enter into contracts for the establishment of three centers under this section. During fiscal year 1986, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the maintenance and operation of the three centers established under this section in fiscal year 1985. During fiscal year 1987, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the operation and maintenance of the eight centers established under this section in fiscal years 1985 and 1986.''

Subsec. (e). Pub. L. 102–168, § 102(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''To carry out this section, there are authorized to be appropriated $3,000,000 for the fiscal year end-

[1] See References in Text note below.

ing September 30, 1985, $8,000,000 for the fiscal year ending September 30, 1986, $13,000,000 for the fiscal year ending September 30, 1987, $6,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991.''

1988—Subsec. (e). Pub. L. 100–607 struck out ''and'' after ''1986,'' and inserted '', $6,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991'' before period at end.

EX. ORD. NO. 12345. PHYSICAL FITNESS AND SPORTS

Ex. Ord. No. 12345, Feb. 2, 1982, 47 F.R. 5189, as amended by Ex. Ord. No. 12539, Dec. 3, 1985, 50 F.R. 49829; Ex. Ord. No. 12694, Oct. 11, 1989, 54 F.R. 42285; Ex. Ord. No. 12709, Apr. 4, 1990, 55 F.R. 13097, provided:

By virtue of the authority vested in me as President of the United States of America, and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), in order to expand the program for physical fitness and sports and to continue the President's Council on Physical Fitness and Sports, it is hereby ordered as follows:

SECTION 1. The Secretary of Health and Human Services shall, in carrying out his responsibilities for public health and human services, develop and coordinate a national program for physical fitness and sports. The Secretary shall:

(a) Enlist the active support and assistance of individual citizens, civic groups, private enterprise, voluntary organizations, and others in efforts to promote and improve the fitness of all Americans through regular participation in physical fitness and sports activities.

(b) Initiate programs to inform the general public of the importance of exercise and the link which exists between regular physical activity and such qualities as good health and effective performance.

(c) Strengthen coordination of Federal services and programs relating to physical fitness and sports participation and invite appropriate Federal agencies to participate in an interagency committee to coordinate physical fitness and sports activities of the Federal establishment.

(d) Encourage State and local governments to emphasize the importance of regular physical fitness and sports participation.

(e) Seek to advance the physical fitness of children, youth, adults, and senior citizens by systematically encouraging the development of community recreation, physical fitness, and sports participation programs.

(f) Develop cooperative programs with medical, dental, and other similar professional societies to encourage the implementation of sound physical fitness practices and sports medicine services.

(g) Stimulate and encourage research in the areas of sports medicine, physical fitness, and sports performance.

(h) Assist educational agencies at all levels in developing high quality, innovative health and physical education programs which emphasize the importance of exercise to good health.

(i) Assist recreation agencies and national sports governing bodies at all levels in developing ''sports for all'' programs which emphasize the value of sports to physical, mental, and emotional fitness.

(j) Assist business, industry, government, and labor organizations in establishing sound physical fitness programs to elevate employee fitness and to reduce the financial and human costs resulting from physical inactivity.

SEC. 2. *President's Council on Physical Fitness and Sports.* (a) There is hereby continued the President's Council on Physical Fitness and Sports.

(b) The Council shall be composed of twenty members appointed by the President. The President may, as he deems appropriate, designate one or more members to be Chairmen and to be Vice Chairmen.

SEC. 3. *Functions of the Council.* (a) The Council shall advise the President and the Secretary concerning progress made in carrying out the provisions of this Order and shall recommend to the President and the Secretary, as necessary, actions to accelerate progress.

(b) The Council shall advise the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports activities.

(c) The Council shall also advise the Secretary on State, local, and private actions to extend and improve physical activity programs and services.

SEC. 4. *Administrative Provisions Concerning the Council.* (a) The Secretary and the Council are authorized to request from any Federal agency such information or assistance deemed necessary to carry out their functions under this Order.

(b) Each Federal agency is authorized, to the extent permitted by law and within available funds, to furnish such information and assistance to the Secretary and the Council as they may request.

(c) The members of the Council shall serve without compensation for their work on the Council. However, members of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service (5 U.S.C. 5701–5707).

(d) To the extent permitted by law, the Secretary shall furnish the Council with necessary staff, supplies, facilities, and other administrative services. The expenses of the Council shall be paid from funds available to the Secretary.

(e) The Secretary shall appoint an Executive Director of the Council.

(f) The seal prescribed by Executive Order No. 10830 of July 24, 1959, as amended [not classified to the Code], shall continue to be the seal of the President's Council on Physical Fitness and Sports continued by this Order.

SEC. 5. *General Provisions Concerning the Council.*

(a) Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), except that of reporting annually to the Congress, shall be performed by the Secretary in accordance with guidelines and procedures established by the Administrator of General Services.

(b) In accordance with the Federal Advisory Committee Act, as amended, the Council shall terminate on December 31, 1982, unless sooner extended.

(c) Executive Order No. 11562, as amended [not classified to the Code], is revoked.

EXTENSION OF TERM OF PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1984, by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1985, by Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1987, by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1989, by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1991, by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1993, by Ex. Ord. No.

12774, Sept. 27, 1991, 56 F.R. 49835, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1995, by Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1999, by Ex. Ord. No. 13062, Sept. 29, 1997, 62 F.R. 51755, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

§ 300u–6. Office of Minority Health

(a) In general

There is established an Office of Minority Health within the Office of Public Health and Science. There shall be in the Department of Health and Human Services a Deputy Assistant Secretary for Minority Health, who shall be the head of the Office of Minority Health. The Secretary, acting through such Deputy Assistant Secretary, shall carry out this section.

(b) Duties

With respect to improving the health of racial and ethnic minority groups, the Secretary, acting through the Deputy Assistant Secretary for Minority Health (in this section referred to as the ''Deputy Assistant Secretary''), shall carry out the following:

(1) Establish short-range and long-range goals and objectives and coordinate all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning such individuals. The heads of each of the agencies of the Service shall consult with the Deputy Assistant Secretary to ensure the coordination of such activities.

(2) Enter into interagency agreements with other agencies of the Public Health Service.

(3) Support research, demonstrations and evaluations to test new and innovative models.

(4) Increase knowledge and understanding of health risk factors.

(5) Develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial or ethnic minority groups.

(6) Ensure that the National Center for Health Statistics collects data on the health status of each minority group.

(7) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of the individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

(8) Support a national minority health resource center to carry out the following:

(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, 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 such matters.

(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

(9) Carry out programs to improve access to health care services for individuals with limited proficiency in speaking the English language. Activities under the preceding sentence shall include developing and evaluating model projects.

(c) Advisory Committee

(1) In general

The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Health (in this subsection referred to as the ''Committee'').

(2) Duties

The Committee shall provide advice to the Deputy Assistant Secretary carrying out this section, including advice on the development of goals and specific program activities under paragraphs (1) through (9) of subsection (b) of this section for each racial and ethnic minority group.

(3) Chair

The chairperson of the Committee shall be selected by the Secretary from among the members of the voting members of the Committee. The term of office of the chairperson shall be 2 years.

(4) Composition

(A) The Committee shall be composed of 12 voting members appointed in accordance with subparagraph (B), and nonvoting, ex officio members designated in subparagraph (C).

(B) The voting members of the Committee shall be appointed by the Secretary from among individuals who are not officers or employees of the Federal Government and who have expertise regarding issues of minority health. The racial and ethnic minority groups shall be equally represented among such members.

(C) The nonvoting, ex officio members of the Committee shall be such officials of the Department of Health and Human Services as the Secretary determines to be appropriate.

(5) Terms

Each member of the Committee shall serve for a term of 4 years, except that the Secretary shall initially appoint a portion of the members to terms of 1 year, 2 years, and 3 years.

(6) Vacancies

If a vacancy occurs on the Committee, a new member shall be appointed by the Secretary within 90 days from the date that the vacancy occurs, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not af-

fect the power of the remaining members to execute the duties of the Committee.

(7) Compensation

Members of the Committee who are officers or employees of the United States shall serve without compensation. Members of the Committee who are not officers or employees of the United States shall receive compensation, for each day (including travel time) they are engaged in the performance of the functions of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5) for positions above GS–15.

(d) Certain requirements regarding duties

(1) Recommendations regarding language as impediment to health care

The Deputy Assistant Secretary for Minority Health shall consult with the Director of the Office of International and Refugee Health, the Director of the Office of Civil Rights, and the Directors of other appropriate departmental entities regarding recommendations for carrying out activities under subsection (b)(9) of this section.

(2) Equitable allocation regarding activities

In carrying out subsection (b) of this section, the Secretary shall ensure that services provided under such subsection are equitably allocated among all groups served under this section by the Secretary.

(3) Cultural competency of services

The Secretary shall ensure that information and services provided pursuant to subsection (b) of this section are provided in the language, educational, and cultural context that is most appropriate for the individuals for whom the information and services are intended.

(e) Grants and contracts regarding duties

(1) In general

In carrying out subsection (b) of this section, the Secretary acting through the Deputy Assistant Secretary may make awards of grants, cooperative agreements, and contracts to public and nonprofit private entities.

(2) Process for making awards

The Deputy Assistant Secretary shall ensure that awards under paragraph (1) are made, to the extent practical, only on a competitive basis, and that a grant is awarded for a proposal only if the proposal has been recommended for such an award through a process of peer review.

(3) Evaluation and dissemination

The Deputy Assistant Secretary, directly or through contracts with public and private entities, shall provide for evaluations of projects carried out with awards made under paragraph (1) during the preceding 2 fiscal years. The report shall be included in the report required under subsection (f) of this section for the fiscal year involved.

(f) Reports

(1) In general

Not later than February 1 of fiscal year 1999 and of each second year thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this section during the preceding 2 fiscal years and evaluating the extent to which such activities have been effective in improving the health of racial and ethnic minority groups. Each such report shall include the biennial reports submitted under subsections (e)(3) and (f)(2)[1] of this section for such years by the heads of the Public Health Service agencies.

(2) Agency reports

Not later than February 1, 1999, and biennially thereafter, the heads of the Public Health Service agencies shall submit to the Deputy Assistant Secretary a report summarizing the minority health activities of each of the respective agencies.

(g) Definitions

For purposes of this section:

(1) The term ''racial and ethnic minority group'' means American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian Americans and Pacific Islanders; Blacks; and Hispanics.

(2) The term ''Hispanic'' means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country.

(h) Funding

(1)[2] AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

(July 1, 1944, ch. 373, title XVII, § 1707, as added Pub. L. 101–527, § 2, Nov. 6, 1990, 104 Stat. 2312; amended Pub. L. 101–557, title IV, § 401(a)(1), Nov. 15, 1990, 104 Stat. 2770; Pub. L. 105–392, title II, § 201(a), (c), Nov. 13, 1998, 112 Stat. 3582, 3585.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (c)(7), is set out under section 5332 of Title 5, Government Organization and Employees.

Subsections (e)(3) and (f)(2) of this section, referred to in subsec. (f)(1), was in the original ''sections 201(e)(3) and 201(f)(2)'', and was translated to reflect the probable intent of Congress, because section 201 of act July 1, 1944, which is classified to section 202 of this title, does not contain subsections, and subsections (e)(3) and (f)(2) of this section require biennial reporting.

PRIOR PROVISIONS

A prior section 300u–6, act July 1, 1944, ch. 373, title XVII, § 1707, as added Nov. 10, 1978, Pub. L. 95–626, title V, § 502, 92 Stat. 3593; amended July 10, 1979, Pub. L. 96–32, § 6(k), 93 Stat. 84, related to project grants to State Councils on Physical Fitness for physical fitness improvement, prior to repeal by Pub. L. 98–551, § 2(c), Oct. 30, 1984, 98 Stat. 2816.

[1] See References in Text note below.

[2] So in original. No par. (2) has been enacted.

AMENDMENTS

1998—Pub. L. 105–392, § 201(c)(1), struck out ''Establishment of'' before ''Office'' in section catchline.

Subsec. (a). Pub. L. 105–392, § 201(c)(2), substituted ''Public Health and Science'' for ''the Assistant Secretary for Health''.

Subsecs. (b) to (h). Pub. L. 105–392, § 201(a), added subsecs. (b) to (h) and struck out former subsecs. (b) to (f), which related, respectively, to duties of Secretary, certain requirements regarding duties, grants and contracts regarding duties, reports, and funding.

1990—Subsec. (b)(8). Pub. L. 101–557 added par. (8).

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 401(a)(2) of Pub. L. 101–557 provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of the Disadvantaged Minority Health Improvement Act of 1990 [Nov. 6, 1990].''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

CONGRESSIONAL FINDINGS

Section 1(b) of Pub. L. 101–527 provided that: ''The Congress finds that—

''(1) racial and ethnic minorities are disproportionately represented among individuals from disadvantaged backgrounds;

''(2) the health status of individuals from disadvantaged backgrounds, including racial and ethnic minorities, in the United States is significantly lower than the health status of the general population of the United States;

''(3) minorities suffer disproportionately high rates of cancer, stroke, heart diseases, diabetes, substance abuse, acquired immune deficiency syndrome, and other diseases and disorders;

''(4) the incidence of infant mortality among minorities is almost double that for the general population;

''(5) Blacks, Hispanics, and Native Americans constitute approximately 12 percent, 7.9 percent, and 0.01 percent, respectively, of the population of the United States;

''(6) Blacks, Hispanics, and Native Americans in the United States constitute approximately 3 percent, 4 percent, and less than 0.01 percent, respectively, of physicians, 2.7 percent, 1.7 percent, and less than 0.01 percent, respectively, of dentists, and 4.5 percent, 1.6 percent, and less than 0.01 percent, respectively, of nurses;

''(7) the number of individuals who are from disadvantaged backgrounds in health professions should be increased for the purpose of improving the access of other such individuals to health services;

''(8) minority health professionals have historically tended to practice in low-income areas and to serve minorities;

''(9) minority health professionals have historically tended to engage in the general practice of medicine and specialties providing primary care;

''(10) reports published in leading medical journals indicate that access to health care among minorities can be substantially improved by increasing the number of minority health professionals;

''(11) increasing the number of minorities serving on the faculties of health professions schools can be an important factor in attracting minorities to pursue a career in the health professions;

''(12) diversity in the faculty and student body of health professions schools enhances the quality of education for all students attending the schools;

''(13) the Report of the Secretary's Task Force on Black and Minority Health (prepared for the Secretary of Health and Human Services and issued in 1985) described the health status problems of minorities, and made recommendations concerning measures that should be implemented by the Secretary with respect to improving the health status of minorities through programs for providing health information and education; and

''(14) the Office of Minority Health, created in 1985 by the Secretary of Health and Human Services, should be authorized pursuant to statute and should receive increased funding to support efforts to improve the health of individuals from disadvantaged backgrounds, including minorities, including the implementation of the recommendations made by the Secretary's Task Force on Black and Minority Health.''

§ 300u–7. Office of Adolescent Health

(a) In general

There is established an Office of Adolescent Health within the Office of the Assistant Secretary for Health, which office[1] shall be headed by a director[1] appointed by the Secretary. The Secretary shall carry out this section acting through the Director of such Office.

(b) Duties

With respect to adolescent health, the Secretary shall—

(1) coordinate all activities within the Department of Health and Human Services that relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care, including coordinating—

(A) the design of programs, support for programs, and the evaluation of programs;

(B) the monitoring of trends;

(C) projects of research (including multidisciplinary projects) on adolescent health; and

(D) the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, and social workers;

(2) coordinate the activities described in paragraph (1) with similar activities in the private sector; and

(3) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

[1] So in original. Probably should be capitalized.

(c) Certain demonstration projects

(1) In general

In carrying out subsection (b)(3) of this section, the Secretary may make grants to carry out demonstration projects for the purpose of improving adolescent health, including projects to train health care providers in providing services to adolescents and projects to reduce the incidence of violence among adolescents, particularly among minority males.

(2) Authorization of appropriations

For the purpose of carrying out paragraph (1), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

(d) Information clearinghouse

In carrying out subsection (b) of this section, the Secretary shall establish and maintain a National Information Clearinghouse on Adolescent Health to collect and disseminate to health professionals and the general public information on adolescent health.

(e) National plan

In carrying out subsection (b) of this section, the Secretary shall develop a national plan for improving adolescent health. The plan shall be consistent with the applicable objectives established by the Secretary for the health status of the people of the United States for the year 2000, and shall be periodically reviewed, and as appropriate, revised. The plan, and any revisions in the plan, shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(f) Adolescent health

For purposes of this section, the term ''adolescent health'', with respect to adolescents of all ethnic and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

(1) unique to adolescents, or more serious or more prevalent in adolescents;

(2) for which the factors of medical risk or types of medical intervention are different for adolescents, or for which it is unknown whether such factors or types are different for adolescents; or

(3) with respect to which there has been insufficient clinical research involving adolescents as subjects or insufficient clinical data on adolescents.

(July 1, 1944, ch. 373, title XVII, § 1708, as added Pub. L. 102–531, title III, § 302, Oct. 27, 1992, 106 Stat. 3483.)

PRIOR PROVISIONS

A prior section 300u–7, act July 1, 1944, ch. 373, title XVII, § 1708, as added Nov. 10, 1978, Pub. L. 95–626, title V, § 502, 92 Stat. 3594; amended July 10, 1979, Pub. L. 96–32, § 6(*l*), 93 Stat. 84, related to project grants for physical fitness improvement and research projects, prior to repeal by Pub. L. 98–551, § 2(c), Oct. 30, 1984, 98 Stat. 2816.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300u–8. Biennial report regarding nutrition and health

(a) Biennial report

The Secretary shall require the Surgeon General of the Public Health Service to prepare biennial reports on the relationship between nutrition and health. Such reports may, with respect to such relationship, include any recommendations of the Secretary and the Surgeon General.

(b) Submission to Congress

The Secretary shall ensure that, not later than February 1 of 1995 and of every second year thereafter, a report under subsection (a) of this section is submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(July 1, 1944, ch. 373, title XVII, § 1709, as added Pub. L. 103–183, title VII, § 704, Dec. 14, 1993, 107 Stat. 2240.)

PRIOR PROVISIONS

A prior section 300u–8, act July 1, 1944, ch. 373, title XVII, § 1709, as added Nov. 10, 1978, Pub. L. 95–626, title V, § 502, 92 Stat. 3594, related to establishment of national program on sports medicine research, prior to repeal by Pub. L. 98–551, § 2(c), Oct. 30, 1984, 98 Stat. 2816.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300u–9. Education regarding DES

(a) In general

The Secretary, acting through the heads of the appropriate agencies of the Public Health Service, shall carry out a national program for the education of health professionals and the public with respect to the drug diethylstilbestrol (commonly known as DES). To the extent appropriate, such national program shall use methodologies developed through the education demonstration program carried out under section 283a of this title. In developing and carrying out the national program, the Secretary shall consult closely with representatives of nonprofit private entities that represent individuals who have been exposed to DES and that have expertise in community-based information campaigns for the public and for health care providers. The implementation of the national program shall begin during fiscal year 1999.

(b) 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 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.

(July 1, 1944, ch. 373, title XVII, § 1710, as added Pub. L. 105–340, title I, § 101(b), Oct. 31, 1998, 112 Stat. 3191.)

PRIOR PROVISIONS

A prior section 300u–9, act July 1, 1944, ch. 373, title XVII, § 1710, as added Nov. 10, 1978, Pub. L. 95–626, title V, § 502, 92 Stat. 3594; amended Oct. 17, 1979, Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, 93 Stat. 678, 692, related to Conference on Education in Lifetime Sports, prior to repeal by Pub. L. 98–551, § 2(c), Oct. 30, 1984, 98 Stat. 2816.

SUBCHAPTER XVI—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIOR RESEARCH

§ 300v. Commission

(a) Establishment; composition; appointment of members; vacancies

(1) There is established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (hereinafter in this subchapter referred to as the ''Commission'') which shall be composed of eleven members appointed by the President. The members of the Commission shall be appointed as follows:

(A) Three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research.

(B) Three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care.

(C) Five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs.

(2) No individual who is a full–time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Health and Human Services, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Secretary of Veterans Affairs, and the Director of the National Science Foundation shall each designate an individual to provide liaison with the Commission.

(3) No individual may be appointed to serve as a member of the Commission if the individual has served for two terms of four years each as such a member.

(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) Terms of members

(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

(2) Of the members first appointed—

(A) four shall be appointed for terms of three years, and

(B) three shall be appointed for terms of two years,

as designated by the President at the time of appointment.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) Chairman

The Chairman of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, from members of the Commission.

(d) Meetings

(1) Seven members of the Commission shall constitute a quorum for business, but a lesser number may conduct hearings.

(2) The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

(e) Compensation; travel expenses, etc.

(1) Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(July 1, 1944, ch. 373, title XVIII, § 1801, as added Pub. L. 95–622, title III, § 301, Nov. 9, 1978, 92 Stat. 3437; amended Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–527, § 10(1), Oct. 25, 1988, 102 Stat. 2640.)

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100–527 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a)(2) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

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.

APPOINTMENT OF INITIAL MEMBERS

Section 302(a) of Pub. L. 95–622 directed President to initially appoint members to President's Commission

for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (established under the amendment made by section 301) [enacting this subchapter] not later than 90 days after Nov. 9, 1978.

EXECUTIVE ORDER NO. 12184

Ex. Ord. No. 12184, Dec. 17, 1979, 44 F.R. 75091, which established the President's Special Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 300v–1. Duties of Commission

(a) Studies and investigations; priority and order; report to President and Congress

(1) The Commission shall undertake studies of the ethical and legal implications of—

(A) the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

(B) the matter of defining death, including the advisability of developing a uniform definition of death;

(C) voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

(D) the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

(E) current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information continued[1] in such records,[2] and

(F) such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by the Commission.

The Commission shall determine the priority and order of the studies required under this paragraph.

(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this subchapter on its own initiative or at the request of the head of a Federal agency.

(3) In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted under this subsection, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

(4) Upon the completion of each investigation or study undertaken by the Commission under this subsection (including a study or investigation which merely uses another study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies.

(b) Recommendations to agencies; subsequent administrative requirements

(1) Within 60 days of the date a Federal agency receives a recommendation from the Commission that the agency take any action with respect to its rules, policies, guidelines, or regulations, the agency shall publish such recommendation in the Federal Register and shall provide opportunity for interested persons to submit written data, views, and arguments with respect to adoption of the recommendation.

(2) Within the 180-day period beginning on the date of such publication, the agency shall determine whether the action proposed by such recommendation is appropriate, and, to the extent that it determines that—

(A) such action is not appropriate, the agency shall, within such time period, provide the Commission with, and publish in the Federal Register, a notice of such determination (including an adequate statement of the reasons for the determination), or

(B) such action is appropriate, the agency shall undertake such action as expeditiously as feasible and shall notify the Commission of the determination and the action undertaken.

(c) Report on protection of human subjects; scope; submission to President, etc.

The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support, and (2) of the implementation of such rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

(d) Annual report; scope; submission to President, etc.

Not later than December 15 of each year (beginning with 1979) the Commission shall report to the President, the Congress, and appropriate Federal agencies on the activities of the Commission during the fiscal year ending in such year. Each such report shall include a complete list of all recommendations described in subsection (b)(1) of this section made to Federal agencies by the Commission during the fiscal year and the actions taken, pursant[3] to subsection (b)(2) of this section, by the agencies upon such recommendations, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

(e) Publication and dissemination of reports

The Commission may at any time publish and disseminate to the public reports respecting its activities.

(f) Definitions

For purposes of this section:

[1] So in original. Probably should be "contained".

[2] So in original. The comma probably should be a semicolon.

[3] So in original. Probably should be "pursuant".

(1) The term ''Federal agency'' means an authority of the government of the United States, but does not include (A) the Congress, (B) the courts of the United States, and (C) the government of the Commonwealth of Puerto Rico, the government of the District of Columbia, or the government of any territory or possession of the United States.

(2) The term ''protection of human subjects'' includes the protection of the health, safety, and privacy of individuals.

(July 1, 1944, ch. 373, title XVIII, § 1802, as added Pub. L. 95–622, title III, § 301, Nov. 9, 1978, 92 Stat. 3439; amended Pub. L. 96–32, § 4, July 10, 1979, 93 Stat. 82.)

AMENDMENTS

1979—Subsec. (f). Pub. L. 96–32 redesignated definitions subsection following subsec. (e) as (f), which in original was designated as ''(b)''.

§ 300v–2. Administrative provisions

(a) Hearings

The Commission may for the purpose of carrying out this subchapter hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) Appointment and compensation of staff personnel; procurement and compensation of temporary and intermittent services; detail of personnel from other Federal agencies

(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(3) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this subchapter.

(c) Contracting authority

The Commission, in performing its duties and functions under this subchapter, may enter into contracts with appropriate public or nonprofit private entities. The authority of the Commission to enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(d) Informational requirements and prohibitions

(1) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subchapter. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(2) The Commission shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties under this subchapter.

(3) The Commission shall not disclose any information reported to or otherwise obtained by the Commission which is exempt from disclosure under subsection (a) of section 552 of title 5 by reason of paragraphs (4) and (6) of subsection (b) of such section.

(e) Support services from Administrator of General Services

The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(July 1, 1944, ch. 373, title XVIII, § 1803, as added Pub. L. 95–622, title III, § 301, Nov. 9, 1978, 92 Stat. 3440.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

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.

§ 300v–3. Authorization of appropriations; termination of Commission

(a) To carry out this subchapter there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982.

(b) The Commission shall be subject to the Federal Advisory Committee Act, except that, under section 14(a)(1)(B) of such Act, the Commission shall terminate on December 31, 1982.

(July 1, 1944, ch. 373, title XVIII, § 1804, as added Pub. L. 95–622, title III, § 301, Nov. 9, 1978, 92 Stat. 3441.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER XVII—BLOCK GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 247b–6, 256d, 3013, 8623 of this title; title 31 section 6703.

PART A—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 9875 of this title; title 25 section 1680h.

§ 300w. Authorization of appropriations

(a) For the purpose of allotments under section 300w–1 of this title, there are authorized to be appropriated $205,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1998.

(b) Of the amount appropriated for any fiscal year under subsection (a) of this section, at least $7,000,000 shall be made available for allotments under section 300w–1(b) of this title.

(July 1, 1944, ch. 373, title XIX, § 1901, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat. 535; amended Pub. L. 98–555, § 4, Oct. 30, 1984, 98 Stat. 2855; Pub. L. 100–607, title III, § 301(a), Nov. 4, 1988, 102 Stat. 3111; Pub. L. 102–531, title I, § 101, Oct. 27, 1992, 106 Stat. 3469; Pub. L. 103–183, title VII, § 705(e), Dec. 14, 1993, 107 Stat. 2241.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–183 substituted ''through 1998'' for ''through 1997''.

1992—Subsec. (a). Pub. L. 102–531, § 101(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''For the purpose of allotments under section 300w–1 of this title, there is authorized to be appropriated $95,000,000 for fiscal year 1982, $96,500,000 for fiscal year 1983, $98,500,000 for fiscal year 1984, $98,500,000 for the fiscal year ending September 30, 1985, $98,500,000 for the fiscal year ending September 30, 1986, $98,500,000 for the fiscal year ending September 30, 1987, $110,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991.''

Subsec. (b). Pub. L. 102–531, § 101(b), substituted ''$7,000,000'' for ''$3,500,000''.

1988—Subsec. (a). Pub. L. 100–607 struck out ''and'' after ''1986,'' and inserted '', $110,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991'' before period at end.

1984—Subsec. (a). Pub. L. 98–555, § 4(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987.

Subsec. (b). Pub. L. 98–555, § 4(b), substituted ''$3,500,000'' for ''$3,000,000''.

EFFECTIVE DATE

Section 901 of Pub. L. 97–35 provided in part that this subchapter is effective Oct. 1, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300w–1 of this title.

§ 300w–1. Allotments

(a) Availability based upon prior year distributions

(1) From the amounts appropriated under section 300w of this title for any fiscal year and available for allotment under this subsection, the Secretary shall allot to each State an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in paragraph (2) to the State and entities in the State for fiscal year 1981 bore to the total amount appropriated for such provisions of law for fiscal year 1981.

(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on September 30, 1981:

(A) The authority for grants under section 247b of this title for preventive health service programs for the control of rodents.

(B) The authority for grants under section 247b of this title for establishing and maintaining community and school-based fluoridation programs.

(C) The authority for grants under section 247b of this title for preventive health service programs for hypertension.

(D) Sections 247b–1[1] and 247b–2 of this title.

(E) Section 246(d)[1] of this title.

(F) Section 255(a)[1] of this title.

(G) Sections 300d–1,[1] 300d–2,[1] and 300d–3[1] of this title.

(b) Population

From the amount required to be made available under section 300w(b) of this title for allotments under this subsection for any fiscal year, the Secretary shall make allotments to each State on the basis of the population of the State.

(c) Distribution of appropriated funds not allotted

To the extent that all the funds appropriated under section 300w of this title for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

(1) one or more States have not submitted an application or description of activities in accordance with section 300w–4 of this title for the fiscal year;

(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

(3) some State allotments are offset or repaid under section 300w–5(b)(3) of this title;

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

(d) Distributions to Indian tribes

(1) If the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) of this section for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) of this section an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1981 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (a) of this section bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organi-

[1] See References in Text note below.

zations) in the State under such provisions of law.

(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

(5) The terms ''Indian tribe'' and ''tribal organization'' have the same meaning given such terms in section 450b(b) and (c)[2] of title 25.

(e) Report on equitable distribution of available funds

The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotment to the States under this section. In conducting the study, the Secretary shall take into account—

(1) the financial resources of the various States,

(2) the populations of the States, and

(3) any other factor which the Secretary may consider appropriate.

Before June 30, 1982, the Secretary shall submit a report to the Congress respecting the development of a formula and make such recommendations as the Secretary may deem appropriate in order to ensure the most equitable distribution of funds under allotments under this section.

(July 1, 1944, ch. 373, title XIX, § 1902, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat. 535.)

REFERENCES IN TEXT

Section 247b–1 of this title, referred to in subsec. (a)(2)(D), was in the original a reference to section 401 of the Health Services and Centers Amendments of 1978, Pub. L. 95–626, which was repealed effective Oct. 1, 1981, by Pub. L. 97–35, title IX, § 902(a), (h), Aug. 13, 1981, 95 Stat. 559, 561. Pub. L. 100–572, § 3, Oct. 31, 1988, 102 Stat. 2887, enacted section 317A of act July 1, 1944, which is classified to section 247b–1 of this title.

Section 247b–2 of this title, referred to in subsec. (a)(2)(D), was repealed effective Oct. 1, 1981, by Pub. L. 97–35, title IX, § 902(a), (h), Aug. 13, 1981, 95 Stat. 559, 561.

Section 246(d) of this title, referred to in subsec. (a)(2)(E), was repealed effective Oct. 1, 1981, by Pub. L. 97–35, title IX, § 902(b), (h), Aug. 13, 1981, 95 Stat. 559, 561.

Section 255 of this title, referred to in subsec. (a)(2)(F), was in the original a reference to section 339 of act July 1, 1944, which was repealed effective Oct. 1, 1981, by Pub. L. 97–35, title IX, § 902(b), (h), Aug. 13, 1981, 95 Stat. 559, 561. Pub. L. 97–414, § 6(a), Jan. 4, 1983, 96 Stat. 2057, added a new section 339 of act July 1, 1944, which is classified to section 255 of this title.

Sections 300d–1, 300d–2, and 300d–3 of this title, referred to in subsec. (a)(2)(G), were in the original references to sections 1202, 1203, and 1204, respectively, of act July 1, 1944, which were repealed effective Oct. 1, 1981, by Pub. L. 97–35, title IX, § 902(d)(1), (h), Aug. 13, 1981, 95 Stat. 560, 561. Pub. L. 101–590, § 3, Nov. 16, 1990, 104 Stat. 2916–2918, enacted new sections 1202, 1203, and 1204 of act July 1, 1944, which were classified to sections 300d–1, 300d–2, and 300d–3, respectively, of this title. Pub. L. 103–183, title VI, § 601(b), Dec. 14, 1983, 107 Stat. 2238, repealed section 1202 and renumbered sections 1203 and 1204 as 1202 and 1203, respectively.

[2] See References in Text note below.

Section 450b of title 25, referred to in subsec. (d)(5), has been amended, and subsecs. (b) and (c) of section 450b no longer define the terms ''Indian tribe'' and ''tribal organization''. However, such terms are defined elsewhere in that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w, 300w–2, 300w–3, 300w–4, 300w–7 of this title.

§ 300w–2. Payments under allotments to States

(a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, to each State from its allotment under section 300w–1 of this title (other than any amount reserved under section 300w–1(d) of this title) from amounts appropriated for that fiscal year.

(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) of this section by—

(1) the fair market value of any supplies or equipment furnished the State, and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 300w–3 of this title. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

(July 1, 1944, ch. 373, title XIX, § 1903, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat. 537.)

CODIFICATION

In subsec. (a)(1), ''section 6503(a) of title 31'' substituted for ''section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–3, 300w–4, 300w–5, 9875 of this title.

§ 300w–3. Use of allotments

(a) Preventive health services, comprehensive public health services, emergency medical services, etc.

(1) Except as provided in subsections (b) and (c) of this section, payments made to a State under section 300w–2 of this title may be used for the following:

(A) Activities consistent with making progress toward achieving the objectives established by the Secretary for the health status of the population of the United States for the year 2000 (in this part referred to as ''year 2000 health objectives'').

(B) Preventive health service programs for the control of rodents and for community and school-based fluoridation programs.

(C) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the purchase of equipment for the systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems. Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies or planning, respectively, is consistent with the requirements of section 300d–13(a) of this title.

(D) Providing services to victims of sex offenses and for prevention of sex offenses.

(E) With respect to activities described in any of subparagraphs (A) through (D), related planning, administration, and educational activities.

(F) Monitoring and evaluation of activities carried out under any of subparagraphs (A) through (E)[1]

(2) Except as provided in subsection (b) of this section, amounts paid to a State under section 300w–2 of this title from its allotment under section 300w–1(b) of this title may only be used for providing services to rape victims and for rape prevention.

(3) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this part.

(b) Prohibited uses

A State may not use amounts paid to it under section 300w–2 of this title to—

(1) provide inpatient services,

(2) make cash payments to intended recipients of health services,

(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

(5) provide financial assistance to any entity other than a public or nonprofit private entity.

Except as provided in subsection (a)(1)(E) of this section, the Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(c) Transfer of funds

A State may transfer not more than 7 percent of the amount allotted to the State under section 300w–1(a) of this title for any fiscal year for use by the State under part B of this subchapter and title V of the Social Security Act [42 U.S.C. 701 et seq.] in such fiscal year as follows: At any time in the first three quarters of the fiscal year a State may transfer not more than 3 percent of the allotment of the State for the fiscal year for such use, and in the last quarter of a fiscal year a State may transfer for such use not more than the remainder of the amount of its allotment which may be transferred.

(d) Limitation on administrative costs

Of the amount paid to any State under section 300w–2 of this title, not more than 10 percent paid from each of its allotments under subsections (a) and (b) of section 300w–1 of this title may be used for administering the funds made available under section 300w–2 of this title. The State will pay from non-Federal sources the remaining costs of administering such funds.

(July 1, 1944, ch. 373, title XIX, §1904, as added Pub. L. 97–35, title IX, §901, Aug. 13, 1981, 95 Stat. 537; amended Pub. L. 97–414, §8(s), Jan. 4, 1983, 96 Stat. 2062; Pub. L. 99–646, §87(d)(1)(A), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99–654, §3(b)(1)(A), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100–607, title III, §301(b), Nov. 4, 1988, 102 Stat. 3111; Pub. L. 102–531, title I, §102, Oct. 27, 1992, 106 Stat. 3470.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title V of the Social Security Act is classified generally to subchapter V (§701 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–531, §102(a), amended par. (1) generally, substituting present provisions for provisions authorizing, except as provided in subsecs. (b) and (c), use of the amounts paid to a State under section 300w–2 of this title from its allotment under section 300w–1(a) of this title and amounts transferred by the State, for use in preventive health service programs, including hypertension and high cholesterol services, health-risk reduction programs, immunization services, home health agencies, emergency medical services, services to victims of sex offenses, and uterine cancer and breast cancer services.

Subsec. (c). Pub. L. 102–531, §102(b), substituted ''part B'' for ''parts B and C''.

1988—Subsec. (a)(1)(B). Pub. L. 100–607, §301(b)(1), inserted ''and elevated serum cholesterol'' before period at end.

Subsec. (a)(1)(C). Pub. L. 100–607, §301(b)(2), inserted '', including programs designed to reduce the incidence of chronic diseases'' before period at end.

Subsec. (a)(1)(D). Pub. L. 100–607, §301(b)(3), inserted '', including immunization services'' before period at end.

Subsec. (a)(1)(F). Pub. L. 100–607, §301(b)(4), substituted ''systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems'' for ''systems (other than systems with respect to which grants were made as prescribed by section 300w–4(c)(2) of this title)''.

Subsec. (a)(1)(H). Pub. L. 100–607, §301(b)(5), added subpar. (H).

1986—Subsec. (a)(1)(G). Pub. L. 99–646 and Pub. L. 99–654 amended subpar. (G) identically, substituting ''victims of sex offenses and for prevention of sex offenses'' for ''rape victims and for rape prevention''.

1983—Subsec. (a)(1)(F). Pub. L. 97–414 inserted ''(other than systems with respect to which grants were made

[1] So in original. Probably should be followed by a period.

as prescribed by section 300w–4(c)(2) of this title)'' after ''equipment for the systems''.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendments by Pub. L. 99–646 and Pub. L. 99–654 effective 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, respectively, see section 87(e) of Pub. L. 99–646 and section 4 of Pub. L. 99–654, set out as an Effective Date note under section 2241 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–2, 300w–4, 300w–5, 300w–9, 300w–10 of this title.

§ 300w–4. Application for payments; State plan

(a) In general

The Secretary may make payments under section 300w–2 of this title to a State for a fiscal year only if—

(1) the State submits to the Secretary an application for the payments;

(2) the application contains a State plan in accordance with subsection (b) of this section;

(3) the application contains the certification described in subsection (c) of this section;

(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this part (including assurances regarding compliance with the agreements described in subsection (c) of this section); and

(5) the application is in such form and is submitted by such date as the Secretary may require.

(b) State plan

A State plan required in subsection (a)(2) of this section for a fiscal year is in accordance with this subsection if the plan meets the following conditions:

(1) The plan is developed by the State agency with principal responsibility for public health programs, in consultation with the advisory committee established pursuant to subsection (c)(2) of this section.

(2) The plan specifies the activities authorized in section 300w–3 of this title that are to be carried out with payments made to the State under section 300w–2 of this title, including a specification of the year 2000 health objectives for which the State will expend the payments.

(3) The plan specifies the populations in the State for which such activities are to be carried out.

(4) The plan specifies any populations in the State that have a disparate need for such activities.

(5) With respect to each population specified under paragraph (3), the plan contains a strategy for expending such payments to carry out such activities to make progress toward improving the health status of the population, which strategy includes—

(A) a description of the programs and projects to be carried out;

(B) an estimate of the number of individuals to be served by the programs and projects; and

(C) an estimate of the number of public health personnel needed to carry out the strategy.

(6) The plan specifies the amount of such payments to be expended for each of such activities and, with respect to the activity involved—

(A) the amount to be expended for each population specified under paragraph (3); and

(B) the amount to be expended for each population specified under paragraph (4).

(c) State certification

The certification referred to in subsection (a)(3) of this section for a fiscal year is a certification to the Secretary by the chief executive officer of the State involved as follows:

(1)(A) In the development of the State plan required in subsection (a)(2) of this section—

(i) the chief health officer of the State held public hearings on the plan; and

(ii) proposals for the plan were made public in a manner that facilitated comments from public and private entities (including Federal and other public agencies).

(B) The State agrees that, if any revisions are made in such plan during the fiscal year, the State will, with respect to the revisions, hold hearings and make proposals public in accordance with subparagraph (A), and will submit to the Secretary a description of the revisions.

(2) The State has established an advisory committee in accordance with subsection (d) of this section.

(3) The State agrees to expend payments under section 300w–2 of this title only for the activities authorized in section 300w–3 of this title.

(4) The State agrees to expend such payments in accordance with the State plan submitted under subsection (a)(2) of this section (with any revisions submitted to the Secretary under paragraph (1)(B)), including making expenditures to carry out the strategy contained in the plan pursuant to subsection (b)(5) of this section.

(5)(A) The State agrees that, in the case of each population for which such strategy is carried out, the State will measure the extent of progress being made toward improving the health status of the population.

(B) The State agrees that—

(i) the State will collect and report data in accordance with section 300w–5(a) of this title; and

(ii) for purposes of subparagraph (A), progress will be measured through use of each of the applicable uniform data items developed by the Secretary under paragraph (2) of such section, or if no such items are applicable, through use of the uniform criteria developed by the Secretary under paragraph (3) of such section.

(6) With respect to the activities authorized in section 300w–3 of this title, the State agrees to maintain State expenditures for such activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 300w–2 of this title.

(7) The State agrees to establish reasonable criteria to evaluate the effective performance of entities that receive funds from such payments and procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

(8) The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 300w–6 of this title.

(9) The State has in effect a system to protect from inappropriate disclosure patient and sex offense victim records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

(10) The State agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety; and

(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.

(d) State Advisory Committee

(1) In general

For purposes of subsection (c)(2) of this section, an advisory committee is in accordance with this subsection if such committee is known as the State Preventive Health Advisory Committee (in this subsection referred to as the ''Committee'') and the Committee meets the conditions described in the subsequent paragraphs of this subsection.

(2) Duties

A condition under paragraph (1) for a State is that the duties of the Committee are—

(A) to hold public hearings on the State plan required in subsection (a)(2) of this section; and

(B) to make recommendations pursuant to subsection (b)(1) of this section regarding the development and implementation of such plan, including recommendations on—

(i) the conduct of assessments of the public health;

(ii) which of the activities authorized in section 300w–3 of this title should be carried out in the State;

(iii) the allocation of payments made to the State under section 300w–2 of this title;

(iv) the coordination of activities carried out under such plan with relevant programs of other entities; and

(v) the collection and reporting of data in accordance with section 300w–5(a) of this title.

(3) Composition

(A) A condition under paragraph (1) for a State is that the Committee is composed of such members of the general public, and such officials of the health departments of political subdivisions of the State, as may be necessary to provide adequate representation of the general public and of such health departments.

(B) With respect to compliance with subparagraph (A), the membership of advisory committees established pursuant to subsection (c)(2) of this section may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized in section 300w–3 of this title.

(4) Chair; meetings

A condition under paragraph (1) for a State is that the State public health officer serves as the chair of the Committee, and that the Committee meets not less than twice each fiscal year.

(July 1, 1944, ch. 373, title XIX, §1905, as added Pub. L. 97–35, title IX, §901, Aug. 13, 1981, 95 Stat. 538; amended Pub. L. 98–555, §5(a), (d), Oct. 30, 1984, 98 Stat. 2855, 2856; Pub. L. 99–646, §87(d)(1)(B), Nov. 10, 1986, 100 Stat. 3624; Pub. L. 99–654, §3(b)(1)(B), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100–607, title III, §301(c), Nov. 4, 1988, 102 Stat. 3112; Pub. L. 101–590, §4, Nov. 16, 1990, 104 Stat. 2928; Pub. L. 102–531, title I, §103(a), Oct. 27, 1992, 106 Stat. 3470.)

AMENDMENTS

1992—Pub. L. 102–531 amended section generally, substituting present provisions for provisions relating to submission and form of application for assistance under this part as well as required assurances, public hearings on proposed use and distribution of funds, certifications by chief executive officer of State, and a description of intended use of funds as well as public access to and revision of such description.

1990—Subsec. (c). Pub. L. 101–590, which directed amendment of subsec. (c) by adding at the end thereof a new par. (7), was executed by adding par. (7) after par. (6) and before the last sentence to reflect the probable intent of Congress.

1988—Subsec. (d). Pub. L. 100–607 inserted at end ''The description shall include a statement of the public health objectives expected to be achieved by the State through the use of the payments the State will receive under section 300w–2 of this title.''

1986—Subsec. (c)(6). Pub. L. 99–646 and Pub. L. 99–654 amended par. (6) identically, substituting ''sex offense'' for ''rape''.

1984—Subsec. (c)(2). Pub. L. 98–555, §5(a), redesignated par. (3) as (2). Former par. (2), which related to grants for fiscal year 1982, was struck out.

Subsec. (c)(3). Pub. L. 98–555, §5(a), redesignated par. (5) as (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 98–555, §5(a), redesignated par. (6) as (4). Former par. (4), which related to grants for preventive health service programs for hypertension, was struck out.

Subsec. (c)(5) to (8). Pub. L. 98–555, §5(a), redesignated pars. (7) and (8) as (5) and (6), respectively. Former pars. (5) and (6) redesignated (3) and (4), respectively.

Subsec. (e). Pub. L. 98–555, §5(d), struck out subsec. (e) which related to grants by States.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendments by Pub. L. 99–646 and Pub. L. 99–654 effective 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, respectively, see section 87(e) of Pub. L. 99–646 and section 4 of Pub. L. 99–654, set out as an Effective Date note under section 2241 of Title 18, Crimes and Criminal Procedure.

DELAYED APPLICABILITY OF REQUIREMENT REGARDING ADVISORY COMMITTEES

Section 103(b) of Pub. L. 102–531 provided that: ''With respect to compliance with the requirement established in subsection (c)(2) of section 1905 of the Public Health Service Act [subsec. (c)(2) of this section] (as amended by subsection (a) of this section), a State is deemed, notwithstanding such section, to be in compliance with such requirement if the State establishes an advisory committee in accordance with subsection (d) of such section not later than 180 days after the date of the enactment of this Act [Oct. 27, 1992].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–1, 300w–5, 300w–6, 300w–10 of this title.

§ 300w–5. Reports, data, and audits

(a) Annual reports; contents; data collection; copies

(1) For purposes of section 300w–4(c)(5)(B)(i) of this title, a State is collecting and reporting data for a fiscal year in accordance with this subsection if the State submits to the Secretary, not later than February 1 of the succeeding fiscal year, a report that—

(A) describes the purposes for which the State expended payments made to the State under section 300w–2 of this title;

(B) pursuant to section 300w–4(c)(5)(A) of this title, describes the extent of progress made by the State for purposes of such section;

(C) meets the conditions described in the subsequent paragraphs of this subsection; and

(D) contains such additional information regarding activities authorized in section 300w–3 of this title, and is submitted in such form, as the Secretary may require.

(2)(A) The Secretary, in consultation with the States, shall develop sets of data for uniformly defining health status for purposes of the year 2000 health objectives (which sets are in this subsection referred to as ''uniform data sets''). Each of such sets shall consist of one or more categories of information (in this subsection individually referred to as a ''uniform data item''). The Secretary shall develop formats for the uniform collecting and reporting of information on such items.

(B) A condition under paragraph (1)(C) for a fiscal year is that the State involved will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for one uniform data item from each of the uniform data sets, which items are selected for the State by the Secretary.

(C) In the case of fiscal year 1995 and each subsequent fiscal year, a condition under paragraph (1) for a State is that the State will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for each of the uniform data sets appropriate to the year 2000 health objectives that the State has, in the State plan submitted under section 300w–4 of this title for the fiscal year, specified as a purpose for which payments under section 300w–2 of this title are to be expended.

(3) The Secretary, in consultation with the States, shall establish criteria for the uniform collection and reporting of data on activities authorized in section 300w–3 of this title with respect to which no uniform data items exist.

(4) A condition under paragraph (1) for a fiscal year is that the State involved will make copies of the report submitted under such paragraph for the fiscal year available for public inspection, and will upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(b) Fiscal control; accounting procedures; annual audits; repayments and offsets; public inspection; Comptroller General evaluations; report to Congress

(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 300w–2 of this title and funds transferred under section 300w–3(c) of this title for use under this part.

(2) Each State shall annually audit its expenditures from payments received under section 300w–2 of this title. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, in so far as practical, in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certification provided by the State under section 300w–4 of this title. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this part.

(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part and the certification provided by the State under section 300w–4 of this title.

(6) Not later than October 1, 1990, the Secretary shall report to the Congress on the activities of the States that have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

(c) Inapplicability of title XVII of Omnibus Budget Reconciliation Act of 1981

Title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to audits of funds allotted under this part.

(July 1, 1944, ch. 373, title XIX, § 1906, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat.

540; amended Pub. L. 98–555, § 5(b), (c), Oct. 30, 1984, 98 Stat. 2855, 2856; Pub. L. 100–607, title III, § 301(d), Nov. 4, 1988, 102 Stat. 3112; Pub. L. 102–531, title I, § 104, Oct. 27, 1992, 106 Stat. 3473.)

REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1981, referred to in subsec. (c), is Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357, as amended. Title XVII of the Omnibus Budget Reconciliation Act of 1981 enacted sections 3595, and 4511 to 4514 of Title 5, Government Organization and Employees, amended sections 3393, 3593, 3596, 4501, 4502, 4505, 4506, 7542, 7543, 8340, and 8345 of Title 5, and sections 2003 and 2401 of Title 39, Postal Service, and enacted provisions set out as notes under sections 3595, 4501, 5303, 5343, 8340, and 8345 of Title 5, section 1243 of former Title 31, Money and Finance, and sections 403, 2003, 2004, and 2401 of Title 39. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1992—Pub. L. 102–531, § 104(b)(1), substituted ''Reports, data, and audits'' for ''Reports and audits'' in section catchline.

Subsec. (a). Pub. L. 102–531, § 104(a), amended subsec. (a) generally, substituting present provisions for provisions requiring an annual report by each State of its activities under this part, outlining the contents of such report, and for providing copies of the report to interested persons.

Subsec. (d). Pub. L. 102–531, § 104(b)(2), struck out subsec. (d) which provided for development of model criteria and forms for collection of data and information on services provided under this part.

1988—Subsec. (a)(3). Pub. L. 100–607, § 301(d)(1), added par. (3).

Subsec. (b)(6). Pub. L. 100–607, § 301(d)(2), substituted ''1990'' for ''1983''.

1984—Subsec. (a)(1)(B). Pub. L. 98–555, § 5(b), substituted ''preventive health and preventive health services programs in the State assisted by funds from allotments under this part, including a summary of the services which were provided, the providers of such services, and the individuals who received such services'' for ''activities of the State under this part''.

Subsec. (d). Pub. L. 98–555, § 5(c), added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–1, 300w–4, 300w–10, 9875 of this title.

§ 300w–6. Withholding of funds

(a) Prerequisites

(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certification provided under section 300w–4 of this title. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certification provided under section 300w–4 of this title. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 300w–4 of this title.

(4) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this part or certifications provided under section 300w–4 of this title.

(b) Investigations

(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part and certifications provided under section 300w–4 of this title.

(2) The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 300w–4 of this title.

(c) Availability of books, documents, papers, and records

Each State, and each entity which has received funds from an allotment made to a State under this part, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) Information not readily available

(1) In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

(July 1, 1944, ch. 373, title XIX, § 1907, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat. 541.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–4, 300w–10, 9875 of this title.

§ 300w–7. Nondiscrimination provisions

(a) Programs and activities receiving Federal financial assistance

(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], on the basis of sex under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], pro-

grams and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

(b) Failure to comply

Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 300w–1 of this title, has failed to comply with a provision of law referred to in subsection (a)(1) of this section, with subsection (a)(2) of this section, or with an applicable regulation (including one prescribed to carry out subsection (a)(2) of this section), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], or section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], as may be applicable, or

(3) take such other action as may be provided by law.

(c) Civil actions by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b)(1) of this section, or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) of this section or in violation of subsection (a)(2) of this section, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(July 1, 1944, ch. 373, title XIX, § 1908, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat. 542.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsecs. (a)(1) and (b)(2), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Education Amendments of 1972, referred to in subsec. (a)(1), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Education Amendments of 1972 is classified principally to chapter 38 (§ 1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsecs. (a)(1) and (b)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–10, 9875 of this title.

§ 300w–8. Criminal penalty for false statements

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this part, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(July 1, 1944, ch. 373, title XIX, § 1909, as added Pub. L. 97–35, title IX, § 901, Aug. 13, 1981, 95 Stat. 542.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300w–10, 9875 of this title.

§ 300w–9. Emergency medical services for children

(a) Grant authority

For activities in addition to the activities which may be carried out by States under section 300w–3(a)(1)(F)[1] of this title, the Secretary may make grants to States or accredited schools of medicine in States to support a program of demonstration projects for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this subsection shall be for not more than a 3-year period (with an optional 4th year based on performance), subject to annual evaluation by the Secretary. Only 3 grants under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.

(b) Renewals

The Secretary may renew a grant made under subsection (a) of this section for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to States in which grants under such subsection have not been made.

(c) Definitions

For purposes of this section—

(1) the term ''school of medicine'' has the same meaning as in section 292a(4)[1] of this title; and

[1] See References in Text note below.

(2) the term ''accredited'' has the same meaning as in section 292a(5)[1] of this title.

(d) Authorization of appropriations

To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1985 and for each of the two succeeding fiscal years, $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for each of the fiscal years 1991 and 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2005.

(July 1, 1944, ch. 373, title XIX, § 1910, as added Pub. L. 98–555, § 7, Oct. 30, 1984, 98 Stat. 2856; amended Pub. L. 99–272, title XVII, § 17004, Apr. 7, 1986, 100 Stat. 360; Pub. L. 100–607, title III, § 302, Nov. 4, 1988, 102 Stat. 3112; Pub. L. 101–590, § 5, Nov. 16, 1990, 104 Stat. 2928; Pub. L. 102–410, § 11, Oct. 13, 1992, 106 Stat. 2101; Pub. L. 105–392, title IV, § 415, Nov. 13, 1998, 112 Stat. 3590.)

REFERENCES IN TEXT

Section 300w–3(a)(1) of this title, referred to in subsec. (a), was amended generally by Pub. L. 102–531, title I, § 102(a), Oct. 27, 1992, 106 Stat. 3470, and, as so amended, provisions formerly appearing in subpar. (F) are contained in subpar. (C).

Section 292a of this title, referred to in subsec. (c), was in the original a reference to section 701 of act July 1, 1944. Section 701 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 701 of act July 1, 1944, relating to statement of purpose, and a new section 702, relating to scope and duration of loan insurance program, which are classified to sections 292 and 292a, respectively, of this title. For provisions relating to definitions, see section 295p of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–392, § 415(1), substituted ''3-year period (with an optional 4th year based on performance)'' for ''two-year period'' and ''3 grants'' for ''one grant''.

Subsec. (d). Pub. L. 105–392, § 415(2), substituted ''2005'' for ''1997''.

1992—Subsec. (a). Pub. L. 102–410, § 11(1), substituted ''grants'' for ''not more than four grants in any fiscal year'' after ''Secretary may make'' in first sentence.

Subsec. (d). Pub. L. 102–410, § 11(2), substituted ''$5,000,000'' for ''and $5,000,000'' and inserted before period '', and such sums as may be necessary for each of the fiscal years 1993 through 1997''.

1990—Subsec. (a). Pub. L. 101–590, § 5(1)(A), which directed the substitution of ''grants'' for ''not more that four grants in any fiscal year'' could not be executed because the language to be stricken did not appear in text.

Pub. L. 101–590, § 5(1)(B), struck out ''in such States'' after ''demonstration projects'' in first sentence.

Subsec. (d). Pub. L. 101–590, § 5(2), substituted ''each of the fiscal years 1991 and 1992'' for ''fiscal year 1991''.

1988—Subsec. (a). Pub. L. 100–607, § 302(a), substituted ''shall be for not more than a two-year period, subject to annual evaluation by the Secretary'' for ''shall be for a one-year period''.

Subsec. (d). Pub. L. 100–607, § 302(b), inserted '', $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991'' before period at end.

1986—Subsec. (a). Pub. L. 99–272, § 17004(1), which directed substitution of ''not more than four grants in any fiscal year to States or accredited schools of medicine in States'' for ''grant to not more than four States in any fiscal year'' was made by substituting former phrase for ''grants to not more than four States in any fiscal year'', as the probable intent of Congress.

Pub. L. 99–272, § 17004(2), inserted at end ''Only one grant under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.''

Subsec. (b). Pub. L. 99–272, § 17004(3), substituted ''States in which grants under such subsection have not been made'' for ''other States''.

Subsecs. (c), (d). Pub. L. 99–272, § 17004(4), (5), added subsec. (c) and redesignated former subsec. (c) as (d).

§ 300w–10. Use of allotments for rape prevention education

(a) Permitted use

Notwithstanding section 300w–3(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities for—

(1) educational seminars;

(2) the operation of hotlines;

(3) training programs for professionals;

(4) the preparation of informational materials; and

(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

(b) Targeting of education programs

States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $35,000,000 for fiscal year 1996;

(2) $35,000,000 for fiscal year 1997;

(3) $45,000,000 for fiscal year 1998;

(4) $45,000,000 for fiscal year 1999; and

(5) $45,000,000 for fiscal year 2000.

(d) Limitation

Funds authorized under this section may only be used for providing rape prevention and education programs.

(e) "Rape prevention and education" defined

For purposes of this section, the term ''rape prevention and education'' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

(f) Terms

The Secretary shall make allotments to each State on the basis of the population of the State, and subject to the conditions provided in this section and sections 300w–3 through 300w–8 of this title.

(July 1, 1944, ch. 373, title XIX, § 1910A, as added Pub. L. 103–322, title IV, § 40151, Sept. 13, 1994, 108 Stat. 1920.)

CODIFICATION

Section 40151 of Pub. L. 103–322, which directed that this section be added at the end of part A of title XIX of the ''Public Health and Human Services Act'', was

executed by adding this section at the end of part A of title XIX of the Public Health Service Act, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 300w–10, act July 1, 1944, ch. 373, title XIX, § 1910A, as added Oct. 30, 1984, Pub. L. 98–555, § 8, 98 Stat. 2856, related to State planning grants, prior to repeal by Pub. L. 100–607, title III, § 303, Nov. 4, 1988, 102 Stat. 3112.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14214 of this title.

PART B—BLOCK GRANTS REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 290ff, 300w–3, 6024 of this title; title 7 section 2012.

SUBPART I—BLOCK GRANTS FOR COMMUNITY MENTAL HEALTH SERVICES

§ 300x. Formula grants to States

(a) In general

For the purpose described in subsection (b) of this section, the Secretary, acting through the Director of the Center for Mental Health Services, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 300x–7 of this title. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 300x–6 of this title.

(b) Purpose of grants

A funding agreement for a grant under subsection (a) of this section is that, subject to section 300x–5 of this title, the State involved will expend the grant only for the purpose of—

(1) carrying out the plan submitted under section 300x–1(a) of this title by the State for the fiscal year involved;

(2) evaluating programs and services carried out under the plan; and

(3) planning, administration, and educational activities related to providing services under the plan.

(July 1, 1944, ch. 373, title XIX, § 1911, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378.)

PRIOR PROVISIONS

A prior section 300x, act July 1, 1944, ch. 373, title XIX, § 1911, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 543; amended Oct. 19, 1984, Pub. L. 98–509, title I, §§ 101, 106(a), 98 Stat. 2353, 2358; Nov. 18, 1988, Pub. L. 100–690, title II, § 2021, 102 Stat. 4194, authorized appropriations in fiscal years 1990 and 1991 for purpose of carrying out this subpart and section 290aa–11 of this title, prior to repeal by Pub. L. 102–321, § 201(2).

EFFECTIVE DATE

Part effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, and with provision that section 205(a) of Pub. L. 102–321, set out below, regarding allotments made for fiscal year 1992 under this part as in effect on the day before July 10, 1992, applies with respect to the program established in this part, see section 801(b), (d) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

TEMPORARY PROVISIONS REGARDING FUNDING

Section 205 of Pub. L. 102–321, as amended by Pub. L. 102–352, § 2(c), Aug. 26, 1992, 106 Stat. 939; Pub. L. 102–408, title III, § 312, Oct. 13, 1992, 106 Stat. 2091, provided that, with respect to allotments made for fiscal year 1992 under this part, as in effect on the day before July 10, 1992, any portion of the total of such allotments that has not been paid to the States as of the first day of the fourth quarter of such fiscal year be reallotted with the result that the total allotment made for a State for fiscal year 1992 be the amount indicated for the State in a specified table, authorized Secretary of Health and Human Services to make a grant to a State of the reallotment if the State agrees that the grant be subject to all conditions upon which allotments and payments under this part, as in effect on the day before July 10, 1992, are made for fiscal 1992, with specified exceptions, permitted transfers of allotments made in fiscal years 1993 and 1994 between this part and subpart II, section 300x–21 of this title, under certain circumstances, defined terms as used, and directed funding, subject to a limitation, of a program for pregnant and postpartum women for fiscal year 1993.

REPORT ON ALLOTMENT FORMULA

Section 707 of Pub. L. 102–321 directed Secretary of Health and Human Services to enter into a contract with National Academy of Sciences, or if such Academy declines, with another public or nonprofit private agency, for purpose of conducting a study or studies concerning statutory formulae under which funds made available under this section and section 300x–21 of this title are allocated among States and territories, specified findings to be made by the study or studies, directed Secretary to ensure that not later than 6 months after July 10, 1992, the study was completed and a report submitted to Committee on Energy and Commerce of House of Representatives and Committee on Labor and Human Resources of Senate, and directed entity preparing the report to consult with Comptroller General with Comptroller General to review the study after its submittal and within three months make appropriate recommendations concerning such report to such committees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290bb–31, 290ff, 300x–1, 300x–2, 300x–3, 300x–4, 300x–5, 300x–6, 300x–7, 300x–8, 300x–51, 300x–52, 300x–53, 300x–54, 300x–55, 300x–56, 300x–57, 300x–58, 300x–59, 300x–60, 300x–63, 300x–64 of this title.

§ 300x–1. State plan for comprehensive community mental health services for certain individuals

(a) In general

The Secretary may make a grant under section 300x of this title only if—

(1) the State involved submits to the Secretary a plan for providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance;

(2) the plan meets the criteria specified in subsection (b) of this section; and

(3) the plan is approved by the Secretary.

(b) Criteria for plan

With respect to the provision of comprehensive community mental health services to individuals who are either adults with a serious mental illness or children with a serious emo-

tional disturbance, the criteria referred to in subsection (a) of this section regarding a plan are as follows:

(1) The plan provides for the establishment and implementation of an organized community-based system of care for such individuals.

(2) The plan contains quantitative targets to be achieved in the implementation of such system, including the numbers of such individuals residing in the areas to be served under such system.

(3) The plan describes available services, available treatment options, and available resources (including Federal, State and local public services and resources, and to the extent practicable, private services and resources) to be provided such individuals.

(4) The plan describes health and mental health services, rehabilitation services, employment services, housing services, educational services, medical and dental care, and other support services to be provided to such individuals with Federal, State and local public and private resources to enable such individuals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(5) The plan describes the financial resources and staffing necessary to implement the requirements of such plan, including programs to train individuals as providers of mental health services, and the plan emphasizes training of providers of emergency health services regarding mental health.

(6) The plan provides for activities to reduce the rate of hospitalization of such individuals.

(7)(A) Subject to subparagraph (B), the plan requires the provision of case management services to each such individual in the State who receives substantial amounts of public funds or services.

(B) The plan may provide that the requirement of subparagraph (A) will not be substantially completed until the end of fiscal year 1993.

(8) The plan provides for the establishment and implementation of a program of outreach to, and services for, such individuals who are homeless.

(9) In the case of children with a serious emotional disturbance, the plan—

(A) subject to subparagraph (B), provides for a system of integrated social services, educational services, juvenile services, and substance abuse services that, together with health and mental health services, will be provided in order for such children to receive care appropriate for their multiple needs (which system includes services provided under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]);

(B) provides that the grant under section 300x of this title for the fiscal year involved will not be expended to provide any service of such system other than comprehensive community mental health services; and

(C) provides for the establishment of a defined geographic area for the provision of the services of such system.

(10) The plan describes the manner in which mental health services will be provided to individuals residing in rural areas.

(11) The plan contains an estimate of the incidence and prevalence in the State of serious mental illness among adults and serious emotional disturbance among children.

(12) The plan contains a description of the manner in which the State intends to expend the grant under section 300x of this title for the fiscal year involved to carry out the provisions of the plan required in paragraphs (1) through (11).

(c) Definitions regarding mental illness and emotional disturbance; methods for estimate of incidence and prevalence

(1) Establishment by Secretary of definitions; dissemination

For purposes of this subpart, the Secretary shall establish definitions for the terms ''adults with a serious mental illness'' and ''children with a serious emotional disturbance''. The Secretary shall disseminate the definitions to the States.

(2) Standardized methods

The Secretary shall establish standardized methods for making the estimates required in subsection (b)(11) of this section with respect to a State. A funding agreement for a grant under section 300x of this title for the State is that the State will utilize such methods in making the estimates.

(3) Date certain for compliance by Secretary

Not later than 90 days after July 10, 1992, the Secretary shall establish the definitions described in paragraph (1), shall begin dissemination of the definitions to the States, and shall establish the standardized methods described in paragraph (2).

(d) Requirement of implementation of plan

(1) Complete implementation

Except as provided in paragraph (2), in making a grant under section 300x of this title to a State for a fiscal year, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a) of this section. If the Secretary determines that a State has not completely implemented the plan, the Secretary shall reduce the amount of the allotment under section 300x of this title for the State for the fiscal year involved by an amount equal to 10 percent of the amount determined under section 300x–7 of this title for the State for the fiscal year.

(2) Substantial implementation and good faith effort regarding fiscal year 1993

(A) In making a grant under section 300x of this title to a State for fiscal year 1993, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a) of this section. If the Secretary determines that the State has not substantially implemented the plan, the Secretary shall, subject to subparagraph (B), reduce the amount of the allotment under section 300x of this title for the State

for such fiscal year by an amount equal to 10 percent of the amount determined under section 300x–7 of this title for the State for the fiscal year.

(B) In carrying out subparagraph (A), if the Secretary determines that the State is making a good faith effort to implement the plan required in subsection (a) of this section, the Secretary may make a reduction under such subparagraph in an amount that is less than the amount specified in such subparagraph, except that the reduction may not be made in an amount that is less than 5 percent of the amount determined under section 300x–7 of this title for the State for fiscal year 1993.

(July 1, 1944, ch. 373, title XIX, § 1912, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 379.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(4), (9)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

PRIOR PROVISIONS

Prior sections 300x–1 to 300x–1b were repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378.

Section 300x–1, act July 1, 1944, ch. 373, title XIX, § 1912, as added Oct. 19, 1984, Pub. L. 98–509, title I, § 102(a), 98 Stat. 2353, authorized grants for training of employees adversely affected by changes in delivery of mental health services and for providing assistance in securing employment.

Another prior section 300x–1, act July 1, 1944, ch. 373, title XIX, § 1912, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 543; amended Jan. 4, 1983, Pub. L. 97–414, § 8(t), 96 Stat. 2062; Oct. 19, 1984, Pub. L. 98–509, title I, § 106(e), 98 Stat. 2358, contained provisions relating to grants and allotment of grants for alcohol, drug abuse, and mental health services, prior to repeal by section 102(a) of Pub. L. 98–509.

Section 300x–1a, act July 1, 1944, ch. 373, title XIX, § 1912A, as added and amended Nov. 18, 1988, Pub. L. 100–690, title II, §§ 2022(a)–(c), 2023, 102 Stat. 4194, 4196, 4197; Aug. 16, 1989, Pub. L. 101–93, § 2(a), 103 Stat. 603, related to allotments of grants for alcohol, drug abuse, and mental health services.

Another prior section 300x–1a, act July 1, 1944, ch. 373, title XIX, § 1913, as added Oct. 19, 1984, Pub. L. 98–509, title I, § 102(a), 98 Stat. 2353, was transferred to section 300x–1b of this title.

Section 300x–1b, act July 1, 1944, ch. 373, title XIX, § 1913, as added Oct. 19, 1984, Pub. L. 98–509, title I, § 102(a), 98 Stat. 2353; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2022(d), 102 Stat. 4197; Aug. 16, 1989, Pub. L. 101–93, § 2(b), 103 Stat. 605, related to allotments to States and Indian tribes or tribal organizations for alcohol, drug abuse, and mental health services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x, 300x–2, 300x–4, 300x–6, 300x–8, 300x–51, 300x–54, 300x–55 of this title.

§ 300x–2. Certain agreements

(a) Allocation for systems of integrated services for children

(1) In general

With respect to children with a serious emotional disturbance, a funding agreement for a grant under section 300x of this title is that—

(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 10 percent of the grant to increase (relative to fiscal year 1992) funding for the system of integrated services described in section 300x–1(b)(9) of this title;

(B) in the case of a grant for fiscal year 1994, the State will expend not less than 10 percent of the grant to increase (relative to fiscal year 1993) funding for such system; and

(C) in the case of a grant for any subsequent fiscal year, the State will expend for such system not less than an amount equal to the amount expended by the State for fiscal year 1994.

(2) Waiver

(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of comprehensive community mental health services for children with a serious emotional distrubance,[1] as indicated by a comparison of the number of such children for which such services are sought with the availability in the State of the services.

(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

(b) Providers of services

A funding agreement for a grant under section 300x of this title for a State is that, with respect to the plan submitted under section 300x–1(a) of this title for the fiscal year involved—

(1) services under the plan will be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs, and mental-health primary consumer-directed programs); and

(2) services under the plan will be provided through community mental health centers only if the centers meet the criteria specified in subsection (c) of this section.

(c) Criteria for mental health centers

The criteria referred to in subsection (b)(2) of this section regarding community mental health centers are as follows:

(1) With respect to mental health services, the centers provide services as follows:

(A) Services principally to individuals residing in a defined geographic area (hereafter in this subsection referred to as a ''service area'').

(B) Outpatient services, including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of the service areas of the centers who have been discharged from inpatient treatment at a mental health facility.

[1] So in original. Probably should be ''disturbance,''.

(C) 24-hour-a-day emergency care services.

(D) Day treatment or other partial hospitalization services, or psychosocial rehabilitation services.

(E) Screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission.

(2) The mental health services of the centers are provided, within the limits of the capacities of the centers, to any individual residing or employed in the service area of the center regardless of ability to pay for such services.

(3) The mental health services of the centers are available and accessible promptly, as appropriate and in a manner which preserves human dignity and assures continuity and high quality care.

(July 1, 1944, ch. 373, title XIX, § 1913, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 381.)

PRIOR PROVISIONS

A prior section 300x–2, act July 1, 1944, ch. 373, title XIX, § 1914, formerly § 1913, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 545; renumbered § 1914 and amended Oct. 19, 1984, Pub. L. 98–509, title I, § 106(a), (c)–(e), (g), 98 Stat. 2358, 2359; Nov. 18, 1988, Pub. L. 100–690, title II, § 2022(e), 102 Stat. 4197; Aug. 16, 1989, Pub. L. 101–93, § 2(c)(1), 103 Stat. 605, related to payment to States of allotments of grants for alcohol, drug abuse, and mental health services, prior to repeal by Pub. L. 102–321, § 201(2).

A prior section 1913 of act July 1, 1944, was classified to section 300x–1b of this title and repealed by Pub. L. 102–321.

§ 300x–3. State mental health planning council

(a) In general

A funding agreement for a grant under section 300x of this title is that the State involved will establish and maintain a State mental health planning council in accordance with the conditions described in this section.

(b) Duties

A condition under subsection (a) of this section for a Council is that the duties of the Council are—

(1) to review plans provided to the Council pursuant to section 300x–4(a) of this title by the State involved and to submit to the State any recommendations of the Council for modifications to the plans;

(2) to serve as an advocate for adults with a serious mental illness, children with a severe emotional disturbance, and other individuals with mental illnesses or emotional problems; and

(3) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

(c) Membership

(1) In general

A condition under subsection (a) of this section for a Council is that the Council be composed of residents of the State, including representatives of—

(A) the principal State agencies with respect to—

(i) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.];

(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

(C) adults with serious mental illnesses who are receiving (or have received) mental health services; and

(D) the families of such adults or families of children with emotional disturbance.

(2) Certain requirements

A condition under subsection (a) of this section for a Council is that—

(A) with respect to the membership of the Council, the ratio of parents of children with a serious emotional disturbance to other members of the Council is sufficient to provide adequate representation of such children in the deliberations of the Council; and

(B) not less than 50 percent of the members of the Council are individuals who are not State employees or providers of mental health services.

(d) "Council" defined

For purposes of this section, the term ''Council'' means a State mental health planning council.

(July 1, 1944, ch. 373, title XIX, § 1914, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 382.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(1)(A)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 300x–3, act July 1, 1944, ch. 373, title XIX, § 1915, formerly § 1914, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 545; renumbered § 1915 and amended Oct. 19, 1984, Pub. L. 98–509, title I, §§ 105(b), 106(a), (b), (d), (g), 98 Stat. 2358, 2359; Nov. 18, 1988, Pub. L. 100–690, title II, §§ 2024–2026, 102 Stat. 4198, 4199; Aug. 16, 1989, Pub. L. 101–93, § 2(d), 103 Stat. 606; Nov. 28, 1990, Pub. L. 101–639, § 3(a)(2), 104 Stat. 4601, related to the use of grant allotments for alcohol, drug abuse, and mental health services, prior to repeal by Pub. L. 102–321, § 201(2).

A prior section 1914 of act July 1, 1944, was classified to section 300x–2 of this title prior to repeal by Pub. L. 102–321.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–4 of this title; title 29 section 725.

§ 300x–4. Additional provisions

(a) Review of State plan by mental health planning council

The Secretary may make a grant under section 300x of this title to a State only if—

(1) the plan submitted under section 300x–1(a) of this title with respect to the grant

has been reviewed by the State mental health planning council under section 300x–3 of this title; and

(2) the State submits to the Secretary any recommendations received by the State from such council for modifications to the plan (without regard to whether the State has made the recommended modifications).

(b) Maintenance of effort regarding State expenditures for mental health

(1) In general

A funding agreement for a grant under section 300x of this title is that the State involved will maintain State expenditures for community mental health services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

(2) Waiver

The Secretary may, upon the request of a State, waive the requirement established in paragraph (1) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

(3) Noncompliance by State

(A) In making a grant under section 300x of this title to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with the agreement made under paragraph (1). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 300x of this title for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(B) The Secretary may make a grant under section 300x of this title for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in subparagraph (A).

(July 1, 1944, ch. 373, title XIX, § 1915, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 383.)

PRIOR PROVISIONS

Prior sections 300x–4 and 300x–4a were repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378.

Section 300x–4, act July 1, 1944, ch. 373, title XIX, § 1916, formerly § 1915, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 546; amended Jan. 4, 1983, Pub. L. 97–414, § 8(u), 96 Stat. 2063; renumbered § 1916 and amended Oct. 19, 1984, Pub. L. 98–509, title I, §§ 103, 106(a)–(c), (f), (g), 98 Stat. 2355, 2358, 2359; Oct. 7, 1985, Pub. L. 99–117, § 7(a), 99 Stat. 492; Nov. 14, 1986, Pub. L. 99–660, title V, § 503, 100 Stat. 3797; Nov. 18, 1988, Pub. L. 100–690, title II, §§ 2027–2035, 2037(a)(2), 102 Stat. 4199–4201, 4203; Aug. 16, 1989, Pub. L. 101–93, § 2(e)–(*l*), (p)(1), (q)(1), 103 Stat. 606–609; Aug. 15, 1990, Pub. L. 101–374, § 4(b), 104 Stat. 459, required States to make application and describe their activities in relation to allotments for grants for alcohol, drug abuse, and mental health services.

A prior section 1915 of act July 1, 1944, was classified to section 300x–3 of this title prior to repeal by Pub. L. 102–321.

Section 300x–4a, act July 1, 1944, ch. 373, title XIX, § 1916A, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2036, 102 Stat. 4202; amended Aug. 16, 1989, Pub. L. 101–93, § 2(m), 103 Stat. 608, related to group homes for recovering substance abusers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–3, 300x–6, 300x–24, 300x–54, 300x–55 of this title.

§ 300x–5. Restrictions on use of payments

(a) In general

A funding agreement for a grant under section 300x of this title is that the State involved will not expend the grant—

(1) to provide inpatient services;

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

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(b) Limitation on administrative expenses

A funding agreement for a grant under section 300x of this title is that the State involved will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

(July 1, 1944, ch. 373, title XIX, § 1916, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 384.)

PRIOR PROVISIONS

A prior section 300x–5, act July 1, 1944, ch. 373, title XIX, § 1917, formerly § 1916, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 549; renumbered § 1917 and amended Oct. 19, 1984, Pub. L. 98–509, title I, §§ 104, 106(a), (b), (d), (g), 98 Stat. 2357–2359; Oct. 7, 1985, Pub. L. 99–117, § 7(b), 99 Stat. 493; Nov. 18, 1988, Pub. L. 100–690, title II, §§ 2037(a)(1), (b), 2052(b), 102 Stat. 4203, 4208; Aug. 16, 1989, Pub. L. 101–93, § 2(p)(2), 103 Stat. 609, related to reports and audits relative to grants for alcohol, drug abuse, and mental health services, prior to repeal by Pub. L. 102–321, § 201(2).

A prior section 1916 of act July 1, 1944, was classified to section 300x–4 of this title prior to repeal by Pub. L. 102–321.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x, 300x–6 of this title.

§ 300x–6. Application for grant

(a) In general

For purposes of section 300x of this title, an application for a grant under such section for a fiscal year in accordance with this section if, subject to subsection (b) of this section—

(1) the State involved submits the application not later than the date specified by the Secretary as being the date after which applications for such a grant will not be considered (in any case in which the Secretary specifies such a date);

(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

(3) the agreements are made through certification from the chief executive officer of the State;

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(5) the application contains the plan required in section 300x–1(a) of this title, the information required in section 300x–4(b)(3)(B) of this title, and the report required in section 300x–52(a) of this title;

(6) the application contains recommendations in compliance with section 300x–4(a) of this title, or if no such recommendations are received by the State, the application otherwise demonstrates compliance with such section; and

(7) the application (including the plan under section 300x–1(a) of this title) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(b) Waivers regarding certain territories

In the case of any territory of the United States whose allotment under section 300x of this title for the fiscal year is the amount specified in section 300x–7(c)(2)(B) of this title, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 300x–5 of this title.

(July 1, 1944, ch. 373, title XIX, § 1917, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 384.)

PRIOR PROVISIONS

A prior section 300x–6, act July 1, 1944, ch. 373, title XIX, § 1918, formerly § 1917, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 550; renumbered § 1918 and amended Oct. 19, 1984, Pub. L. 98–509, title I, § 106(d), (g), 98 Stat. 2358, 2359, authorized withholding funds from States which did not use allotments of grants for alcohol, drug abuse, and mental health services in accordance with requirements, prior to repeal by Pub. L. 102–321, § 201(2).

A prior section 1917 of act July 1, 1944, was classified to section 300x–5 of this title prior to repeal by Pub. L. 102–321.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x of this title.

§ 300x–7. Determination of amount of allotment

(a) States

(1) Determination under formula

Subject to subsection (b) of this section, the Secretary shall determine the amount of the allotment required in section 300x of this title for a State for a fiscal year in accordance with the following formula:

$$A \left(\frac{X}{U} \right)$$

(2) Determination of term "A"

For purposes of paragraph (1), the term ''A'' means the difference between—

(A) the amount appropriated under section 300x–9(a) of this title for allotments under section 300x of this title for the fiscal year involved; and

(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

(3) Determination of term "U"

For purposes of paragraph (1), the term ''U'' means the sum of the respective terms ''X'' determined for the States under paragraph (4).

(4) Determination of term "X"

For purposes of paragraph (1), the term ''X'' means the product of—

(A) an amount equal to the product of—

(i) the term ''P'', as determined for the State involved under paragraph (5); and

(ii) the factor determined under paragraph (8) for the State; and

(B) the greater of—

(i) 0.4; and

(ii) an amount equal to an amount determined for the State in accordance with the following formula:

$$1 - .35 \left(\frac{R\%}{P\%} \right)$$

(5) Determination of term "P"

(A) For purposes of paragraph (4), the term ''P'' means the sum of—

(i) an amount equal to the product of 0.107 and the number of individuals in the State who are between 18 and 24 years of age (inclusive);

(ii) an amount equal to the product of 0.166 and the number of individuals in the State who are between 25 and 44 years of age (inclusive);

(iii) an amount equal to the product of 0.099 and the number of individuals in the State who are between 45 and 64 years of age (inclusive); and

(iv) an amount equal to the product of 0.082 and the number of individuals in the State who are 65 years of age or older.

(B) With respect to data on population that is necessary for purposes of making a determination under subparagraph (A), the Secretary shall use the most recent data that is available from the Secretary of Commerce pursuant to the decennial census and pursuant to reasonable estimates by such Secretary of changes occurring in the data in the ensuing period.

(6) Determination of term "R%"

(A) For purposes of paragraph (4), the term ''R%'', except as provided in subparagraph (D), means the percentage constituted by the ratio of the amount determined under subparagraph (B) for the State involved to the amount determined under subparagraph (C).

(B) The amount determined under this subparagraph for the State involved is the quotient of—

(i) the most recent 3-year arithmetic mean of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

(ii) the factor determined under paragraph (8) for the State.

(C) The amount determined under this subparagraph is the sum of the respective amounts determined for the States under subparagraph (B) (including the District of Columbia).

(D)(i) In the case of the District of Columbia, for purposes of paragraph (4), the term ''R%'' means the percentage constituted by the ratio of the amount determined under clause (ii) for such District to the amount determined under clause (iii).

(ii) The amount determined under this clause for the District of Columbia is the quotient of—

(I) the most recent 3-year arithmetic mean of total personal income in such District, as determined by the Secretary of Commerce; divided by

(II) the factor determined under paragraph (8) for the District.

(iii) The amount determined under this clause is the sum of the respective amounts determined for the States (including the District of Columbia) by making, for each State, the same determination as is described in clause (ii) for the District of Columbia.

(7) Determination of term "P%"

For purposes of paragraph (4), the term ''P%'' means the percentage constituted by the ratio of the term ''P'' determined under paragraph (5) for the State involved to the sum of the respective terms ''P'' determined for the States.

(8) Determination of certain factor

(A) The factor determined under this paragraph for the State involved is a factor whose purpose is to adjust the amount determined under clause (i) of paragraph (4)(A), and the amounts determined under each of subparagraphs (B)(i) and (D)(ii)(I) of paragraph (6), to reflect the differences that exist between the State and other States in the costs of providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance.

(B) Subject to subparagraph (C), the factor determined under this paragraph and in effect for the fiscal year involved shall be determined according to the methodology described in the report entitled ''Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Populations and Cost of Service'', dated March 30, 1990, and prepared by Health Economics Research, a corporation, pursuant to a contract with the National Institute on Drug Abuse.

(C) The factor determined under this paragraph for the State involved may not for any fiscal year be greater than 1.1 or less than 0.9.

(D)(i) Not later than October 1, 1992, the Secretary, after consultation with the Comptroller General, shall in accordance with this section make a determination for each State of the factor that is to be in effect for the State under this paragraph. The factor so determined shall remain in effect through fiscal year 1994, and shall be recalculated every third fiscal year thereafter.

(ii) After consultation with the Comptroller General, the Secretary shall, through publication in the Federal Register, periodically make such refinements in the methodology referred to in subparagraph (B) as are consistent with the purpose described in subparagraph (A).

(b) Minimum allotments for States

(1)[1] IN GENERAL.—With respect to fiscal year 1999, the amount of the allotment of a State under section 300x of this title shall not be less than the amount the State received under section 300x of this title for fiscal year 1998.

(c) Territories

(1) Determination under formula

Subject to paragraphs (2) and (4), the amount of an allotment under section 300x of this title for a territory of the United States for a fiscal year shall be the product of—

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

(B) a percentage equal to the quotient of—

(i) the civilian population of the territory, as indicated by the most recently available data; divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

(2) Minimum allotment for territories

The amount of an allotment under section 300x of this title for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year;

(B) $50,000; and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.

(3) Reservation of amounts

The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 300x–9(a) of this title for allotments under section 300x of this title for the fiscal year.

(4) Availability of data on population

With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all ter-

[1] So in original. No par. (2) has been enacted.

ritories with respect to which recent such data do exist.

(5) Applicability of certain provisions

For purposes of subsection (a) of this section, the term ''State'' does not include the territories of the United States.

(July 1, 1944, ch. 373, title XIX, § 1918, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 385; amended Pub. L. 102–352, § 2(a)(8), (9), Aug. 26, 1992, 106 Stat. 938; Pub. L. 105–277, div. A, § 101(f) [title II, § 218(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–362.)

AMENDMENT OF SUBSECTION (b)

For termination of amendment by section 101(f) [title II, § 218(c)] of Pub. L. 105–277, see Effective and Termination Dates of 1998 Amendment note below.

PRIOR PROVISIONS

A prior section 300x–7, act July 1, 1944, ch. 373, title XIX, § 1919, formerly § 1918, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 551; renumbered § 1919 and amended Oct. 19, 1984, Pub. L. 98–509, title I, § 106(a), (g), 98 Stat. 2358, 2359, related to nondiscrimination provisions with respect to alcohol, drug abuse, and mental health programs, prior to repeal by Pub. L. 102–321, § 201(2).

A prior section 1918 of act July 1, 1944, was classified to section 300x–6 of this title prior to repeal by Pub. L. 102–321.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, temporarily amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''For each of the fiscal years 1993 and 1994, the amount of the allotment required in section 300x of this title for a State for the fiscal year involved shall be the greater of—

''(1) the amount determined under subsection (a) of this section for the State for the fiscal year; and

''(2) an amount equal to 20.6 percent of the amount received by the State from allotments made pursuant to this part for fiscal year 1992 (including reallotments under section 205(a) of the ADAMHA Reorganization Act).''

See Effective and Termination Dates of 1998 Amendment note below.

1992—Subsec. (a)(5)(A)(iii). Pub. L. 102–352, § 2(a)(8), substituted ''45'' for ''25''.

Subsec. (c)(2)(C). Pub. L. 102–352, § 2(a)(9), added subpar. (C).

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(f) [title II, § 218(c)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–363, provided that:

''(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section and section 300x–33 of this title] shall become effective as if enacted on October 1, 1998 and shall only apply during fiscal year 1999.

''(2) APPLICATION.—Upon the expiration of the fiscal year described in paragraph (1), the provisions of sections 1918(b) and 1933(b) of the Public Health Service Act (42 U.S.C. 300x–7(b) and 300x–33(b)), as in effect on September 30, 1998, shall be applied as if the amendments made by this section had not been enacted.''

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x, 300x–1, 300x–6, 300x–33, 300x–64 of this title.

§ 300x–8. Definitions

For purposes of this subpart:

(1) The terms ''adults with a serious mental illness'' and ''children with a serious emotional disturbance'' have the meanings given such terms under section 300x–1(c)(1) of this title.

(2) The term ''funding agreement'', with respect to a grant under section 300x of this title to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

(July 1, 1944, ch. 373, title XIX, § 1919, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 388.)

PRIOR PROVISIONS

A prior section 300x–8, act July 1, 1944, ch. 373, title XIX, § 1920, formerly § 1919, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 552; renumbered § 1920, Oct. 19, 1984, Pub. L. 98–509, title I, § 106(g), 98 Stat. 2359, authorized criminal penalty for false statements in connection with services furnished relative to alcohol, drug abuse, and mental health services block grant, prior to repeal by Pub. L. 102–321, § 201(2).

A prior section 1919 of act July 1, 1944, was classified to section 300x–7 of this title prior to repeal by Pub. L. 102–321.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–64 of this title.

§ 300x–9. Funding

(a) Authorization of appropriations

For the purpose of carrying out this subpart, and subpart III and section 290aa–4 of this title with respect to mental health, there are authorized to be appropriated $450,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(b) Allocations for technical assistance, data collection, and program evaluation

(1) In general

For the purpose of carrying out section 300x–58(a) of this title with respect to mental health and the purposes specified in paragraphs (2) and (3), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) of this section for a fiscal year.

(2) Data collection

The purpose specified in this paragraph is carrying out section 290aa–4 of this title with respect to mental health.

(3) Program evaluation

The purpose specified in this paragraph is the conduct of evaluations of prevention and treatment programs and services with respect to mental health to determine methods for improving the availability and quality of such programs and services.

(July 1, 1944, ch. 373, title XIX, § 1920, as added Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 388.)

PRIOR PROVISIONS

Prior sections 300x–9 to 300x–13 were repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378.

Section 300x–9, act July 1, 1944, ch. 373, title XIX, § 1921, formerly § 1920, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 552; renumbered § 1920A and amended Oct. 19, 1984, Pub. L. 98–509, title I, §§ 105(a), 106(g), 98 Stat. 2358, 2359; Oct. 7, 1985, Pub. L. 99–117, § 7(c), 99 Stat. 493; renumbered § 1921 and amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2038(2), (6), 102 Stat. 4203, authorized technical assistance with respect to development of services under alcohol, drug abuse, and mental health services block grants.

A prior section 1920 of act July 1, 1944, was classified to section 300x–8 of this title and repealed by Pub. L. 102–321.

Section 300x–9a, act July 1, 1944, ch. 373, title XIX, § 1922, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2039(a), 102 Stat. 4204; amended Aug. 16, 1989, Pub. L. 101–93, § 2(n)(1), 103 Stat. 608, related to service research on community-based alcohol and drug abuse treatment programs.

Section 300x–9b, act July 1, 1944, ch. 373, title XIX, § 1923, as added Nov. 18, 1988, Pub. L. 100–690, title II, § 2040, 102 Stat. 4204; amended Aug. 16, 1989, Pub. L. 101–93, § 2(q)(2), 103 Stat. 609, related to service research on community-based mental health treatment programs.

Section 300x–10, act July 1, 1944, ch. 373, title XIX, § 1924, formerly § 1920B, as added Nov. 14, 1986, Pub. L. 99–660, title V, § 502(2), 100 Stat. 3795; renumbered § 1924 and amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2038(3), (4), 102 Stat. 4203; Nov. 28, 1990, Pub. L. 101–639, § 3(a)(1), 104 Stat. 4601, related to development grants for State comprehensive mental health services plans.

Section 300x–11, act July 1, 1944, ch. 373, title XIX, § 1925, formerly § 1920C, as added Nov. 14, 1986, Pub. L. 99–660, title V, § 502(2), 100 Stat. 3795; renumbered § 1925 and amended Nov. 18, 1988, Pub. L. 100–690, title II, §§ 2038(3), 2041(a), 102 Stat. 4203, 4205; Aug. 16, 1989, Pub. L. 101–93, § 2(*o*)(1), 103 Stat. 608; Nov. 28, 1990, Pub. L. 101–639, § 3(b), 104 Stat. 4601, related to State comprehensive mental health services plans.

Section 300x–12, act July 1, 1944, ch. 373, title XIX, § 1926, formerly § 1920D, as added Nov. 14, 1986, Pub. L. 99–660, title V, § 502(2), 100 Stat. 3796; renumbered § 1926 and amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2038(3), (5), 102 Stat. 4203; Aug. 16, 1989, Pub. L. 101–93, § 2(*o*)(2), 103 Stat. 609; Nov. 28, 1990, Pub. L. 101–639, § 3(c), 104 Stat. 4602, related to enforcement of requirement of developing State comprehensive mental health services plans.

Section 300x–13, act July 1, 1944, ch. 373, title XIX, § 1927, formerly § 1920E, as added Nov. 14, 1986, Pub. L. 99–660, title V, § 502(2), 100 Stat. 3797; renumbered § 1927, Nov. 18, 1988, Pub. L. 100–690, title II, § 2038(3), 102 Stat. 4203, related to development of model standards for provision of care to chronically mentally ill persons.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–7 of this title.

SUBPART II—BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 422, 1383e of this title.

§ 300x–21. Formula grants to States

(a) In general

For the purpose described in subsection (b) of this section, the Secretary, acting through the Center for Substance Abuse Treatment, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 300x–33 of this title. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 300x–32 of this title.

(b) Authorized activities

A funding agreement for a grant under subsection (a) of this section is that, subject to section 300x–31 of this title, the State involved will expend the grant only for the purpose of planning, carrying out, and evaluating activities to prevent and treat substance abuse and for related activities authorized in section 300x–24 of this title.

(July 1, 1944, ch. 373, title XIX, § 1921, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 388.)

PRIOR PROVISIONS

A prior section 1921 of act July 1, 1944, was classified to section 300x–9 of this title prior to repeal by Pub. L. 102–321.

Another prior section 1921 of act July 1, 1944, was classified to section 300y of this title prior to repeal by Pub. L. 100–690.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290bb, 300x–22, 300x–23, 300x–24, 300x–25, 300x–26, 300x–27, 300x–28, 300x–29, 300x–30, 300x–31, 300x–32, 300x–33, 300x–34, 300x–51, 300x–52, 300x–53, 300x–54, 300x–55, 300x–56, 300x–57, 300x–58, 300x–59, 300x–60, 300x–63, 300x–64 of this title.

§ 300x–22. Certain allocations

(a) Allocations regarding alcohol and other drugs

A funding agreement for a grant under section 300x–21 of this title is that, in expending the grant, the State involved will expend—

(1) not less than 35 percent for prevention and treatment activities regarding alcohol; and

(2) not less than 35 percent for prevention and treatment activities regarding other drugs.

(b) Allocation regarding primary prevention programs

A funding agreement for a grant under section 300x–21 of this title is that, in expending the grant, the State involved—

(1) will expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse, which programs—

(A) educate and counsel the individuals on such abuse; and

(B) provide for activities to reduce the risk of such abuse by the individuals;

(2) will, in carrying out paragraph (1)—

(A) give priority to programs for populations that are at risk of developing a pattern of such abuse; and

(B) ensure that programs receiving priority under subparagraph (A) develop community-based strategies for the prevention of such abuse, including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

(c) Allocations regarding women

(1) In general

Subject to paragraph (2), a funding agreement for a grant under section 300x–21 of this title for a fiscal year is that—

(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 5 percent of the grant to increase (relative to fiscal year 1992) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs);

(B) in the case of a grant for fiscal year 1994, the State will expend not less than 5 percent of the grant to so increase (relative to fiscal year 1993) the availability of such services for such women; and

(C) in the case of a grant for any subsequent fiscal year, the State will expend for such services for such women not less than an amount equal to the amount expended by the State for fiscal year 1994.

(2) Waiver

(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of treatments services for women described in such paragraph, as indicated by a comparison of the number of such women seeking the services with the availability in the State of the services.

(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

(3) Childcare and prenatal care

A funding agreement for a grant under section 300x–21 of this title for a State is that each entity providing treatment services with amounts reserved under paragraph (1) by the State will, directly or through arrangements with other public or nonprofit private entities, make available prenatal care to women receiving such services and, while the women are receiving the services, childcare.

(July 1, 1944, ch. 373, title XIX, § 1922, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 389.)

PRIOR PROVISIONS

A prior section 1922 of act July 1, 1944, was classified to section 300x–9a of this title prior to repeal by Pub. L. 102–321.

Another prior section 1922 of act July 1, 1944, was classified to section 300y–1 of this title prior to repeal by Pub. L. 100–690.

§ 300x–23. Intravenous substance abuse

(a) Capacity of treatment programs

(1) Notification of reaching capacity

A funding agreement for a grant under section 300x–21 of this title is that the State involved will, in the case of programs of treatment for intravenous drug abuse, require that any such program receiving amounts from the grant, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact.

(2) Provision of treatment

A funding agreement for a grant under section 300x–21 of this title is that the State involved will, with respect to notifications under paragraph (1), ensure that each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program of such treatment not later than—

(A) 14 days after making the request for admission to such a program; or

(B) 120 days after the date of such request, if no such program has the capacity to admit the individual on the date of such request and if interim services are made available to the individual not later than 48 hours after such request.

(b) Outreach regarding intravenous substance abuse

A funding agreement for a grant under section 300x–21 of this title is that the State involved, in providing amounts from the grant to any entity for treatment services for intravenous drug abuse, will require the entity to carry out activities to encourage individuals in need of such treatment to undergo treatment.

(July 1, 1944, ch. 373, title XIX, § 1923, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 390.)

PRIOR PROVISIONS

A prior section 1923 of act July 1, 1944, was classified to section 300x–9b of this title prior to repeal by Pub. L. 102–321.

Another prior section 1923 of act July 1, 1944, was classified to section 300y–2 of this title prior to repeal by Pub. L. 100–690.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–29 of this title.

§ 300x–24. Requirements regarding tuberculosis and human immunodeficiency virus

(a) Tuberculosis

(1) In general

A funding agreement for a grant under section 300x–21 of this title is that the State involved will require that any entity receiving amounts from the grant for operating a program of treatment for substance abuse—

(A) will, directly or through arrangements with other public or nonprofit private entities, routinely make available tuberculosis services to each individual receiving treatment for such abuse; and

(B) in the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services.

(2) Tuberculosis services

For purposes of paragraph (1), the term ''tuberculosis services'', with respect to an individual, means—

(A) counseling the individual with respect to tuberculosis;

(B) testing to determine whether the individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the individual; and

(C) providing such treatment to the individual.

(b) Human immunodeficiency virus

(1) Requirement for certain States

In the case of a State described in paragraph (2), a funding agreement for a grant under section 300x–21 of this title is that—

(A) with respect to individuals undergoing treatment for substance abuse, the State will, subject to paragraph (3), carry out 1 or more projects to make available to the individuals early intervention services for HIV disease at the sites at which the individuals are undergoing such treatment;

(B) for the purpose of providing such early intervention services through such projects, the State will make available from the grant the percentage that is applicable for the State under paragraph (4); and

(C) the State will, subject to paragraph (5), carry out such projects only in geographic areas of the State that have the greatest need for the projects.

(2) Designated States

For purposes of this subsection, a State described in this paragraph is any State whose rate of cases of acquired immune deficiency syndrome is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control for the most recent calendar year for which such data are available).

(3) Use of existing programs regarding substance abuse

With respect to programs that provide treatment services for substance abuse, a funding agreement for a grant under section 300x–21 of this title for a designated State is that each such program participating in a project under paragraph (1) will be a program that began operation prior to the fiscal year for which the State is applying to receive the grant. A program that so began operation may participate in a project under paragraph (1) without regard to whether the program has been providing early intervention services for HIV disease.

(4) Applicable percentage regarding expenditures for services

(A)(i) For purposes of paragraph (1)(B), the percentage that is applicable under this paragraph for a designated State is, subject to subparagraph (B), the percentage by which the amount of the grant under section 300x–21 of this title for the State for the fiscal year involved is an increase over the amount specified in clause (ii).

(ii) The amount specified in this clause is the amount that was reserved by the designated State involved from the allotment of the State under section 300x–1a[1] of this title for fiscal year 1991 in compliance with section 300x–4(c)(6)(A)(ii)[1] of this title (as such sections were in effect for such fiscal year).

(B) If the percentage determined under subparagraph (A) for a designated State for a fiscal year is less than 2 percent (including a negative percentage, in the case of a State for which there is no increase for purposes of such subparagraph), the percentage applicable under this paragraph for the State is 2 percent. If the percentage so determined is 2 percent or more, the percentage applicable under this paragraph for the State is the percentage determined under subparagraph (A), subject to not exceeding 5 percent.

(5) Requirement regarding rural areas

(A) A funding agreement for a grant under section 300x–21 of this title for a designated State is that, if the State will carry out 2 or more projects under paragraph (1), the State will carry out 1 such project in a rural area of the State, subject to subparagraph (B).

(B) The Secretary shall waive the requirement established in subparagraph (A) if the State involved certifies to the Secretary that—

(i) there is insufficient demand in the State to carry out a project under paragraph (1) in any rural area of the State; or

(ii) there are no rural areas in the State.

(6) Manner of providing services

With respect to the provision of early intervention services for HIV disease to an individual, a funding agreement for a grant under section 300x–21 of this title for a designated State is that—

(A) such services will be undertaken voluntarily by, and with the informed consent of, the individual; and

(B) undergoing such services will not be required as a condition of receiving treatment services for substance abuse or any other services.

(7) Definitions

For purposes of this subsection:

(A) The term ''designated State'' means a State described in paragraph (2).

(B) The term ''early intervention services'', with respect to HIV disease, means—

(i) appropriate pretest counseling;

(ii) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(iii) appropriate post-test counseling; and

(iv) providing the therapeutic measures described in clause (ii).

(C) The term ''HIV disease'' means infection with the etiologic agent for acquired immune deficiency syndrome.

[1] See References in Text note below.

(c) Expenditure of grant for compliance with agreements

(1) In general

A grant under section 300x–21 of this title may be expended for purposes of compliance with the agreements required in this section, subject to paragraph (2).

(2) Limitation

A funding agreement for a grant under section 300x–21 of this title for a State is that the grant will not be expended to make payment for any service provided for purposes of compliance with this section to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

(A) under any State compensation program, under any insurance policy, or under any Federal or State health benefits program (including the program established in title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] and the program established in title XIX of such Act [42 U.S.C. 1396 et seq.]); or

(B) by an entity that provides health services on a prepaid basis.

(d) Maintenance of effort

With respect to services provided for by a State for purposes of compliance with this section, a funding agreement for a grant under section 300x–21 of this title is that the State will maintain expenditures of non-Federal amounts for such services at a level that is not less than average level of such expenditures maintained by the State for 2-year period preceding the first fiscal year for which the State receives such a grant.

(e) Applicability of certain provision

Section 300x–31 of this title applies to this section (and to each other provision of this subpart).

(July 1, 1944, ch. 373, title XIX, § 1924, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 391.)

REFERENCES IN TEXT

Section 300x–1a of this title, referred to in subsec. (b)(4)(A)(ii), was repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378.

Section 300x–4 of this title, referred to in subsec. (b)(4)(A)(ii), was in the original a reference to section 1916 of act July 1, 1944, which was repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378. Section 201(2) of Pub. L. 102–321 enacted new sections 1915 and 1916 of act July 1, 1944, which are classified to sections 300x–4 and 300x–5, respectively, of this title.

The Social Security Act, referred to in subsec. (c)(2)(A), 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.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 1924 of act July 1, 1944, was classified to section 300x–10 of this title prior to repeal by Pub. L. 102–321.

Another prior section 1924 of act July 1, 1944, was classified to section 300y–3 of this title prior to repeal by Pub. L. 99–280.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–21 of this title.

§ 300x–25. Group homes for recovering substance abusers

(a) State revolving funds for establishment of homes

For fiscal year 1993 and subsequent fiscal years, the Secretary may make a grant under section 300x–21 of this title only if the State involved has established, and is providing for the ongoing operation of, a revolving fund as follows:

(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals. The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity.

(2) The programs are carried out in accordance with guidelines issued under subsection (b) of this section.

(3) Not less than $100,000 is available for the fund.

(4) Loans made from the revolving fund do not exceed $4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made.

(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved.

(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) Issuance by Secretary of guidelines

The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a) of this section.

(c) Applicability to territories

The requirements established in subsection (a) of this section shall not apply to any territory

of the United States other than the Commonwealth of Puerto Rico.

(July 1, 1944, ch. 373, title XIX, § 1925, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 393.)

PRIOR PROVISIONS

A prior section 1925 of act July 1, 1944, was classified to section 300x–11 of this title prior to repeal by Pub. L. 102–321.

Another prior section 1925 of act July 1, 1944, was classified to section 300y–4 of this title prior to repeal by Pub. L. 99–280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 290bb of this title.

§ 300x–26. State law regarding sale of tobacco products to individuals under age of 18

(a) Relevant law

(1) In general

Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 300x–21 of this title only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

(2) Delayed applicability for certain States

In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 300x–21 of this title shall apply only for fiscal year 1995 and subsequent fiscal years.

(b) Enforcement

(1) In general

For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 300x–21 of this title is that the State involved will enforce the law described in subsection (a) of this section in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

(2) Activities and reports regarding enforcement

For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 300x–21 of this title is that the State involved will—

(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a) of this section; and

(B) annually submit to the Secretary a report describing—

(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

(c) Noncompliance of State

Before making a grant under section 300x–21 of this title to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b) of this section. If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 300x–33 of this title for the State for the fiscal year;

(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 300x–33 of this title for the State for the fiscal year;

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 300x–33 of this title for the State for the fiscal year; and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 300x–33 of this title for the State for the fiscal year.

(d) "First applicable fiscal year" defined

For purposes of this section, the term ''first applicable fiscal year'' means—

(1) fiscal year 1995, in the case of any State described in subsection (a)(2) of this section; and

(2) fiscal year 1994, in the case of any other State.

(July 1, 1944, ch. 373, title XIX, § 1926, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 394.)

PRIOR PROVISIONS

A prior section 1926 of act July 1, 1944, was classified to section 300x–12 of this title prior to repeal by Pub. L. 102–321.

Another prior section 1926 of act July 1, 1944, was classified to section 300y–5 of this title prior to repeal by Pub. L. 99–280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–54, 300x–55 of this title.

§ 300x–27. Treatment services for pregnant women

(a) In general

A funding agreement for a grant under section 300x–21 of this title is that the State involved—

(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant; and

(2) will, in carrying out paragraph (1), publicize the availability to such women of serv-

ices from the facilities and the fact that the women receive such preference.

(b) Referrals regarding States

A funding agreement for a grant under section 300x–21 of this title is that, in carrying out subsection (a)(1) of this section—

(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State; and

(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State—

(A) will refer the woman to a treatment facility that has the capacity to provide treatment services to the woman; or

(B) will, if no treatment facility has the capacity to admit the woman, make interim services available to the woman not later than 48 hours after the women[1] seeks the treatment services.

(July 1, 1944, ch. 373, title XIX, § 1927, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 395; amended Pub. L. 102–352, § 2(a)(10), Aug. 26, 1992, 106 Stat. 938.)

PRIOR PROVISIONS

A prior section 1927 of act July 1, 1944, was classified to section 300x–12 of this title prior to repeal by Pub. L. 102–321.

Another prior section 1927 of act July 1, 1944, was classified to section 300y–6 of this title prior to repeal by Pub. L. 99–280.

AMENDMENTS

1992—Subsec. (b)(2)(B). Pub. L. 102–352 struck out ''available'' before ''interim services available''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–29 of this title.

§ 300x–28. Additional agreements

(a) Improvement of process for appropriate referrals for treatment

With respect to individuals seeking treatment services, a funding agreement for a grant under section 300x–21 of this title is that the State involved will improve (relative to fiscal year 1992) the process in the State for referring the individuals to treatment facilities that can provide to the individuals the treatment modality that is most appropriate for the individuals.

(b) Continuing education

With respect to any facility for treatment services or prevention actitivities[1] that is receiving amounts from a grant under section 300x–21 of this title, a funding agreement for a State for a grant under such section is that continuing education in such services or activities (or both, as the case may be) will be made available to employees of the facility who provide the services or activities.

(c) Coordination of various activities and services

A funding agreement for a grant under section 300x–21 of this title is that the State involved will coordinate prevention and treatment activities with the provision of other appropriate services (including health, social, correctional and criminal justice, educational, vocational rehabilitation, and employment services).

(d) Waiver of requirement

(1) In general

Upon the request of a State, the Secretary may provide to a State a waiver of any or all of the requirements established in this section if the Secretary determines that, with respect to services for the prevention and treatment of substance abuse, the requirement involved is unnecessary for maintaining quality in the provision of such services in the State.

(2) Date certain for acting upon request

The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) Applicability of waiver

Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

(July 1, 1944, ch. 373, title XIX, § 1928, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 396.)

PRIOR PROVISIONS

A prior section 1928 of act July 1, 1944, was classified to section 300y–7 of this title prior to repeal by Pub. L. 99–280.

§ 300x–29. Submission to Secretary of statewide assessment of needs

The Secretary may make a grant under section 300x–21 of this title only if the State submits to the Secretary an assessment of the need in the State for authorized activities (which assessment is conducted in accordance with criteria issued by the Secretary), both by locality and by the State in general, which assessment includes a description of—

(1) the incidence and prevalence in the State of drug abuse and the incidence and prevalence in the State of alcohol abuse and alcoholism;

(2) current prevention and treatment activities in the State;

(3) the need of the State for technical assistance to carry out such activities;

(4) efforts by the State to improve such activities; and

(5) the extent to which the availability of such activities is insufficient to meet the need for the activities, the interim services to be made available under sections 300x–23(a) and 300x–27(b) of this title, and the manner in which such services are to be so available.

(July 1, 1944, ch. 373, title XIX, § 1929, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 396.)

[1] So in original. Probably should be ''woman''.

[1] So in original. Probably should be ''activities''.

PRIOR PROVISIONS

A prior section 1929 of act July 1, 1944, was classified to section 300y–8 of this title prior to repeal by Pub. L. 99–280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–32 of this title.

§ 300x–30. Maintenance of effort regarding State expenditures

(a) In general

With respect to the principal agency of a State for carrying out authorized activities, a funding agreement for a grant under section 300x–21 of this title for the State for a fiscal year is that such agency will for such year maintain aggregate State expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

(b) Waiver

(1) In general

Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) of this section if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

(2) Date certain for acting upon request

The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) Applicability of waiver

Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

(c) Noncompliance by State

(1) In general

In making a grant under section 300x–21 of this title to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with any agreement made under subsection (a) of this section. If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 300x–21 of this title for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(2) Submission of information to Secretary

The Secretary may make a grant under section 300x–21 of this title for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1).

(July 1, 1944, ch. 373, title XIX, § 1930, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 397.)

PRIOR PROVISIONS

A prior section 1930 of act July 1, 1944, was classified to section 300y–9 of this title prior to repeal by Pub. L. 99–280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–32, 300x–54, 300x–55 of this title.

§ 300x–31. Restrictions on expenditure of grant

(a) In general

(1) Certain restrictions

A funding agreement for a grant under section 300x–21 of this title is that the State involved will not expend the grant—

(A) to provide inpatient hospital services, except as provided in subsection (b) of this section;

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

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(E) to provide financial assistance to any entity other than a public or nonprofit private entity; or

(F) to carry out any program prohibited by section 300ee–5 of this title.

(2) Limitation on administrative expenses

A funding agreement for a grant under section 300x–21 of this title is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant.

(3) Limitation regarding penal and correctional institutions

A funding agreement for a State for a grant under section 300x–21 of this title is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 300x–1a[1] of this title to the State for fiscal year 1991 (as section 300x–1a[1] of this title was in effect for such fiscal year).

(b) Exception regarding inpatient hospital services

(1) Medical necessity as precondition

With respect to compliance with the agreement made under subsection (a) of this section, a State may expend a grant under section 300x–21 of this title to provide inpatient hospital services as treatment for substance abuse only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

[1] See References in Text note below.

(2) Rate of payment

In the case of an individual for whom a grant under section 300x–21 of this title is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse.

(c) Waiver regarding construction of facilities

(1) In general

The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) of this section for the purpose of authorizing the State to expend a grant under section 300x–21 of this title for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

(2) Standard regarding need for waiver

The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

(3) Amount

In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

(4) Matching funds

The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided under section 300x–21 of this title.

(5) Date certain for acting upon request

The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(July 1, 1944, ch. 373, title XIX, § 1931, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 397.)

REFERENCES IN TEXT

Section 300x–1a of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 102–321, title II, § 201(2), July 10, 1992, 106 Stat. 378.

PRIOR PROVISIONS

A prior section 1931 of act July 1, 1944, was classified to section 300y–21 of this title and subsequently omitted from the Code.

Another prior section 1931 of act July 1, 1944, was classified to section 300y–10 of this title prior to repeal by Pub. L. 99–280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–21, 300x–24, 300x–32, 300x–34 of this title.

§ 300x–32. Application for grant; approval of State plan

(a) In general

For purposes of section 300x–21 of this title, an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsections (c) and (d)(2) of this section—

(1) the State involved submits the application not later than the date specified by the Secretary;

(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

(3) the agreements are made through certification from the chief executive officer of the State;

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(5) the application contains the information required in section 300x–29 of this title, the information required in section 300x–30(c)(2) of this title, and the report required in section 300x–52(a) of this title;

(6)(A) the application contains a plan in accordance with subsection (b) of this section and the plan is approved by the Secretary; and

(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 300x–21 of this title; and

(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(b) State plan

(1) In general

A plan submitted by a State under subsection (a)(6) of this section is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement for a grant under section 300x–21 of this title that is applicable to the State, including a description of the manner in which the State intends to expend the grant.

(2) Authority of Secretary regarding modifications

As a condition of making a grant under section 300x–21 of this title to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) of

this section (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

(3) Authority of Center for Substance Abuse Prevention

With respect to plans submitted by the States under subsection (a)(6) of this section, the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

(c) Waivers regarding certain territories

In the case of any territory of the United States whose allotment under section 300x–21 of this title for the fiscal year is the amount specified in section 300x–33(c)(2)(B) of this title, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 300x–31 of this title.

(d) Issuance of regulations; precondition to making grants

(1) Regulations

Not later than August 25, 1992, the Secretary, acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 300x–21 of this title to be in accordance with this section.

(2) Issuance as precondition to making grants

The Secretary may not make payments under any grant under section 300x–21 of this title for fiscal year 1993 on or after January 1, 1993, unless the Secretary has issued standards under paragraph (1).

(July 1, 1944, ch. 373, title XIX, § 1932, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 399.)

PRIOR PROVISIONS

A prior section 1932 of act July 1, 1944, was classified to section 300y–22 of this title and subsequently omitted from the Code.

Another prior section 1932 of act July 1, 1944, was classified to section 300y–11 of this title prior to repeal by Pub. L. 99–280.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290bb, 300x–21, 300x–51 of this title.

§ 300x–33. Determination of amount of allotment

(a) States

(1) In general

Subject to subsection (b) of this section, the Secretary shall determine the amount of the allotment required in section 300x–21 of this title for a State for a fiscal year as follows:

(A) The formula established in paragraph (1) of section 300x–7(a) of this title shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 300x–7(a) of this title, except that, in the application of such formula for purposes of this subsection, the modifications described in subparagraph (B) shall apply.

(B) For purposes of subparagraph (A), the modifications described in this subparagraph are as follows:

(i) The amount specified in paragraph (2)(A) of section 300x–7(a) of this title is deemed to be the amount appropriated under section 300x–35(a) of this title for allotments under section 300x–21 of this title for the fiscal year involved.

(ii) The term ''P'' is deemed to have the meaning given in paragraph (2) of this subsection. Section 300x–7(a)(5)(B) of this title applies to the data used in determining such term for the States.

(iii) The factor determined under paragraph (8) of section 300x–7(a) of this title is deemed to have the purpose of reflecting the differences that exist between the State involved and other States in the costs of providing authorized services.

(2) Determination of term "P"

For purposes of this subsection, the term ''P'' means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows:

(A) The percentage constituted by the ratio of—

(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in urbanized areas of the State and are between such years of age; to

(ii) an amount equal to the total of the respective sums determined for the States under clause (i).

(B) The percentage constituted by the ratio of—

(i) the total number of individuals in the State who are between 25 and 64 years of age (inclusive); to

(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

(b) Minimum allotments for States

(1) IN GENERAL.—With respect to fiscal year 1999, the amount of the allotment of a State under section 300x–21 of this title shall not be less than the amount the State received under section 300x–21 of this title for fiscal year 1998 increased by 30.65 percent of the percentage by which the amount allotted to the States for fiscal year 1999 exceeds the amount allotted to the States for fiscal year 1998.

(2) LIMITATION

(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not receive an allotment under section 300x–21 of this title for fiscal year 1999 in an amount that is less than an amount equal to 0.375 percent of the

amount appropriated under section 300x–35(a) of this title for such fiscal year.

(B) EXCEPTION.—In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 300x–21 of this title for fiscal year 1999 (as compared to the amount allotted to the State in the fiscal year 1998) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 300x–35(a) of this title for fiscal year 1999 exceeds the amount appropriated for the prior fiscal year.

(3) Only for the purposes of calculating minimum allotments under this subsection, any reference to the amount appropriated under section 300x–35(a) of this title for fiscal year 1998, allotments to States under section 300x–21[1] of this title and any references to amounts received by States in fiscal year 1998 shall include amounts appropriated or received under the amendments made by section 105 of the Contract with America Advancement Act of 1996 (Public Law 104–121).

(c) Territories

(1) Determination under formula

Subject to paragraphs (2) and (4), the amount of an allotment under section 300x–21 of this title for a territory of the United States for a fiscal year shall be the product of—

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

(B) a percentage equal to the quotient of—

(i) the civilian population of the territory, as indicated by the most recently available data; divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

(2) Minimum allotment for territories

The amount of an allotment under section 300x–21 of this title for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year;

(B) $50,000; and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.

(3) Reservation of amounts

The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 300x–35(a) of this title for allotments under section 300x–21 of this title for the fiscal year.

(4) Availability of data on population

With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

(5) Applicability of certain provisions

For purposes of subsections (a) and (b) of this section, the term ''State'' does not include the territories of the United States.

(d) Indian tribes and tribal organizations

(1) In general

If the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization; and

(B) makes a determination that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this;[2]

the Secretary shall reserve from the allotment under section 300x–21 of this title for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the tribe or tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the abuse of alcohol and other drugs bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities.

(2) Tribe or tribal organization as grantee

The amount reserved by the Secretary on the basis of a determination under this paragraph[3] shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(3) Application

In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph,[3] it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

(4) Definitions

The terms ''Indian tribe'' and ''tribal organization'' have the same meaning given such terms in subsections (b) and (c)[4] of section 450b of title 25.

(July 1, 1944, ch. 373, title XIX, § 1933, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 400; amended Pub. L. 102–352, § 2(a)(11), Aug. 26, 1992, 106 Stat. 938; Pub. L. 105–277, div. A, § 101(f) [title II, § 218(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–362.)

AMENDMENT OF SUBSECTION (b)

For termination of amendment by section 101(f) [title II, § 218(c)] of Pub. L. 105–277, see

[1] See References in Text note below.

[2] So in original. Probably should be ''this subpart;''.

[3] So in original. Probably should be ''subsection''.

[4] See References in Text note below.

Effective and Termination Dates of 1998 Amendment note below.

REFERENCES IN TEXT

Section 300x–21 of this title, referred to in subsec. (b)(3), was in the original ''section 21'', meaning section 21 of act July 1, 1944, and was translated as reading section 1921 to reflect the probable intent of Congress because of context and because act July 1, 1944 does not contain a section 21.

Section 105 of the Contract with America Advancement Act of 1996, referred to in subsec. (b)(3), is section 105 of Pub. L. 104–121, title I, Mar. 29, 1996, 110 Stat. 852, which enacted section 1383e of this title, amended sections 405, 422, 423, 425, 1382, 1382c, 1383, and 1383c of this title, enacted provisions set out as notes under sections 405 and 1382 of this title, and repealed provisions set out as a note under section 425 of this title.

Section 450b of title 25, referred to in subsec. (d)(4), was amended, and subsecs. (b) and (c) of section 450 no longer define the terms ''Indian tribe'' and ''tribal organization''. However, such terms are defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 1933 of act July 1, 1944, was classified to section 300y–23 of this title and subsequently omitted from the Code.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, temporarily amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''For each of the fiscal years 1993 and 1994, the amount of the allotment required in section 300x–21 of this title for a State for the fiscal year involved shall be the greater of—

''(1) the amount determined under subsection (a) of this section for the State for the fiscal year; and

''(2) an amount equal to 79.4 percent of the amount received by the State from allotments made pursuant to this part for fiscal year 1992 (including reallotments under section 205(a) of the ADAMHA Reorganization Act).''

See Effective and Termination Dates of 1998 Amendment note below.

1992—Subsec. (c)(2)(C). Pub. L. 102–352 added subpar. (C).

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective as if enacted on Oct. 1, 1998, and applicable only during fiscal year 1999, and upon expiration of fiscal year 1999, subsec. (b) of this section, as in effect on Sept. 30, 1998, to be applied as if such amendment had not been enacted, see section 101(f) [title II, § 218(c)] of Pub. L. 105–277, set out as a note under section 300x–7 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–21, 300x–26, 300x–32, 300x–64 of this title.

§ 300x–34. Definitions

For purposes of this subpart:

(1) The term ''authorized activities'', subject to section 300x–31 of this title, means the activities described in section 300x–21(b) of this title.

(2) The term ''funding agreement'', with respect to a grant under section 300x–21 of this title to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

(3) The term ''prevention activities'', subject to section 300x–31 of this title, means activities to prevent substance abuse.

(4) The term ''substance abuse'' means the abuse of alcohol or other drugs.

(5) The term ''treatment activities'' means treatment services and, subject to section 300x–31 of this title, authorized activities that are related to treatment services.

(6) The term ''treatment facility'' means an entity that provides treatment services.

(7) The term ''treatment services'', subject to section 300x–31 of this title, means treatment for substance abuse.

(July 1, 1944, ch. 373, title XIX, § 1934, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 402.)

PRIOR PROVISIONS

A prior section 1934 of act July 1, 1944, was classified to section 300y–24 of this title and subsequently omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–64 of this title.

§ 300x–35. Funding

(a) Authorization of appropriations

For the purpose of carrying out this subpart, subpart III and section 290aa–4 of this title with respect to substance abuse, and section 290bb–21(d) of this title, there are authorized to be appropriated $1,500,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(b) Allocations for technical assistance, national data base, data collection, and program evaluations

(1) In general

(A) For the purpose of carrying out section 300x–58(a) of this title with respect to substance abuse, section 290bb–21(d) of this title, and the purposes specified in subparagraphs (B) and (C), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) of this section each fiscal year.

(B) The purpose specified in this subparagraph is the collection of data in this paragraph[1] is carrying out section 290aa–4 of this title with respect to substance abuse.

(C) The purpose specified in this subparagraph is the conduct of evaluations of authorized activities to determine methods for improving the availability and quality of such activities.

(2) Activities of Center for Substance Abuse Prevention

Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall obligate 20 percent for carrying out paragraph (1)(C), section 300x–58(a)[2] of

[1] So in original. The words ''is the collection of data in this paragraph'' probably should not appear.

[2] See References in Text note below.

this title with respect to prevention activities, and section 290bb–21(d) of this title.

(July 1, 1944, ch. 373, title XIX, § 1935, as added Pub. L. 102–321, title II, § 202, July 10, 1992, 106 Stat. 403.)

REFERENCES IN TEXT

Section 300x–58(a) of this title, referred to in subsec. (b)(2), was in the original ''section 1949(a)'', meaning section 1949(a) of act July 1, 1944, which is classified to section 300x–59 of this title, and was translated as reading ''section 1948(a)'' to reflect the probable intent of Congress because of context and because section 300x–59 does not contain a subsec. (a).

PRIOR PROVISIONS

A prior section 1935 of act July 1, 1944, was classified to section 300y–25 of this title and subsequently omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–33 of this title.

SUBPART III—GENERAL PROVISIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 300x–6, 300x–9, 300x–32, 300x–35 of this title.

§ 300x–51. Opportunity for public comment on State plans

A funding agreement for a grant under section 300x or 300x–21 of this title is that the State involved will make the plan required in section 300x–1 of this title, and the plan required in section 300x–32 of this title, respectively, public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the plan (including any revisions) and after the submission of the plan to the Secretary.

(July 1, 1944, ch. 373, title XIX, § 1941, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 403.)

§ 300x–52. Requirement of reports and audits by States

(a) Report

A funding agreement for a grant under section 300x or 300x–21 of this title is that the State involved will submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the States) to be necessary for securing a record and a description of—

(1) the purposes for which the grant received by the State for the preceding fiscal year under the program involved were expended and a description of the activities of the State under the program; and

(2) the recipients of amounts provided in the grant.

(b) Audits

A funding agreement for a grant under section 300x or 300x–21 of this title is that the State will, with respect to the grant, comply with chapter 75 of title 31.

(c) Availability to public

A funding agreement for a grant under section 300x or 300x–21 of this title is that the State involved will—

(1) make copies of the reports and audits described in this section available for public inspection within the State; and

(2) provide copies of the report under subsection (a) of this section, upon request, to any interested person (including any public agency).

(July 1, 1944, ch. 373, title XIX, § 1942, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 403; amended Pub. L. 104–316, title I, § 122(e), Oct. 19, 1996, 110 Stat. 3837.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316 struck out ''and the Comptroller General'' after ''with the States'' in introductory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–6, 300x–32 of this title.

§ 300x–53. Additional requirements

(a) In general

A funding agreement for a grant under section 300x or 300x–21 of this title is that the State involved will—

(1)(A) for the fiscal year for which the grant involved is provided, provide for independent peer review to assess the quality, appropriateness, and efficacy of treatment services provided in the State to individuals under the program involved; and

(B) ensure that, in the conduct of such peer review, not fewer than 5 percent of the entities providing services in the State under such program are reviewed (which 5 percent is representative of the total population of such entities);

(2) permit and cooperate with Federal investigations undertaken in accordance with section 300x–55 of this title; and

(3) provide to the Secretary any data required by the Secretary pursuant to section 290aa–4 of this title and will cooperate with the Secretary in the development of uniform criteria for the collection of data pursuant to such section.

(b) Patient records

The Secretary may make a grant under section 300x or 300x–21 of this title only if the State involved has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under the program involved or by any entity which is receiving amounts from the grant.

(July 1, 1944, ch. 373, title XIX, § 1943, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 404; amended Pub. L. 102–352, § 2(a)(12), Aug. 26, 1992, 106 Stat. 939.)

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–352 substituted ''section 290aa–4 of this title'' for ''section 290bb–21 of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

§ 300x–54. Disposition of certain funds appropriated for allotments

(a) In general

Amounts described in subsection (b) of this section and available for a fiscal year pursuant to section 300x or 300x–21 of this title, as the case may be, shall be allotted by the Secretary and paid to the States receiving a grant under the program involved, other than any State referred to in subsection (b) of this section with respect to such program. Such amounts shall be allotted in a manner equivalent to the manner in which the allotment under the program involved was determined.

(b) Specification of amounts

The amounts referred to in subsection (a) of this section are any amounts that—

(1) are not paid to States under the program involved as a result of—

(A) the failure of any State to submit an application in accordance with the program;

(B) the failure of any State to prepare such application in compliance with the program; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State under the program;

(2) are terminated, repaid, or offset under section 300x–55 of this title;

(3) in the case of the program established in section 300x of this title, are available as a result of reductions in allotments under such section pursuant to section 300x–1(d) or 300x–4(b) of this title; or

(4) in the case of the program established in section 300x–21 of this title, are available as a result of reductions in allotments under such section pursuant to section 300x–26 or 300x–30 of this title.

(July 1, 1944, ch. 373, title XIX, § 1944, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 404.)

§ 300x–55. Failure to comply with agreements

(a) Suspension or termination of payments

Subject to subsection (e) of this section, if the Secretary determines that a State has materially failed to comply with the agreements or other conditions required for the receipt of a grant under the program involved, the Secretary may in whole or in part suspend payments under the grant, terminate the grant for cause, or employ such other remedies (including the remedies provided for in subsections (b) and (c) of this section) as may be legally available and appropriate in the circumstances involved.

(b) Repayment of payments

(1) In general

Subject to subsection (e) of this section, the Secretary may require a State to repay with interest any payments received by the State under section 300x or 300x–21 of this title that the Secretary determines were not expended by the State in accordance with the agreements required under the program involved.

(2) Offset against payments

If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

(c) Withholding of payments

(1) In general

Subject to subsections (e) and (g)(3) of this section, the Secretary may withhold payments due under section 300x or 300x–21 of this title if the Secretary determines that the State involved is not expending amounts received under the program involved in accordance with the agreements required under the program.

(2) Termination of withholding

The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under the program involved in accordance with the agreements required under the program.

(d) Applicability of remedies to certain violations

(1) In general

With respect to agreements or other conditions for receiving a grant under the program involved, in the case of the failure of a State to maintain material compliance with a condition referred to in paragraph (2), the provisions for noncompliance with the condition that are provided in the section establishing the condition shall apply in lieu of subsections (a) through (c) of this section.

(2) Relevant conditions

For purposes of paragraph (1):

(A) In the case of the program established in section 300x of this title, a condition referred to in this paragraph is the condition established in section 300x–1(d) of this title and the condition established in section 300x–4(b) of this title.

(B) In the case of the program established in section 300x–21 of this title, a condition referred to in this paragraph is the condition established in section 300x–26 of this title and the condition established in section 300x–30 of this title.

(e) Opportunity for hearing

Before taking action against a State under any of subsections (a) through (c) of this section (or under a section referred to in subsection (d)(2) of this section, as the case may be), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing.

(f) Requirement of hearing in certain circumstances

(1) In general

If the Secretary receives a complaint that a State has failed to maintain material compli-

ance with the agreements or other conditions required for receiving a grant under the program involved (including any condition referred to for purposes of subsection (d) of this section), and there appears to be reasonable evidence to support the complaint, the Secretary shall promptly conduct a hearing with respect to the complaint.

(2) Finding of material noncompliance

If in a hearing under paragraph (1) the Secretary finds that the State involved has failed to maintain material compliance with the agreement or other condition involved, the Secretary shall take such action under this section as may be appropriate to ensure that material compliance is so maintained, or such action as may be required in a section referred to in subsection (d)(2) of this section, as the case may be.

(g) Certain investigations

(1) Requirement regarding Secretary

The Secretary shall in fiscal year 1994 and each subsequent fiscal year conduct in not less than 10 States investigations of the expenditure of grants received by the States under section 300x or 300x–21 of this title in order to evaluate compliance with the agreements required under the program involved.

(2) Provision of records, etc., upon request

Each State receiving a grant under section 300x or 300x–21 of this title, and each entity receiving funds from the grant, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(3) Limitations on authority

The Secretary may not institute proceedings under subsection (c) of this section unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program. Any such investigation shall be conducted within the State by qualified investigators.

(July 1, 1944, ch. 373, title XIX, § 1945, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 405.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–53, 300x–54 of this title.

§ 300x–56. Prohibitions regarding receipt of funds

(a) Establishment

(1) Certain false statements and representations

A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from a grant made to the State under section 300x or 300x–21 of this title.

(2) Concealing or failing to disclose certain events

A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under section 300x or 300x–21 of this title shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such amount is due.

(b) Criminal penalty for violation of prohibition

Any person who violates any prohibition established in subsection (a) of this section shall for each violation be fined in accordance with title 18 or imprisoned for not more than 5 years, or both.

(July 1, 1944, ch. 373, title XIX, § 1946, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 406.)

§ 300x–57. Nondiscrimination

(a) In general

(1) Rule of construction regarding certain civil rights laws

For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], on the basis of sex under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], programs and activities funded in whole or in part with funds made available under section 300x or 300x–21 of this title shall be considered to be programs and activities receiving Federal financial assistance.

(2) Prohibition

No person shall on the ground of sex (including, in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 300x or 300x–21 of this title.

(b) Enforcement

(1) Referrals to Attorney General after notice

Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 300x or 300x–21 of this title, has failed to comply with a provision of law referred to in subsection (a)(1) of this section, with subsection (a)(2) of this section, or with an applicable regulation (including one prescribed to carry out subsection (a)(2) of this section), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer

fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], as may be applicable; or

(C) take such other actions as may be authorized by law.

(2) Authority of Attorney General

When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) of this section or in violation of subsection (a)(2) of this section, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(July 1, 1944, ch. 373, title XIX, § 1947, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 407.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsecs. (a)(1) and (b)(1)(B), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Education Amendments of 1972, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§ 1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§ 300x–58. Technical assistance and provision of supplies and services in lieu of grant funds

(a) Technical assistance

The Secretary shall, without charge to a State receiving a grant under section 300x or 300x–21 of this title, provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

(b) Provision of supplies and services in lieu of grant funds

(1) In general

Upon the request of a State receiving a grant under section 300x or 300x–21 of this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch. 373, title XIX, § 1948, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 408.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300x–9, 300x–35 of this title.

§ 300x–59. Report by Secretary

Not later than January 24, 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the activities of the States carried out pursuant to the programs established in sections 300x and 300x–21 of this title. Such report may include any recommendations of the Secretary for appropriate changes in legislation.

(July 1, 1944, ch. 373, title XIX, § 1949, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 408.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300x–60. Rule of construction regarding delegation of authority to States

With respect to States receiving grants under section 300x or 300x–21 of this title, this part may not be construed to authorize the Secretary to delegate to the States the primary responsibility for interpreting the governing provisions of this part.

(July 1, 1944, ch. 373, title XIX, § 1950, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 408.)

§ 300x–61. Solicitation of views of certain entities

In carrying out this part, the Secretary, as appropriate, shall solicit the views of the States and other appropriate entities.

(July 1, 1944, ch. 373, title XIX, § 1951, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 408.)

§ 300x–62. Availability to States of grant payments

(a) In general

Subject to subsection (b) of this section, any amounts paid to a State under the program involved shall be available for obligation until the end of the fiscal year for which the amounts were paid, and if obligated by the end of such year, shall remain available for expenditure until the end of the succeeding fiscal year.

(b) Exception regarding noncompliance of subgrantees

If a State has in accordance with subsection (a) of this section obligated amounts paid to the State under the program involved, in any case in which the Secretary determines that the obligation consists of a grant or contract awarded by the State, and that the State has terminated or reduced the amount of such financial assistance on the basis of the failure of the recipient of the assistance to comply with the terms upon which the assistance was conditioned—

(1) the amounts involved shall be available for reobligation by the State through September 30 of the fiscal year following the fiscal year for which the amounts were paid to the State; and

(2) any of such amounts that are obligated by the State in accordance with paragraph (1) shall be available for expenditure through such date.

(July 1, 1944, ch. 373, title XIX, § 1952, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 409.)

§ 300x–63. Continuation of certain programs

(a) In general

Of the amount allotted to the State of Hawaii under section 300x of this title, and the amount allotted to such State under section 300x–21 of this title, an amount equal to the proportion of Native Hawaiians residing in the State to the total population of the State shall be available, respectively, for carrying out the program involved for Native Hawaiians.

(b) Expenditure of amounts

The amount made available under subsection (a) of this section may be expended only through contracts entered into by the State of Hawaii with public and private nonprofit organizations to enable such organizations to plan, conduct, and administer comprehensive substance abuse and treatment programs for the benefit of Native Hawaiians. In entering into contracts under this section, the State of Hawaii shall give preference to Native Hawaiian organizations and Native Hawaiian health centers.

(c) Definitions

For the purposes of this subsection,[1] the terms ''Native Hawaiian'', ''Native Hawaiian organization'', and ''Native Hawaiian health center'' have the meaning given such terms in section 11707 of this title.

(July 1, 1944, ch. 373, title XIX, § 1953, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 409.)

[1] So in original. Probably should be ''section,''.

§ 300x–64. Definitions

(a) Definitions for this subpart

For purposes of this subpart:

(1) The term ''program involved'' means the program of grants established in section 300x or 300x–21 of this title, or both, as indicated by whether the State involved is receiving or is applying to receive a grant under section 300x or 300x–21 of this title, or both.

(2)(A) The term ''funding agreement'', with respect to a grant under section 300x of this title, has the meaning given such term in section 300x–8 of this title.

(B) The term ''funding agreement'', with respect to a grant under section 300x–21 of this title, has the meaning given such term in section 300x–34 of this title.

(b) Definitions for this part

For purposes of this part:

(1) The term ''Comptroller General'' means the Comptroller General of the United States.

(2) The term ''State'', except as provided in sections 300x–7(c)(5) of this title and 300x–33(c)(5) of this title, means each of the several States, the District of Columbia, and each of the territories of the United States.

(3) The term ''territories of the United States'' means each of the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Palau, the Marshall Islands, and Micronesia.

(4) The term ''interim services'', in the case of an individual in need of treatment for substance abuse who has been denied admission to a program of such treatment on the basis of the lack of the capacity of the program to admit the individual, means services for reducing the adverse health effects of such abuse, for promoting the health of the individual, and for reducing the risk of transmission of disease, which services are provided until the individual is admitted to such a program.

(July 1, 1944, ch. 373, title XIX, § 1954, as added Pub. L. 102–321, title II, § 203(a), July 10, 1992, 106 Stat. 409.)

PART C—CERTAIN PROGRAMS REGARDING SUBSTANCE ABUSE

SUBPART I—EXPANSION OF CAPACITY FOR PROVIDING TREATMENT

§ 300y. Categorical grants to States

(a) Grants for States with insufficient capacity

(1) In general

The Secretary, acting through the Director of the Center for Substance Abuse Treatment, may make grants to States for the purpose of increasing the maximum number of individuals to whom public and nonprofit private entities in the States are capable of providing effective treatment for substance abuse.

(2) Eligible States

The Director may not make a grant under subsection (a) of this section to a State unless the number of individuals seeking treatment services in the State significantly exceeds the

maximum number described in paragraph (1) that is applicable to the State.

(b) Priority in making grants

(1) Residential treatment services for pregnant women

In making grants under subsection (a) of this section, the Director shall give priority to States that agree to give priority in the expenditure of the grant to carrying out the purpose described in such subsection as the purpose relates to the provision of residential treatment services to pregnant women.

(2) Additional priority regarding matching funds

In the case of any application for a grant under subsection (a) of this section that is receiving priority under paragraph (1), the Director shall give further priority to the application if the State involved agrees as a condition of receiving the grant to provide non-Federal contributions under subsection (c) of this section in a greater amount than the amount required under such subsection for the applicable fiscal year.

(c) Requirement of matching funds

(1) In general

Subject to paragraph (3), the Director may not make a grant under subsection (a) of this section unless the State agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is—

(A) for the first fiscal year for which the State receives such a grant, not less than $1 for each $9 of Federal funds provided in the grant;

(B) for any second or third such fiscal year, not less than $1 for each $9 of Federal funds provided in the grant; and

(C) for any subsequent such fiscal year, not less than $1 for each $3 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

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

(3) Waiver

The Director may waive the requirement established in paragraph (1) if the Director determines that extraordinary economic conditions in the State justify the waiver.

(d) Limitation regarding direct treatment services

The Director may not make a grant under subsection (a) of this section unless the State involved agrees that the grant will be expended only for the direct provision of treatment services. The preceding sentence may not be construed to authorize the expenditure of such a grant for the planning or evaluation of treatment services.

(e) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(f) Duration of grant

The period during which payments are made to a State from a grant under subsection (a) of this section may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

(g) Maintenance of effort

The Director may not make a grant under subsection (a) of this section unless the State involved agrees to maintain State expenditures for substance abuse treatment services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the first fiscal year for which the State receives such a grant.

(h) Restrictions on use of grant

The Director may not make a grant under subsection (a) of this section unless the State involved agrees that the grant will not be expended—

(1) to provide inpatient hospital services;

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

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(i) Definitions

For purposes of this section—

(1) The term ''Director'' means the Director of the Center for Substance Abuse Treatment.

(2) The term ''substance abuse'' means the abuse of alcohol or other drugs.

(j) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated $86,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(July 1, 1944, ch. 373, title XIX, § 1971, as added Pub. L. 102–321, title II, § 204, July 10, 1992, 106 Stat. 410; amended Pub. L. 102–352, § 2(a)(13), Aug. 26, 1992, 106 Stat. 939.)

PRIOR PROVISIONS

A prior section 300y, act July 1, 1944, ch. 373, title XIX, § 1921, as added Oct. 27, 1986, Pub. L. 99–570, title

IV, § 4002, 100 Stat. 3207–103, related to establishment of special alcohol abuse and drug abuse programs, prior to repeal by Pub. L. 100–690, title II, § 2038(1), Nov. 18, 1988, 102 Stat. 4203.

Another prior section 300y, act July 1, 1944, ch. 373, title XIX, § 1921, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 552, related to planning grants, prior to repeal by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Prior sections 300y–1 and 300y–2 were repealed by Pub. L. 100–690, title II, § 2038(1), Nov. 18, 1988, 102 Stat. 4203.

Section 300y–1, act July 1, 1944, ch. 373, title XIX, § 1922, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4002, 100 Stat. 3207–106, related to transfer of funds to Administrator of Veterans' Affairs.

Another prior section 300y–1, act July 1, 1944, ch. 373, title XIX, § 1922, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 552, authorized appropriations, prior to repeal by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Section 300y–2, act July 1, 1944, ch. 373, title XIX, § 1923, as added Oct. 27, 1986, Pub. L. 99–570, title IV, § 4002, 100 Stat. 3207–106, related to evaluation of treatment programs.

Another prior section 300y–2, act July 1, 1944, ch. 373, title XIX, § 1923, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 552, provided for grants under section 254c of this title, prior to repeal by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Prior sections 300y–3 to 300y–10 were repealed by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Section 300y–3, act July 1, 1944, ch. 373, title XIX, § 1924, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 553, provided that allotments be based upon prior year distributions and provided for direct distributions to Indian tribes.

Section 300y–4, act July 1, 1944, ch. 373, title XIX, § 1925, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 553, related to payments under allotments to States.

Section 300y–5, act July 1, 1944, ch. 373, title XIX, § 1926, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 554, related to State grants to community health centers from allotments.

Section 300y–6, act July 1, 1944, ch. 373, title XIX, § 1927, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 556, related to application requirements and submittal, availability for public comment, and revision of a description of intended use of funds.

Section 300y–7, act July 1, 1944, ch. 373, title XIX, § 1928, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 557, related to reporting and auditing requirements.

Section 300y–8, act July 1, 1944, ch. 373, title XIX, § 1929, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 558, related to withholding of funds from a State not in compliance.

Section 300y–9, act July 1, 1944, ch. 373, title XIX, § 1930, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 558, related to nondiscrimination requirements.

Section 300y–10, act July 1, 1944, ch. 373, title XIX, § 1931, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 559, provided criminal penalty for false statements.

AMENDMENTS

1992—Subsec. (g). Pub. L. 102–352 inserted ''substance abuse'' before ''treatment services''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–352 effective immediately upon effectuation of amendment made by Pub. L. 102–321, see section 3(1) of Pub. L. 102–352, set out as a note under section 285n of this title.

EFFECTIVE DATE

Section effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, see section 801(b), (d)(1) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SUBPART II—INTERIM MAINTENANCE TREATMENT OF NARCOTICS DEPENDENCE

§ 300y–11. Interim maintenance treatment

(a) Requirement regarding Secretary

Subject to the following subsections of this section, for the purpose of reducing the incidence of the transmission of HIV disease pursuant to the intravenous abuse of heroin or other morphine-like drugs, the Secretary, in establishing conditions for the use of methadone in public or nonprofit private programs of treatment for dependence on such drugs, shall authorize such programs—

(1) to dispense methadone for treatment purposes to individuals who—

(A) meet the conditions for admission to such programs that dispense methadone as part of comprehensive treatment for such dependence; and

(B) are seeking admission to such programs that so dispense methadone, but as a result of the limited capacity of the programs, will not gain such admission until 14 or more days after seeking admission to the programs; and

(2) in dispensing methadone to such individuals, to provide only minimum ancillary services during the period in which the individuals are waiting for admission to programs of comprehensive treatment.

(b) Inapplicability of requirement in certain circumstances

(1) In general

The requirement established in subsection (a) of this section for the Secretary does not apply if any or all of the following conditions are met:

(A) The preponderance of scientific research indicates that the risk of the transmission of HIV disease pursuant to the intravenous abuse of drugs is minimal.

(B) The preponderance of scientific research indicates that the medically supervised dispensing of methadone is not an effective method of reducing the extent of dependence on heroin and other morphine-like drugs.

(C) The preponderance of available data indicates that, of treatment programs that dispense methadone as part of comprehensive treatment, a substantial majority admit all individuals seeking services to the programs not later than 14 days after the individuals seek admission to the programs.

(2) Evaluation by Secretary

In evaluating whether any or all of the conditions described in paragraph (1) have been met, the Secretary shall consult with the National Commission on Acquired Immune Deficiency Syndrome.

(c) Conditions for obtaining authorization from Secretary

(1) In general

In carrying out the requirement established in subsection (a) of this section, the Secretary

shall, after consultation with the National Commission on Acquired Immune Deficiency Syndrome, by regulation issue such conditions for treatment programs to obtain authorization from the Secretary to provide interim maintenance treatment as may be necessary to carry out the purpose described in such subsection. Such conditions shall include conditions for preventing the unauthorized use of methadone.

(2) Counseling on HIV disease

The regulations issued under paragraph (1) shall provide that an authorization described in such paragraph may not be issued to a treatment program unless the program provides to recipients of the treatment counseling on preventing exposure to and the transmission of HIV disease.

(3) Permission of relevant State as condition of authorization

The regulations issued under paragraph (1) shall provide that the Secretary may not provide an authorization described in such paragraph to any treatment program in a State unless the chief public health officer of the State has certified to the Secretary that—

(A) such officer does not object to the provision of such authorizations to treatment programs in the State; and

(B) the provision of interim maintenance services in the State will not reduce the capacity of comprehensive treatment programs in the State to admit individuals to the programs (relative to the date on which such officer so certifies).

(4) Date certain for issuance of regulations; failure of Secretary

The Secretary shall issue the final rule for purposes of the regulations required in paragraph (1), and such rule shall be effective, not later than the expiration of the 180-day period beginning on July 10, 1992. If the Secretary fails to meet the requirement of the preceding sentence, the proposed rule issued on March 2, 1989, with respect to part 291 of title 21, Code of Federal Regulations (docket numbered 88N–0444; 54 Fed. Reg. 8973 et seq.) is deemed to take effect as a final rule upon the expiration of such period, and the provisions of paragraph (3) of this subsection are deemed to be incorporated into such rule.

(d) Definitions

For purposes of this section:

(1) The term ''interim maintenance services'' means the provision of methadone in a treatment program under the circumstances described in paragraphs (1) and (2) of subsection (a) of this section.

(2) The term ''HIV disease'' means infection with the etiologic agent for acquired immune deficiency syndrome.

(3) The term ''treatment program'' means a public or nonprofit private program of treatment for dependence on heroin or other morphine-like drugs.

(July 1, 1944, ch. 373, title XIX, § 1976, as added Pub. L. 102–321, title II, § 204, July 10, 1992, 106 Stat. 412.)

PRIOR PROVISIONS

A prior section 300y–11, act July 1, 1944, ch. 373, title XIX, § 1932, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 559; amended Jan. 4, 1983, Pub. L. 97–414, § 8(v), 96 Stat. 2063, related to applicability of other provisions and promulgation of regulations, prior to repeal by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Sections 300y–21 to 300y–27 terminated Jan. 1, 1991, pursuant to section 300y–27 and were omitted from the Code.

Section 300y–21, act July 1, 1944, ch. 373, title XIX, § 1931, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3117, provided definitions for this part.

A prior section 1931 of act July 1, 1944, ch. 373, title XIX, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 559, provided criminal penalty for false statements and was classified to former section 300y–10 of this title, prior to repeal by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Section 300y–22, act July 1, 1944, ch. 373, title XIX, § 1932, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3117, authorized appropriations for this part.

A prior section 1932 of act July 1, 1944, ch. 373, title XIX, as added Aug. 13, 1981, Pub. L. 97–35, title IX, § 901, 95 Stat. 559; amended Jan. 4, 1983, Pub. L. 97–414, § 8(v), 96 Stat. 2063, related to applicability of other provisions and promulgation of regulations and was classified to former section 300y–11 of this title, prior to repeal by Pub. L. 99–280, § 5, Apr. 24, 1986, 100 Stat. 400.

Section 300y–23, act July 1, 1944, ch. 373, title XIX, § 1933, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3117, provided for allotments under this part.

Section 300y–24, act July 1, 1944, ch. 373, title XIX, § 1934, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3118, provided for payments under allotments to States.

Section 300y–25, act July 1, 1944, ch. 373, title XIX, § 1935, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3118, specified use of allotments.

Section 300y–26, act July 1, 1944, ch. 373, title XIX, § 1936, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3119, provided for applications, requirements of the application, and description of activities.

Section 300y–27, act July 1, 1944, ch. 373, title XIX, § 1937, as added Nov. 4, 1988, Pub. L. 100–607, title IV, § 408(a), 102 Stat. 3120; amended Aug. 16, 1989, Pub. L. 101–93, § 5(f)(1)(B), 103 Stat. 612, provided for termination of this part effective Jan. 1, 1991.

EFFECTIVE DATE

Section effective July 10, 1992, with programs making awards providing financial assistance in fiscal year 1993 and subsequent years effective for awards made on or after Oct. 1, 1992, see section 801(b), (d)(1) of Pub. L. 102–321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

SUBCHAPTER XVIII—ADOLESCENT FAMILY LIFE DEMONSTRATION PROJECTS

§ 300z. Findings and purposes

(a) The Congress finds that—

(1) in 1978, an estimated one million one hundred thousand teenagers became pregnant, more than five hundred thousand teenagers carried their babies to term, and over one-half of the babies born to such teenagers were born out of wedlock;

(2) adolescents aged seventeen and younger accounted for more than one-half of the out of wedlock births to teenagers;

(3) in a high proportion of cases, the pregnant adolescent is herself the product of an unmarried parenthood during adolescence and is continuing the pattern in her own lifestyle;

(4) it is estimated that approximately 80 per centum of unmarried teenagers who carry their pregnancies to term live with their families before and during their pregnancy and remain with their families after the birth of the child;

(5) pregnancy and childbirth among unmarried adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low birth weight babies; a higher infant mortality and morbidity; a greater likelihood that an adolescent marriage will end in divorce; a decreased likelihood of completing schooling; and higher risks of unemployment and welfare dependency; and therefore, education, training, and job research services are important for adolescent parents;

(6)(A) adoption is a positive option for unmarried pregnant adolescents who are unwilling or unable to care for their children since adoption is a means of providing permanent families for such children from available approved couples who are unable or have difficulty in conceiving or carrying children of their own to term; and

(B) at present, only 4 per centum of unmarried pregnant adolescents who carry their babies to term enter into an adoption plan or arrange for their babies to be cared for by relatives or friends;

(7) an unmarried adolescent who becomes pregnant once is likely to experience recurrent pregnancies and childbearing, with increased risks;

(8)(A) the problems of adolescent premarital sexual relations, pregnancy, and parenthood are multiple and complex and are frequently associated with or are a cause of other troublesome situations in the family; and

(B) such problems are best approached through a variety of integrated and essential services provided to adolescents and their families by other family members, religious and charitable organizations, voluntary associations, and other groups in the private sector as well as services provided by publicly sponsored initiatives;

(9) a wide array of educational, health, and supportive services are not available to adolescents with such problems or to their families, or when available frequently are fragmented and thus are of limited effectiveness in discouraging adolescent premarital sexual relations and the consequences of such relations;

(10)(A) prevention of adolescent sexual activity and adolescent pregnancy depends primarily upon developing strong family values and close family ties, and since the family is the basic social unit in which the values and attitudes of adolescents concerning sexuality and pregnancy are formed, programs designed to deal with issues of sexuality and pregnancy will be successful to the extent that such programs encourage and sustain the role of the family in dealing with adolescent sexual activity and adolescent pregnancy;

(B) Federal policy therefore should encourage the development of appropriate health, educational, and social services where such services are now lacking or inadequate, and the better coordination of existing services where they are available; and

(C) services encouraged by the Federal Government should promote the involvement of parents with their adolescent children, and should emphasize the provision of support by other family members, religious and charitable organizations, voluntary associations, and other groups in the private sector in order to help adolescents and their families deal with complex issues of adolescent premarital sexual relations and the consequences of such relations; and

(11)(A) there has been limited research concerning the societal causes and consequences of adolescent pregnancy;

(B) there is limited knowledge concerning which means of intervention are effective in mediating or eliminating adolescent premarital sexual relations and adolescent pregnancy; and

(C) it is necessary to expand and strengthen such knowledge in order to develop an array of approaches to solving the problems of adolescent premarital sexual relations and adolescent pregnancy in both urban and rural settings.

(b) Therefore, the purposes of this subchapter are—

(1) to find effective means, within the context of the family, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other family members, and to promote self discipline and other prudent approaches to the problem of adolescent premarital sexual relations, including adolescent pregnancy;

(2) to promote adoption as an alternative for adolescent parents;

(3) to establish innovative, comprehensive, and integrated approaches to the delivery of care services both for pregnant adolescents, with primary emphasis on unmarried adolescents who are seventeen years of age or under, and for adolescent parents, which shall be based upon an assessment of existing programs and, where appropriate, upon efforts to establish better coordination, integration, and linkages among such existing programs in order to—

(A) enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life; and

(B) assist families of adolescents to understand and resolve the societal causes which are associated with adolescent pregnancy;

(4) to encourage and support research projects and demonstration projects concerning the societal causes and consequences of adolescent premarital sexual relations, contraceptive use, pregnancy, and child rearing;

(5) to support evaluative research to identify effective services which alleviate, eliminate, or resolve any negative consequences of adolescent premarital sexual relations and adoles-

cent childbearing for the parents, the child, and their families; and

(6) to encourage and provide for the dissemination of results, findings, and information from programs and research projects relating to adolescent premarital sexual relations, pregnancy, and parenthood.

(July 1, 1944, ch. 373, title XX, § 2001, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 578; amended Pub. L. 98–512, § 2(b), (c), Oct. 19, 1984, 98 Stat. 2409.)

AMENDMENTS

1984—Subsec. (a)(5). Pub. L. 98–512, § 2(b), struck out reference relating to developmental disabilities and inserted provision relating to importance of education, training, and job research services for adolescent parents.

Subsec. (b)(3). Pub. L. 98–512, § 2(c), inserted ''both'' before ''for pregnant adolescents''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300z–7 of this title.

§ 300z–1. Definitions; regulations applicable

(a) For the purposes of this subchapter, the term—

(1) ''Secretary'' means the Secretary of Health and Human Services;

(2) ''eligible person'' means—

(A) with regard to the provision of care services, a pregnant adolescent, an adolescent parent, or the family of a pregnant adolescent or an adolescent parent; or

(B) with regard to the provision of prevention services and referral to such other services which may be appropriate, a nonpregnant adolescent;

(3) ''eligible grant recipient'' means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary—

(A) in the case of an organization which will provide care services, the capability of providing all core services in a single setting or the capability of creating a network through which all core services would be provided; or

(B) in the case of an organization which will provide prevention services, the capability of providing such services;

(4) ''necessary services'' means services which may be provided by grantees which are—

(A) pregnancy testing and maternity counseling;

(B) adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(C) primary and preventive health services including prenatal and postnatal care;

(D) nutrition information and counseling;

(E) referral for screening and treatment of venereal disease;

(F) referral to appropriate pediatric care;

(G) educational services relating to family life and problems associated with adolescent premarital sexual relations, including—

(i) information about adoption;

(ii) education on the responsibilities of sexuality and parenting;

(iii) the development of material to support the role of parents as the provider of sex education; and

(iv) assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(H) appropriate educational and vocational services;

(I) referral to licensed residential care or maternity home services; and

(J) mental health services and referral to mental health services and to other appropriate physical health services;

(K) child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(L) consumer education and homemaking;

(M) counseling for the immediate and extended family members of the eligible person;

(N) transportation;

(O) outreach services to families of adolescents to discourage sexual relations among unemancipated minors;

(P) family planning services; and

(Q) such other services consistent with the purposes of this subchapter as the Secretary may approve in accordance with regulations promulgated by the Secretary;

(5) ''core services'' means those services which shall be provided by a grantee, as determined by the Secretary by regulation;

(6) ''supplemental services'' means those services which may be provided by a grantee, as determined by the Secretary by regulation;

(7) ''care services'' means necessary services for the provision of care to pregnant adolescents and adolescent parents and includes all core services with respect to the provision of such care prescribed by the Secretary by regulation;

(8) ''prevention services'' means necessary services to prevent adolescent sexual relations, including the services described in subparagraphs (A), (D), (E), (G), (H), (M), (N), (O), and (Q) of paragraph (4);

(9) ''adolescent'' means an individual under the age of nineteen; and

(10) ''unemancipated minor'' means a minor who is subject to the control, authority, and supervision of his or her parents or guardians, as determined under State law.

(b) Until such time as the Secretary promulgates regulations pursuant to the second sentence of this subsection, the Secretary shall use the regulations promulgated under title VI of the Health Services and Centers Amendments of 1978 [42 U.S.C. 300a–21 et seq.] which were in effect on August 13, 1981, to determine which necessary services are core services for purposes of this subchapter. The Secretary may promulgate regulations to determine which necessary services are core services for purposes of this subchapter based upon an evaluation of and information concerning which necessary services are

essential to carry out the purposes of this subchapter and taking into account (1) factors such as whether services are to be provided in urban or rural areas, the ethnic groups to be served, and the nature of the populations to be served, and (2) the results of the evaluations required under section 300z–5(b) of this title. The Secretary may from time to time revise such regulations.

(July 1, 1944, ch. 373, title XX, § 2002, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 580; amended Pub. L. 98–512, § 2(d), Oct. 19, 1984, 98 Stat. 2409.)

REFERENCES IN TEXT

The Health Services and Centers Amendments of 1978, referred to in subsec. (b), is Pub. L. 95–626, Nov. 10, 1978, 92 Stat. 3551, as amended. Title VI of the Health Services and Centers Amendments of 1978 was classified generally to part A (§ 300a–21 et seq.) of subchapter VIII–A of this chapter prior to its repeal by Pub. L. 97–35, title IX, § 955(b), title XXI, § 2193(f), Aug. 13, 1981, 95 Stat. 592, 828. For complete classification of this Act to the Code, see Short Title of 1978 Amendments note set out under section 201 of this title and Tables.

AMENDMENTS

1984—Subsec. (a)(4)(H). Pub. L. 98–512 struck out ''and referral to such services'' after ''vocational services''.

§ 300z–2. Demonstration projects; grant authorization, etc.

(a) The Secretary may make grants to further the purposes of this subchapter to eligible grant recipients which have submitted an application which the Secretary finds meets the requirements of section 300z–5 of this title for demonstration projects which the Secretary determines will help communities provide appropriate care and prevention services in easily accessible locations. Demonstration projects shall, as appropriate, provide, supplement, or improve the quality of such services. Demonstration projects shall use such methods as will strengthen the capacity of families to deal with the sexual behavior, pregnancy, or parenthood of adolescents and to make use of support systems such as other family members, friends, religious and charitable organizations, and voluntary associations.

(b) Grants under this subchapter for demonstration projects may be for the provision of—

(1) care services;

(2) prevention services; or

(3) a combination of care services and prevention services.

(July 1, 1944, ch. 373, title XX, § 2003, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 582.)

§ 300z–3. Uses of grants for demonstration projects for services

(a) Covered projects

Except as provided in subsection (b) of this section, funds provided for demonstration projects for services under this subchapter may be used by grantees only to—

(1) provide to eligible persons—

(A) care services;

(B) prevention services; or

(C) care and prevention services (in the case of a grantee who is providing a combination of care and prevention services);

(2) coordinate, integrate, and provide linkages among providers of care, prevention, and other services for eligible persons in furtherance of the purposes of this subchapter;

(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent premarital sexual relations and adolescent pregnancy;

(4) plan for the administration and coordination of pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents which will further the objectives of this subchapter; and

(5) fulfill assurances required for grant approval by section 300z–5 of this title.

(b) Family planning services; availability in community

(1) No funds provided for a demonstration project for services under this subchapter may be used for the provision of family planning services (other than counseling and referral services) to adolescents unless appropriate family planning services are not otherwise available in the community.

(2) Any grantee who receives funds for a demonstration project for services under this subchapter and who, after determining under paragraph (1) that appropriate family planning services are not otherwise available in the community, provides family planning services (other than counseling and referral services) to adolescents may only use funds provided under this subchapter for such family planning services if all funds received by such grantee from all other sources to support such family planning services are insufficient to support such family planning services.

(c) Fees for services: criteria

Grantees who receive funds for a demonstration project for services under this subchapter shall charge fees for services pursuant to a fee schedule approved by the Secretary as a part of the application described in section 300z–5 of this title which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. A grantee who receives funds for a demonstration project for services under this subchapter may not, in any case, discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services, except that in determining the ability of an unemancipated minor to provide payment for services, the income of the family of an unemancipated minor shall be considered in determining the ability of such minor to make such payments unless the parents or guardians of the unemancipated minor refuse to make such payments.

(July 1, 1944, ch. 373, title XX, § 2004, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 583.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300z–5 of this title.

§ 300z–4. Grants for demonstration projects for services

(a) Priorities

In approving applications for grants for demonstration projects for services under this subchapter, the Secretary shall give priority to applicants who—

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area with a high proportion of low-income families and where the availability of programs of care for pregnant adolescents and adolescent parents is low;

(3) show evidence—

(A) in the case of an applicant who will provide care services, of having the ability to bring together a wide range of needed core services and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for pregnant adolescents or adolescent parents; or

(B) in the case of an applicant who will provide prevention services, of having the ability to provide prevention services for adolescents and their families which are appropriate for the target population and the geographic area to be served, including the special needs of rural areas;

(4) will utilize to the maximum extent feasible existing available programs and facilities such as neighborhood and primary health care centers, maternity homes which provide or can be equipped to provide services to pregnant adolescents, agencies serving families, youth, and children with established programs of service to pregnant adolescents and vulnerable families, licensed adoption agencies, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents;

(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the demonstration project non-Federal funds, personnel, and facilities;

(7) have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the demonstration project; and

(8) will demonstrate innovative and effective approaches in addressing the problems of adolescent premarital sexual relations, pregnancy, or parenthood, including approaches to provide pregnant adolescents with adequate information about adoption.

(b) Factors to be considered in making grants; special needs of rural areas

(1) The amount of a grant for a demonstration project for services under this subchapter shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents in such area.

(2) In making grants for demonstration projects for services under this subchapter, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds taking into consideration the relative number of adolescents in such areas in need of such services.

(c) Duration; Federal share

(1) A grantee may not receive funds for a demonstration project for services under this subchapter for a period in excess of 5 years.

(2)(A) Subject to paragraph (3), a grant for a demonstration project for services under this subchapter may not exceed—

(i) 70 per centum of the costs of the project for the first and second years of the project;

(ii) 60 per centum of such costs for the third year of the project;

(iii) 50 per centum of such costs for the fourth year of the project; and

(iv) 40 per centum of such costs for the fifth year of the project.

(B) Non-Federal contributions required by subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(3) The Secretary may waive the limitation specified in paragraph (2)(A) for any year in accordance with criteria established by regulation.

(July 1, 1944, ch. 373, title XX, § 2005, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 584.)

§ 300z–5. Requirements for applications

(a) Form, content, and assurances

An application for a grant for a demonstration project for services under this subchapter shall be in such form and contain such information as the Secretary may require, and shall include—

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served;

(3) a description of existing pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents (including adoption services), and including where, how, by whom, and to which population groups such services are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or recurrent pregnancies and an estimate of the number of adolescents not being served in the area;

(5)(A) in the case of an applicant who will provide care services, a description of how all core services will be provided in the demonstration project using funds under this subchapter or will otherwise be provided by the grantee in the area to be served, the population to which such services will be provided, how such services will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services in the public and private sectors; or

(B) in the case of an applicant who will provide prevention services, a description of the necessary services to be provided and how the applicant will provide such services;

(6) a description of the manner in which adolescents needing services other than the services provided directly by the applicant will be identified and how access and appropriate referral to such other services (such as medicaid; licensed adoption agencies; maternity home services; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided, including a description of a plan to coordinate such other services with the services supported under this subchapter;

(7) a description of the applicant's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

(8) a description of the results expected from the provision of services, and the procedures to be used for evaluating those results;

(9) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, concerning the proposed use of funds provided for a demonstration project for services under this subchapter and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(10) assurances that the applicant will have an ongoing quality assurance program;

(11) assurances that, where appropriate, the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

(12) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(13) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State (in which the applicant provides services) that administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement;

(14) assurances that the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act [42 U.S.C. 701 et seq.], to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.], or to assistance for medical expenses under any other public assistance program or private health insurance program;

(15) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under parts B and E of title IV [42 U.S.C. 620 et seq., 670 et seq.] and title XX of the Social Security Act [42 U.S.C. 1397 et seq.];

(16)(A) a description of—

(i) the schedule of fees to be used in the provision of services, which shall comply with section 300z–3(c) of this title and which shall be designed to cover all reasonable direct and indirect costs incurred by the applicant in providing services; and

(ii) a corresponding schedule of discounts to be applied to the payment of such fees, which shall comply with section 300z–3(c) of this title and which shall be adjusted on the basis of the ability of the eligible person to pay;

(B) assurances that the applicant has made and will continue to make every reasonable effort—

(i) to secure from eligible persons payment for services in accordance with such schedules;

(ii) to collect reimbursement for health or other services provided to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program; and

(iii) to seek such reimbursement on the basis of the full amount of fees for services without application of any discount; and

(C) assurances that the applicant has submitted or will submit to the Secretary such reports as the Secretary may require to determine compliance with this paragraph;

(17) assurances that the applicant will make maximum use of funds available under subchapter VIII of this chapter;

(18) assurances that the acceptance by any individual of family planning services or family planning information (including educational materials) provided through financial assistance under this subchapter shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

(19) assurances that fees collected by the applicant for services rendered in accordance with this subchapter shall be used by the applicant to further the purposes of this subchapter;

(20) assurances that the applicant, if providing both prevention and care services will not

exclude or discriminate against any adolescent who receives prevention services and subsequently requires care services as a pregnant adolescent;

(21) a description of how the applicant will, as appropriate in the provision of services—

(A) involve families of adolescents in a manner which will maximize the role of the family in the solution of problems relating to the parenthood or pregnancy of the adolescent;

(B) involve religious and charitable organizations, voluntary associations, and other groups in the private sector as well as services provided by publicly sponsored initiatives;

(22)(A) assurances that—

(i) except as provided in subparagraph (B) and subject to clause (ii), the applicant will notify the parents or guardians of any unemancipated minor requesting services from the applicant and, except as provided in subparagraph (C), will obtain the permission of such parents or guardians with respect to the provision of such services; and

(ii) in the case of a pregnant unemancipated minor requesting services from the applicant, the applicant will notify the parents or guardians of such minor under clause (i) within a reasonable period of time;

(B) assurances that the applicant will not notify or request the permission of the parents or guardian of any unemancipated minor without the consent of the minor—

(i) who solely is requesting from the applicant pregnancy testing or testing or treatment for venereal disease;

(ii) who is the victim of incest involving a parent; or

(iii) if an adult sibling of the minor or an adult aunt, uncle, or grandparent who is related to the minor by blood certifies to the grantee that notification of the parents or guardians of such minor would result in physical injury to such minor; and

(C) assurances that the applicant will not require, with respect to the provision of services, the permission of the parents or guardians of any pregnant unemancipated minor if such parents or guardians are attempting to compel such minor to have an abortion;

(23) assurances that primary emphasis for services supported under this subchapter shall be given to adolescents seventeen and under who are not able to obtain needed assistance through other means;

(24) assurances that funds received under this subchapter shall supplement and not supplant funds received from any other Federal, State, or local program or any private sources of funds; and

(25) a plan for the conduct of, and assurances that the applicant will conduct, evaluations of the effectiveness of the services supported under this subchapter in accordance with subsection (b) of this section.

(b) Evaluations: amount, conduct, and technical assistance

(1) Each grantee which receives funds for a demonstration project for services under this subchapter shall expend at least 1 per centum but not in excess of 5 per centum of the amounts received under this subchapter for the conduct of evaluations of the services supported under this subchapter. The Secretary may, for a particular grantee upon good cause shown, waive the provisions of the preceding sentence with respect to the amounts to be expended on evaluations, but may not waive the requirement that such evaluations be conducted.

(2) Evaluations required by paragraph (1) shall be conducted by an organization or entity which is independent of the grantee providing services supported under this subchapter. To assist in conducting the evaluations required by paragraph (1), each grantee shall develop a working relationship with a college or university located in the grantee's State which will provide or assist in providing monitoring and evaluation of services supported under this subchapter unless no college or university in the grantee's State is willing or has the capacity to provide or assist in providing such monitoring and assistance.

(3) The Secretary may provide technical assistance with respect to the conduct of evaluations required under this subsection to any grantee which is unable to develop a working relationship with a college or university in the applicant's State for the reasons described in paragraph (2).

(c) Reports

Each grantee which receives funds for a demonstration project for services under this subchapter shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include, at such times as are considered appropriate by the Secretary, the results of the evaluations of the services supported under this subchapter.

(d) Notification of parents; "adult" defined

(1) A grantee shall periodically notify the Secretary of the exact number of instances in which a grantee does not notify the parents or guardians of a pregnant unemancipated minor under subsection (a)(22)(B)(iii) of this section.

(2) For purposes of subsection (a)(22)(B)(iii) of this section, the term ''adult'' means an adult as defined by State law.

(e) Submission of applications to Governor; comments by Governor

Each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this subchapter. The Governor shall submit to the applicant comments on any such application within the period of sixty days beginning on the day when the Governor receives such copy. The applicant shall include the comments of the Governor with such application.

(f) Availability of core services

No application submitted for a grant for a demonstration project for care services under this subchapter may be approved unless the Secretary is satisfied that core services shall be available through the applicant within a reasonable time after such grant is received.

(July 1, 1944, ch. 373, title XX, § 2006, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 585.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(13) to (15), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts B and E of title IV of the Social Security Act are classified generally to part B (§ 620 et seq.) and part E (§ 670 et seq.) of subchapter IV of chapter 7 of this title. Titles V, XIX, and XX of the Social Security Act are classified generally to subchapters V (§ 701 et seq.), XIX (§ 1396 et seq.), and XX (§ 1397 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300z–1, 300z–2, 300z–3 of this title.

§ 300z–6. Coordination of programs

(a) The Secretary shall coordinate Federal policies and programs providing services relating to the prevention of adolescent sexual relations and initial and recurrent adolescent pregnancies and providing care services for pregnant adolescents. In achieving such coordination, the Secretary shall—

(1) require grantees who receive funds for demonstration projects for services under this subchapter to report periodically to the Secretary concerning Federal, State, and local policies and programs that interfere with the delivery of and coordination of pregnancy prevention services and other programs of care for pregnant adolescents and adolescent parents;

(2) provide technical assistance to facilitate coordination by State and local recipients of Federal assistance;

(3) review all programs administered by the Department of Health and Human Services which provide prevention services or care services to determine if the policies of such programs are consistent with the policies of this subchapter, consult with other departments and agencies of the Federal Government who administer programs that provide such services, and encourage such other departments and agencies to make recommendations, as appropriate, for legislation to modify such programs in order to facilitate the use of all Government programs which provide such services as a basis for delivery of more comprehensive prevention services and more comprehensive programs of care for pregnant adolescents and adolescent parents;

(4) give priority in the provision of funds, where appropriate, to applicants using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to the provision of funds under Federal programs administered by the Secretary (other than the program established by this subchapter) to projects providing comprehensive prevention services and comprehensive programs of care for pregnant adolescents and adolescent parents.

(b) Any recipient of a grant for a demonstration project for services under this subchapter shall coordinate its activities with any other recipient of such a grant which is located in the same locality.

(July 1, 1944, ch. 373, title XX, § 2007, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 589.)

§ 300z–7. Research

(a) Grants and contracts; duration; renewal; amount

(1) The Secretary may make grants and enter into contracts with public agencies or private organizations or institutions of higher education to support the research and dissemination activities described in paragraphs (4), (5), and (6) of section 300z(b) of this title.

(2) The Secretary may make grants or enter into contracts under this section for a period of one year. A grant or contract under this section for a project may be renewed for four additional one-year periods, which need not be consecutive.

(3) A grant or contract for any one-year period under this section may not exceed $100,000 for the direct costs of conducting research or disemination[1] activities under this section and may include such additional amounts for the indirect costs of conducting such activities as the Secretary determines appropriate. The Secretary may waive the preceding sentence with respect to a specific project if he determines that—

(A) exceptional circumstances warrant such waiver and that the project will have national impact; or

(B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this subchapter.

(4) The amount of any grant or contract made under this section may remain available for obligation or expenditure after the close of the one-year period for which such grant or contract is made in order to assist the recipient in preparing the report required by subsection (f)(1) of this section.

(b) Scope of permissible activities

(1) Funds provided for research under this section may be used for descriptive or explanatory surveys, longitudinal studies, or limited demonstration projects for services that are for the purpose of increasing knowledge and understanding of the matters described in paragraphs (4) and (5) of section 300z(b) of this title.

(2) Funds provided under this section may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

(c) Applications

The Secretary may not make any grant or enter into any contract to support research or dissemination activities under this section unless—

(1) the Secretary has received an application for such grant or contract which is in such

[1] So in original. Probably should be ''dissemination''.

form and which contains such information as the Secretary may by regulation require;

(2) the applicant has demonstrated that the applicant is capable of conducting one or more of the types of research or dissemination activities described in paragraph (4), (5), or (6) of section 300z(b) of this title; and

(3) in the case of an application for a research project, the panel established by subsection (e)(2) of this section has determined that the project is of scientific merit.

(d) Coordination with National Institutes of Health

The Secretary shall, where appropriate, coordinate research and dissemination activities carried out under this section with research and dissemination activities carried out by the National Institutes of Health.

(e) Review of applications for grants and contracts; establishment of review panel

(1) The Secretary shall establish a system for the review of applications for grants and contracts under this section. Such system shall be substantially similar to the system for scientific peer review of the National Institutes of Health and shall meet the requirements of paragraphs (2) and (3).

(2) In establishing the system required by paragraph (1), the Secretary shall establish a panel to review applications under this section. Not more than 25 per centum of the members of the panel shall be physicians. The panel shall meet as often as may be necessary to facilitate the expeditious review of applications under this section, but not less than once each year. The panel shall review each project for which an application is made under this section, evaluate the scientific merit of the project, determine whether the project is of scientific merit, and make recommendations to the Secretary concerning whether the application for the project should be approved.

(3) The Secretary shall make grants under this section from among the projects which the panel established by paragraph (2) has determined to be of scientific merit and may only approve an application for a project if the panel has made such determination with respect to such a project. The Secretary shall make a determination with respect to an application within one month after receiving the determinations and recommendations of such panel with respect to the application.

(f) Reports

(1)(A) The recipient of a grant or contract for a research project under this section shall prepare and transmit to the Secretary a report describing the results and conclusions of such research. Except as provided in subparagraph (B), such report shall be transmitted to the Secretary not later than eighteen months after the end of the year for which funds are provided under this section. The recipient may utilize reprints of articles published or accepted for publication in professional journals to supplement or replace such report if the research contained in such articles was supported under this section during the year for which the report is required.

(B) In the case of any research project for which assistance is provided under this section for two or more consecutive one-year periods, the recipient of such assistance shall prepare and transmit the report required by subparagraph (A) to the Secretary not later than twelve months after the end of each one-year period for which such funding is provided.

(2) Recipients of grants and contracts for dissemination under this section shall submit to the Secretary such reports as the Secretary determines appropriate.

(July 1, 1944, ch. 373, title XX, § 2008, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 589; amended Pub. L. 98–512, § 2(e), Oct. 19, 1984, 98 Stat. 2409.)

AMENDMENTS

1984—Subsec. (g). Pub. L. 98–512 struck out subsec. (g) which provided for collection of survey data used primarily for generation of national population estimates.

§ 300z–8. Evaluation and administration

(a) Of the funds appropriated under this subchapter, the Secretary shall reserve not less than 1 per centum and not more than 3 per centum for the evaluation of activities carried out under this subchapter. The Secretary shall submit to the appropriate committees of the Congress a summary of each evaluation conducted under this section.

(b) The officer or employee of the Department of Health and Human Services designated by the Secretary to carry out the provisions of this subchapter shall report directly to the Assistant Secretary for Health with respect to the activities of such officer or employee in carrying out such provisions.

(July 1, 1944, ch. 373, title XX, § 2009, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 591.)

§ 300z–9. Authorization of appropriations

(a) For the purpose of carrying out this subchapter, there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $30,000,000 for the fiscal year ending September 30, 1983, $30,000,000 for the fiscal year ending September 30, 1984, and $30,000,000 for the fiscal year ending September 30, 1985.

(b) At least two-thirds of the amounts appropriated to carry out this subchapter shall be used to make grants for demonstration projects for services.

(c) Not more than one-third of the amounts specified under subsection (b) of this section for use for grants for demonstration projects for services shall be used for grants for demonstration projects for prevention services.

(July 1, 1944, ch. 373, title XX, § 2010, as added Pub. L. 97–35, title IX, § 955(a), Aug. 13, 1981, 95 Stat. 591; amended Pub. L. 98–512, § 2(a), Oct. 19, 1984, 98 Stat. 2409.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–509 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1985.

§ 300z–10. Restrictions

(a) Grants or payments may be made only to programs or projects which do not provide abor-

tions or abortion counseling or referral, or which do not subcontract with or make any payment to any person who provides abortions or abortion counseling or referral, except that any such program or project may provide referral for abortion counseling to a pregnant adolescent if such adolescent and the parents or guardians of such adolescent request such referral; and grants may be made only to projects or programs which do not advocate, promote, or encourage abortion.

(b) The Secretary shall ascertain whether programs or projects comply with subsection (a) of this section and take appropriate action if programs or projects do not comply with such subsection, including withholding of funds.

(July 1, 1944, ch. 373, title XX, §2011, as added Pub. L. 97–35, title IX, §955(a), Aug. 13, 1981, 95 Stat. 592.)

SUBCHAPTER XIX—VACCINES

PRIOR PROVISIONS

A prior subchapter XIX (§300aa et seq.), comprised of title XXI of the Public Health Service Act, act July 1, 1944, ch. 373, §§2101 to 2116, was renumbered title XXIII, §§2301 to 2316, of the Public Health Service Act, and transferred to subchapter XXI (§300cc et seq.) of this chapter, renumbered title XXV, §§2501 to 2514, of the Public Health Service Act, and transferred to subchapter XXV (§300aaa et seq.) of this chapter, renumbered title XXVI, §§2601 to 2614, of the Public Health Service Act, renumbered title XXVII, §§2701 to 2714, of the Public Health Service Act, and renumbered title II, part B, §§231 to 244, of the Public Health Service Act, and transferred to part B (§238 et seq.) of subchapter I of this chapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 283d of this title; title 26 section 9510.

PART 1—NATIONAL VACCINE PROGRAM

§300aa–1. Establishment

The Secretary shall establish in the Department of Health and Human Services a National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The Program shall be administered by a Director selected by the Secretary.

(July 1, 1944, ch. 373, title XXI, §2101, as added Pub. L. 99–660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3756.)

PRIOR PROVISIONS

A prior section 300aa–1, act July 1, 1944, §2102, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

A prior section 2101 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

EFFECTIVE DATE

Section 323 of title III of Pub. L. 99–660, as amended by Pub. L. 100–203, title IV, §4302(a), Dec. 22, 1987, 101 Stat. 1330–221; Pub. L. 102–168, title II, §201(a), Nov. 26, 1991, 105 Stat. 1102, provided that: ''Subtitle 1 of title XXI of the Public Health Service Act [part 1 of this subchapter (42 U.S.C. 300aa–1 to 300aa–6)] shall take effect on the date of the enactment of this Act [Nov. 14, 1986] and parts A and B of subtitle 2 of such title [subparts A and B of part 2 of this subchapter (42 U.S.C. 300aa–10 to 300aa–23)] shall take effect on October 1, 1988 and parts C and D of such title [subparts C and D of part 2 of this subchapter (42 U.S.C. 300aa–25 to 300aa–33)] and this title [probably means provisions of title III of Pub. L. 99–660 other than those that enacted this subchapter and redesignated former sections 300aa to 300aa–15 of this title as sections 300cc to 300cc–15 of this title; these other provisions amended sections 218, 242c, 262, 286, and 289f of this title and enacted provisions set out as notes under sections 201, 300aa–1, and 300aa–4 of this title] shall take effect on the date of the enactment of the Vaccine Compensation Amendments of 1987 [Dec. 22, 1987].''

SEVERABILITY

Section 322 of title III of Pub. L. 99–660, as amended by Pub. L. 101–239, title VI, §6602, Dec. 19, 1989, 103 Stat. 2293; Pub. L. 101–502, §5(g)(1), Nov. 3, 1990, 104 Stat. 1288, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), if any provision [of] part A or B of subtitle 2 of title XXI of the Public Health Service Act [subparts A and B of part 2 of this subchapter], as added by section 311(a), or the application of such a provision to any person or circumstance is held invalid by reason of a violation of the Constitution, both such parts shall be considered invalid.

''(b) SPECIAL RULE.—If any amendment made by section 6601 of the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101–239, amending sections 300aa–10 to 300aa–17, 300aa–21, 300aa–23, 300aa–26, and 300aa–27 of this title] to title XXI of the Public Health Service Act [this subchapter] or the application of such a provision to any person or circumstance is held invalid by reason of the Constitution, subsection (a) shall not apply and such title XXI of the Public Health Service Act without such amendment shall continue in effect.''

[Amendment by section 5(g)(1) of Pub. L. 101–502 to section 322(a) of Pub. L. 99–660, set out above, effective Nov. 14, 1986, see section 5(h) of Pub. L. 101–502, set out as an Effective Date of 1990 Amendment note under section 300aa–11 of this title.]

EVALUATION OF PROGRAM; STUDY AND REPORT TO CONGRESS

Pub. L. 101–239, title VI, §6601(t), Dec. 19, 1989, 103 Stat. 2293, as amended by Pub. L. 102–168, title II, §201(b), Nov. 26, 1991, 105 Stat. 1103, directed the Secretary of Health and Human Services to evaluate the National Vaccine Injury Compensation Program under this subchapter and report results of such study to Committee on Energy and Commerce of House of Representatives and Committee on Labor and Human Resources of Senate not later than Jan. 1, 1993.

RELATED STUDIES

Section 312 of title III of Pub. L. 99–660 directed Secretary of Health and Human Services, not later than 3 years after the effective date of this title (see Effective Date note above), to conduct, through studies by the Institute of Medicine of the National Academy of Sciences or other appropriate nonprofit private groups or associations, a review of pertussis vaccines and related illnesses and conditions and MMR vaccines, vaccines containing material intended to prevent or confer immunity against measles, mumps, and rubella disease, and related illnesses and conditions, make specific findings and report these findings in the Federal Register not later than 3 years after the effective date of this title, and at the same time these findings are published in the Federal Register, propose regulations as a result of such findings, and not later than 42 months after the effective date of this title, promulgate such proposed regulations with such modifications as may be necessary after opportunity for public hearing.

STUDY OF OTHER VACCINE RISKS

Section 313 of title III of Pub. L. 99–660 provided that:

''(a) STUDY.—

''(1) Not later than 3 years after the effective date of this title [see Effective Date note above], the Secretary shall, after consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act [section 300aa–19 of this title]—

''(A) arrange for a broad study of the risks (other than the risks considered under section 102 [21 U.S.C. 382]) to children associated with each vaccine set forth in the Vaccine Injury Table under section 2114 of such Act [section 300aa–14 of this title], and

''(B) establish guidelines, after notice and opportunity for public hearing and consideration of all relevant medical and scientific information, respecting the administration of such vaccines which shall include—

''(i) the circumstances under which any such vaccine should not be administered,

''(ii) the circumstances under which administration of any such vaccine should be delayed beyond its usual time of administration, and

''(iii) the groups, categories, or characteristics of potential recipients of such vaccine who may be at significantly higher risk of major adverse reactions to such vaccine than the general population of potential recipients.

''(2)(A) The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (1) under an arrangement by which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary.

''(B) If the Institute of Medicine is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study.

''(C) The Institute of Medicine or other group or association conducting the study required by paragraph (1) shall conduct such studies in consultation with the Advisory Commission on Childhood Vaccines established under section 2119 of the Public Health Service Act [section 300aa–19 of this title].

''(b) REVISION OF GUIDELINES.—The Secretary shall periodically, but at least every 3 years after establishing guidelines under subsection (a), review and revise such guidelines after notice and opportunity for public hearing and consideration of all relevant medical and scientific information, unless the Secretary finds that on the basis of all relevant information no revision of such guidelines is warranted and publishes such finding in the Federal Register.

''(c) FACTORS AFFECTING GUIDELINES.—Guidelines under subsection (a) shall take into account—

''(1) the risk to potential recipients of the vaccines with respect to which the guidelines are established,

''(2) the medical and other characteristics of such potential recipients, and

''(3) the risks to the public of not having such vaccines administered.

''(d) DISSEMINATION.—The Secretary shall widely disseminate the guidelines established under subsection (a) to—

''(1) physicians and other health care providers,

''(2) professional health associations,

''(3) State and local governments and agencies, and

''(4) other relevant entities.''

REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION

Section 314 of title III of Pub. L. 99–660 directed Secretary of Health and Human Services, not later than 1 year after the effective date of this title (see Effective Date note above) and after consultation with Advisory Commission on Childhood Vaccines and with other appropriate entities, to review the warnings, use instructions, and precautionary information presently issued by manufacturers of vaccines set forth in the Vaccine Injury Table set out in section 300aa–14 of this title and by rule determine whether such warnings, instructions, and information adequately warn health care providers of the nature and extent of dangers posed by such vaccines, and, if any such warning, instruction, or information is determined to be inadequate for such purpose in any respect, require at the same time that the manufacturers revise and reissue such warning, instruction, or information as expeditiously as practical, but not later than 18 months after the effective date of this title.

STUDY OF IMPACT ON SUPPLY OF VACCINES

Section 316 of title III of Pub. L. 99–660 provided that: ''On June 30, 1987, and on June 30 of each second year thereafter, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce [now Committee on Commerce] of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

''(1) an assessment of the impact of the amendments made by this title [enacting this subchapter, amending sections 218, 242c, 262, 286, and 289f of this title, redesignating former sections 300aa to 300aa–15 of this title as sections 300cc to 300cc–15 of this title, and enacting provisions set out as notes under this section and sections 201 and 300aa–1 of this title] on the supply of vaccines listed in the Vaccine Injury Table under section 2114 of the Public Health Service Act [section 300aa–14 of this title], and

''(2) an assessment of the ability of the administrators of vaccines (including public clinics and private administrators) to provide such vaccines to children.''

WAIVER OF PAPERWORK REDUCTION

Section 321 of title III of Pub. L. 99–660 provided that: ''Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this title and implementing the amendments made by this title [enacting this subchapter, amending sections 218, 242c, 262, 286, and 289f of this title, redesignating former sections 300aa to 300aa–15 of this title as sections 300cc to 300cc–15 of this title, and enacting provisions set out as notes under sections 201, 300aa–1, and 300aa–4 of this title].''

§ 300aa–2. Program responsibilities

(a) The Director of the Program shall have the following responsibilities:

(1) Vaccine research

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, coordinate and provide direction for research carried out in or through the National Institutes of Health, the Centers for Disease Control and Prevention, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development on means to induce human immunity against naturally occurring infectious diseases and to prevent adverse reactions to vaccines.

(2) Vaccine development

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, coordinate and provide direction for activities carried out in or through the National Institutes of Health, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development to develop the techniques needed to produce safe and effective vaccines.

(3) Safety and efficacy testing of vaccines

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, coordinate and provide direction for safety and efficacy testing of vaccines carried out in or through the National Institutes of Health, the Centers for Disease Control and Prevention, the Office of Biologics Research and Review of the Food and Drug Administration, the Department of Defense, and the Agency for International Development.

(4) Licensing of vaccine manufacturers and vaccines

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, coordinate and provide direction for the allocation of resources in the implementation of the licensing program under section 263a of this title.

(5) Production and procurement of vaccines

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, ensure that the governmental and non-governmental production and procurement of safe and effective vaccines by the Public Health Service, the Department of Defense, and the Agency for International Development meet the needs of the United States population and fulfill commitments of the United States to prevent human infectious diseases in other countries.

(6) Distribution and use of vaccines

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, coordinate and provide direction to the Centers for Disease Control and Prevention and assistance to States, localities, and health practitioners in the distribution and use of vaccines, including efforts to encourage public acceptance of immunizations and to make health practitioners and the public aware of potential adverse reactions and contraindications to vaccines.

(7) Evaluating the need for and the effectiveness and adverse effects of vaccines and immunization activities

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, coordinate and provide direction to the National Institutes of Health, the Centers for Disease Control and Prevention, the Office of Biologics Research and Review of the Food and Drug Administration, the National Center for Health Statistics, the National Center for Health Services Research and Health Care Technology Assessment, and the Health Care Financing Administration in monitoring the need for and the effectiveness and adverse effects of vaccines and immunization activities.

(8) Coordinating governmental and non-governmental activities

The Director of the Program shall, through the plan issued under section 300aa–3 of this title, provide for the exchange of information between Federal agencies involved in the implementation of the Program and non-governmental entities engaged in the development and production of vaccines and in vaccine research and encourage the investment of non-governmental resources complementary to the governmental activities under the Program.

(9) Funding of Federal agencies

The Director of the Program shall make available to Federal agencies involved in the implementation of the plan issued under section 300aa–3 of this title funds appropriated under section 300aa–6 of this title to supplement the funds otherwise available to such agencies for activities under the plan.

(b) In carrying out subsection (a) of this section and in preparing the plan under section 300aa–3 of this title, the Director shall consult with all Federal agencies involved in research on and development, testing, licensing, production, procurement, distribution, and use of vaccines.

(July 1, 1944, ch. 373, title XXI, §2102, as added Pub. L. 99–660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3756; amended Pub. L. 102–531, title III, §312(d)(13), Oct. 27, 1992, 106 Stat. 3505.)

PRIOR PROVISIONS

A prior section 300aa–2, act July 1, 1944, §2103, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

A prior section 2102 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

AMENDMENTS

1992—Subsec. (a)(1), (3), (6), (7). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS

Pub. L. 101–502, §2(b), Nov. 3, 1990, 104 Stat. 1285, provided that:

''(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

''(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

''(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

''(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.''

[Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.]

SUPPLY OF VACCINES

Pub. L. 101–502, §3, Nov. 3, 1990, 104 Stat. 1285, provided that:

''(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.''

[Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.]

Pub. L. 100–177, title I, § 110(b), Dec. 1, 1987, 101 Stat. 991, provided that:

''(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out paragraph (1) $5,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.''

[Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–3, 300aa–5, 300aa–6 of this title.

§ 300aa–3. Plan

The Director of the Program shall prepare and issue a plan for the implementation of the responsibilities of the Director under section 300aa–2 of this title. The plan shall establish priorities in research and the development, testing, licensing, production, procurement, distribution, and effective use of vaccines, describe an optimal use of resources to carry out such priorities, and describe how each of the various departments and agencies will carry out their vaccine functions in consultation and coordination with the Program and in conformity with such priorities. The first plan under this section shall be prepared not later than January 1, 1987, and shall be revised not later than January 1 of each succeeding year.

(July 1, 1944, ch. 373, title XXI, § 2103, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3757.)

PRIOR PROVISIONS

A prior section 300aa–3, act July 1, 1944, § 2104, which was renumbered section 2304 by Pub. L. 99–660, was transferred to section 300cc–3 of this title, prior to repeal by Pub. L. 98–621, § 10(s), Nov. 8, 1984, 98 Stat. 3381.

A prior section 2103 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–2, 300aa–5 of this title.

§ 300aa–4. Repealed. Pub. L. 105–362, title VI, § 601(a)(1)(H), Nov. 10, 1998, 112 Stat. 3285

Section, act July 1, 1944, ch. 373, title XXI, § 2104, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3757, related to national vaccine program report.

A prior section 300aa–4, act July 1, 1944, § 2105, was repealed by Pub. L. 99–117, § 12(f), Oct. 7, 1985, 99 Stat. 495. See section 300cc–4 of this title.

A prior section 2104 of act July 1, 1944, was renumbered section 2304 by Pub. L. 99–660 and classified to section 300cc–3 of this title, and was repealed by Pub. L. 98–621, § 10(s), Nov. 8, 1984, 98 Stat. 3381.

§ 300aa–5. National Vaccine Advisory Committee

(a) There is established the National Vaccine Advisory Committee. The members of the Committee shall be appointed by the Director of the Program, in consultation with the National Academy of Sciences, from among individuals who are engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of State or local health agencies or public health organizations.

(b) The Committee shall—

(1) study and recommend ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States,

(2) recommend research priorities and other measures the Director of the Program should take to enhance the safety and efficacy of vaccines,

(3) advise the Director of the Program in the implementation of sections 300aa–2, 300aa–3, and 300aa–4[1] of this title, and

(4) identify annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 300aa–2, 300aa–3, and 300aa–4[1] of this title.

(July 1, 1944, ch. 373, title XXI, § 2105, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3758.)

REFERENCES IN TEXT

Section 300aa–4 of this title, referred to in subsec. (b)(3), (4), was repealed by Pub. L. 105–362, title VI, § 601(a)(1)(H), Nov. 10, 1998, 112 Stat. 3285.

PRIOR PROVISIONS

A prior section 300aa–5, act July 1, 1944, § 2106, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

A prior section 2105 of act July 1, 1944, was repealed by Pub. L. 99–117, § 12(f), Oct. 7, 1985, 99 Stat. 495. See section 300cc–4 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

§ 300aa–6. Authorization of appropriations

(a) To carry out this part other than section 300aa–2(9) of this title there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

(b) To carry out section 300aa–2(9) of this title there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as

[1] See References in Text note below.

may be necessary for each of the fiscal years 1992 through 1995.

(July 1, 1944, ch. 373, title XXI, § 2106, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3758; amended Pub. L. 101–502, § 4, Nov. 3, 1990, 104 Stat. 1286.)

PRIOR PROVISIONS

A prior section 300aa–6, act July 1, 1944, § 2107, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

A prior section 2106 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

Prior sections 300aa–7 to 300aa–9, act July 1, 1944, §§ 2108–2110, respectively, were successively renumbered by subsequent acts and transferred, see sections 238e to 238g, respectively, of this title.

AMENDMENTS

1990—Pub. L. 101–502 substituted provisions authorizing appropriations for fiscal years 1991 through 1995 for provisions authorizing appropriations for fiscal years 1987 through 1991 in subsecs. (a) and (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–2 of this title.

PART 2—NATIONAL VACCINE INJURY COMPENSATION PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 26 section 9510.

SUBPART A—PROGRAM REQUIREMENTS

§ 300aa–10. Establishment of program

(a) Program established

There is established the National Vaccine Injury Compensation Program to be administered by the Secretary under which compensation may be paid for a vaccine-related injury or death.

(b) Attorney's obligation

It shall be the ethical obligation of any attorney who is consulted by an individual with respect to a vaccine-related injury or death to advise such individual that compensation may be available under the program[1] for such injury or death.

(c) Publicity

The Secretary shall undertake reasonable efforts to inform the public of the availability of the Program.

(July 1, 1944, ch. 373, title XXI, § 2110, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3758; amended Pub. L. 101–239, title VI, § 6601(b), Dec. 19, 1989, 103 Stat. 2285.)

PRIOR PROVISIONS

A prior section 300aa–10, act July 1, 1944, § 2111, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

A prior section 2110 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238g of this title.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101–239 added subsec. (c).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6601(s) of Pub. L. 101–239, as amended by Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 300aa–11 to 300aa–17, 300aa–21, 300aa–23, 300aa–26, and 300aa–27 of this title] shall apply as follows:

"(A) Petitions filed after the date of enactment of this section [Dec. 19, 1989] shall proceed under the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act [this subchapter] as amended by this section.

"(B) Petitions currently pending in which the evidentiary record is closed shall continue to proceed under the Program in accordance with the law in effect before the date of the enactment of this section, except that if the United States Court of Federal Claims is to review the findings of fact and conclusions of law of a special master on such a petition, the court may receive further evidence in conducting such review.

"(C) Petitions currently pending in which the evidentiary record is not closed shall proceed under the Program in accordance with the law as amended by this section.

All pending cases which will proceed under the Program as amended by this section shall be immediately suspended for 30 days to enable the special masters and parties to prepare for proceeding under the Program as amended by this section. In determining the 240-day period prescribed by section 2112(d) of the Public Health Service Act [42 U.S.C. 300aa–12(d)], as amended by this section, or the 420-day period prescribed by section 2121(b) of such Act [42 U.S.C. 300aa–21(b)], as so amended, any period of suspension under the preceding sentence shall be excluded.

"(2) The amendments to section 2115 of the Public Health Service Act [42 U.S.C. 300aa–15] shall apply to all pending and subsequently filed petitions."

EFFECTIVE DATE

Subpart effective Oct. 1, 1988, see section 323 of Pub. L. 99–660, as amended, set out as a note under section 300aa–1 of this title.

§ 300aa–11. Petitions for compensation

(a) General rule

(1) A proceeding for compensation under the Program for a vaccine-related injury or death shall be initiated by service upon the Secretary and the filing of a petition containing the matter prescribed by subsection (c) of this section with the United States Court of Federal Claims. The clerk of the United States Court of Federal Claims shall immediately forward the filed petition to the chief special master for assignment to a special master under section 300aa–12(d)(1) of this title.

(2)(A) No person may bring a civil action for damages in an amount greater than $1,000 or in an unspecified amount against a vaccine administrator or manufacturer in a State or Federal court for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, and no such court may award damages in an amount greater than $1,000 in a civil action for damages for such a vaccine-related injury or death, unless a petition has been filed, in accordance with section 300aa–16 of this title, for compensation under the Program for such injury or death and—

(i)(I) the United States Court of Federal Claims has issued a judgment under section 300aa–12 of this title on such petition, and

[1] So in original. Probably should be capitalized.

(II) such person elects under section 300aa–21(a) of this title to file such an action, or

(ii) such person elects to withdraw such petition under section 300aa–21(b) of this title or such petition is considered withdrawn under such section.

(B) If a civil action which is barred under subparagraph (A) is filed in a State or Federal court, the court shall dismiss the action. If a petition is filed under this section with respect to the injury or death for which such civil action was brought, the date such dismissed action was filed shall, for purposes of the limitations of actions prescribed by section 300aa–16 of this title, be considered the date the petition was filed if the petition was filed within one year of the date of the dismissal of the civil action.

(3) No vaccine administrator or manufacturer may be made a party to a civil action (other than a civil action which may be brought under paragraph (2)) for damages for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988.

(4) If in a civil action brought against a vaccine administrator or manufacturer before October 1, 1988, damages were denied for a vaccine-related injury or death or if such civil action was dismissed with prejudice, the person who brought such action may file a petition under subsection (b) of this section for such injury or death.

(5)(A) A plaintiff who on October 1, 1988, has pending a civil action for damages for a vaccine-related injury or death may, at any time within 2 years after October 1, 1988, or before judgment, whichever occurs first, petition to have such action dismissed without prejudice or costs and file a petition under subsection (b) of this section for such injury or death.

(B) If a plaintiff has pending a civil action for damages for a vaccine-related injury or death, such person may not file a petition under subsection (b) of this section for such injury or death.

(6) If a person brings a civil action after November 15, 1988[1] for damages for a vaccine-related injury or death associated with the administration of a vaccine before November 15, 1988, such person may not file a petition under subsection (b) of this section for such injury or death.

(7) If in a civil action brought against a vaccine administrator or manufacturer for a vaccine-related injury or death damages are awarded under a judgment of a court or a settlement of such action, the person who brought such action may not file a petition under subsection (b) of this section for such injury or death.

(8) If on October 1, 1988, there was pending an appeal or rehearing with respect to a civil action brought against a vaccine administrator or manufacturer and if the outcome of the last appellate review of such action or the last rehearing of such action is the denial of damages for a vaccine-related injury or death, the person who brought such action may file a petition under subsection (b) of this section for such injury or death.

(9) This subsection applies only to a person who has sustained a vaccine-related injury or death and who is qualified to file a petition for compensation under the Program.

(10) The Clerk of the United States Claims Court[2] is authorized to continue to receive, and forward, petitions for compensation for a vaccine-related injury or death associated with the administration of a vaccine on or after October 1, 1992.

(b) Petitioners

(1)(A) Except as provided in subparagraph (B), any person who has sustained a vaccine-related injury, the legal representative of such person if such person is a minor or is disabled, or the legal representative of any person who died as the result of the administration of a vaccine set forth in the Vaccine Injury Table may, if the person meets the requirements of subsection (c)(1) of this section, file a petition for compensation under the Program.

(B) No person may file a petition for a vaccine-related injury or death associated with a vaccine administered before October 1, 1988, if compensation has been paid under this part for 3500 petitions for such injuries or deaths.

(2) Only one petition may be filed with respect to each administration of a vaccine.

(c) Petition content

A petition for compensation under the Program for a vaccine-related injury or death shall contain—

(1) except as provided in paragraph (3), an affidavit, and supporting documentation, demonstrating that the person who suffered such injury or who died—

(A) received a vaccine set forth in the Vaccine Injury Table or, if such person did not receive such a vaccine, contracted polio, directly or indirectly, from another person who received an oral polio vaccine,

(B)(i) if such person received a vaccine set forth in the Vaccine Injury Table—

(I) received the vaccine in the United States or in its trust territories,

(II) received the vaccine outside the United States or a trust territory and at the time of the vaccination such person was a citizen of the United States serving abroad as a member of the Armed Forces or otherwise as an employee of the United States or a dependent of such a citizen, or

(III) received the vaccine outside the United States or a trust territory and the vaccine was manufactured by a vaccine manufacturer located in the United States and such person returned to the United States not later than 6 months after the date of the vaccination,

(ii) if such person did not receive such a vaccine but contracted polio from another person who received an oral polio vaccine, was a citizen of the United States or a dependent of such a citizen,

(C)(i) sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table

[1] So in original. Probably should be followed by a comma.

[2] See Change of Name note below.

in association with the vaccine referred to in subparagraph (A) or died from the administration of such vaccine, and the first symptom or manifestation of the onset or of the significant aggravation of any such illness, disability, injury, or condition or the death occurred within the time period after vaccine administration set forth in the Vaccine Injury Table, or

(ii)(I) sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by a vaccine referred to in subparagraph (A), or

(II) sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine referred to in subparagraph (A),

(D)(i) suffered the residual effects or complications of such illness, disability, injury, or condition for more than 6 months after the administration of the vaccine, or (ii) died from the administration of the vaccine, and

(E) has not previously collected an award or settlement of a civil action for damages for such vaccine-related injury or death,

(2) except as provided in paragraph (3), maternal prenatal and delivery records, newborn hospital records (including all physicians' and nurses' notes and test results), vaccination records associated with the vaccine allegedly causing the injury, pre- and post-injury physician or clinic records (including all relevant growth charts and test results), all post-injury inpatient and outpatient records (including all provider notes, test results, and medication records), if applicable, a death certificate, and if applicable, autopsy results, and

(3) an identification of any records of the type described in paragraph (1) or (2) which are unavailable to the petitioner and the reasons for their unavailability.

(d) Additional information

A petition may also include other available relevant medical records relating to the person who suffered such injury or who died from the administration of the vaccine.

(e) Schedule

The petitioner shall submit in accordance with a schedule set by the special master assigned to the petition assessments, evaluations, and prognoses and such other records and documents as are reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the person who suffered such injury or who died from the administration of the vaccine.

(July 1, 1944, ch. 373, title XXI, §2111, as added Pub. L. 99–660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3758; amended Pub. L. 100–203, title IV, §§4302(b), 4304(a), (b), 4306, 4307(1), (2), Dec. 22, 1987, 101 Stat. 1330–221, 1330–223, 1330–224; Pub. L. 101–239, title VI, §6601(c)(1)–(7), Dec. 19, 1989, 103 Stat. 2285, 2286; Pub. L. 101–502, §5(a), Nov. 3, 1990, 104 Stat. 1286; Pub. L. 102–168, title II, §201(h)(1), Nov. 26, 1991, 105 Stat. 1104; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–43, title XX, §2012, June 10, 1993, 107 Stat. 214; Pub. L. 105–277, div. C, title XV, §1502, Oct. 21, 1998, 112 Stat. 2681–741.)

CODIFICATION

In subsecs. (a)(2)(A), (3), (4), (5)(A), (8), and (b)(1)(B), ''October 1, 1988'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

PRIOR PROVISIONS

A prior section 300aa–11, act July 1, 1944, §2112, was successively renumbered by subsequent acts and transferred, see section 238i of this title.

A prior section 2111 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

AMENDMENTS

1998—Subsec. (c)(1)(D)(i). Pub. L. 105–277 struck out ''and incurred unreimbursable expenses due in whole or in part to such illness, disability, injury, or condition in an amount greater than $1,000'' before '', or (ii) died''.

1993—Subsec. (a)(10). Pub. L. 103–43 added par. (10).

1992—Subsec. (a)(1), (2)(A)(i)(I). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' wherever appearing.

1991—Subsec. (a)(2)(A)(i), (ii). Pub. L. 102–168 realigned margins of cls. (i) and (ii).

1990—Subsec. (a)(2)(A). Pub. L. 101–502, §5(a)(1), substituted ''unless a petition has been filed, in accordance with section 300aa–16 of this title, for compensation under the Program for such injury or death and—'' and cls. (i) and (ii) for ''unless—

''(i) a petition has been filed, in accordance with section 300aa–16 of this title, for compensation under the Program for such injury or death,

''(ii) the United States Claims Court has issued a judgment under section 300aa–12 of this title on such petition, and

''(iii) such person elects under section 300aa–21(a) of this title to file such an action.''

Subsec. (a)(5)(A). Pub. L. 101–502, §5(a)(2), struck out ''without prejudice'' after ''without prejudice or costs''.

Subsec. (a)(5)(B). Pub. L. 101–502, §5(a)(3), substituted ''plaintiff'' for ''plaintiff who''.

Subsec. (d). Pub. L. 101–502, §5(a)(4), struck out ''(d) except as provided in paragraph (3),'' before ''(d) Additional information''.

Subsec. (e). Pub. L. 101–502, §5(a)(5), substituted ''(e) Schedule'' for ''(e)(e) Schedule''.

1989—Subsec. (a)(1). Pub. L. 101–239, §6601(c)(1), substituted ''filing of a petition containing the matter prescribed in subsection (c) of this section'' for ''filing of a petition'' and inserted at end ''The clerk of the United States Claims Court shall immediately forward the filed petition to the chief special master for assignment to a special master under section 300aa–12(d)(1) of this title.''

Subsec. (a)(2)(A)(i). Pub. L. 101–239, §6601(c)(2), struck out ''under subsection (b) of this section'' after ''section 300aa–16 of this title,''.

Subsec. (a)(5)(A). Pub. L. 101–239, §6601(c)(3)(A), substituted ''petition to have such action dismissed without prejudice or costs'' for ''elect to withdraw such action''.

Subsec. (a)(5)(B). Pub. L. 101–239, §6601(c)(3)(B), substituted ''has pending'' for ''on October 1, 1988, had pending'' and struck out ''does not withdraw the action under subparagraph (A)'' after ''vaccine-related injury or death''.

Subsec. (a)(6). Pub. L. 101–239, §6601(c)(4), substituted ''November 15, 1988'' for ''the effective date of this subpart'' in two places.

Subsec. (a)(8). Pub. L. 101–239, § 6601(c)(5), added par. (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 101–239, § 6601(c)(5), (7), redesignated par. (8) as (9) and realigned margin.

Subsec. (c)(1). Pub. L. 101–239, § 6601(c)(6)(A), inserted ''except as provided in paragraph (3),'' after ''(1)'' in introductory provisions.

Subsec. (c)(2). Pub. L. 101–239, § 6601(c)(6)(B), (C), added par. (2) and redesignated former par. (2) as subsec. (d).

Pub. L. 101–239, § 6601(c)(6)(A), inserted ''except as provided in paragraph (3),'' after ''(2)''.

Subsec. (c)(3). Pub. L. 101–239, § 6601(c)(6)(C), (D), added par. (3). Former par. (3) redesignated subsec. (e).

Subsec. (d). Pub. L. 101–239, § 6601(c)(6)(B), redesignated former subsec. (c)(2) as subsec. (d), expanded margin to full measure, inserted subsec. designation and heading, substituted ''A petition may also include other available'' for ''all available'', struck out ''(including autopsy reports, if any)'' after ''relevant medical records'', and substituted ''administration of the vaccine.'' for ''administration of the vaccine and an identification of any unavailable records known to the petitioner and the reasons for their unavailability, and''.

Subsec. (e). Pub. L. 101–239, § 6601(c)(6)(D), redesignated former subsec. (c)(3) as subsec. (e), expanded margin to full measure, inserted subsec. designation and heading, and substituted ''The petitioner shall submit in accordance with a schedule set by the special master assigned to the petition'' for ''appropriate''.

1987—Subsec. (a)(1). Pub. L. 100–203, § 4307(1), which directed that par. (1) be amended by substituting ''with the United States Claims Court'' for ''with the United States district court for the district in which the petitioner resides or the injury or death occurred'', was executed making the substitution for ''with the United States district court for the district in which the petitioner resides or in which the injury or death occurred'', as the probable intent of Congress.

Subsec. (a)(2)(A). Pub. L. 100–203, § 4306, substituted ''vaccine administrator or manufacturer'' for ''vaccine manufacturer''.

Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (a)(2)(A)(ii). Pub. L. 100–203, § 4307(2), substituted ''the United States Claims Court'' for ''a district court of the United States''.

Subsec. (a)(3). Pub. L. 100–203, § 4306, substituted ''vaccine administrator or manufacturer'' for ''vaccine manufacturer''.

Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (a)(4). Pub. L. 100–203, § 4306, substituted ''vaccine administrator or manufacturer'' for ''vaccine manufacturer''.

Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (a)(5)(A). Pub. L. 100–203, § 4302(b)(2), substituted ''after the effective date of this subpart'' for ''after the effective date of this subchapter''.

Pub. L. 100–203, § 4302(b)(1), substituted ''who on the effective date of this subpart'' for ''who on the effective date of this part''.

Subsec. (a)(5)(B). Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (a)(6). Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part'' in two places.

Subsec. (a)(7). Pub. L. 100–203, § 4306, substituted ''vaccine administrator or manufacturer'' for ''vaccine manufacturer''.

Subsec. (a)(8). Pub. L. 100–203, § 4304(a), added par. (8).

Subsec. (b)(1)(A). Pub. L. 100–203, § 4304(b)(1), substituted ''may, if the person meets the requirements of subsection (c)(1) of this section, file'' for ''may file''.

Subsec. (b)(1)(B). Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (c)(1)(D). Pub. L. 100–203, § 4304(b)(2), substituted ''for more than 6 months'' for ''for more than 1 year'', ''and incurred'' for '', (ii) incurred'', and ''(ii)'' for ''(iii)''.

CHANGE OF NAME

References to United States Claims Court deemed to refer to United States Court of Federal Claims, see section 902(b) of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 201(i) of Pub. L. 102–168 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 300aa–12, 300aa–15, 300aa–16, 300aa–19, and 300aa–21 of this title and provisions set out as a note under section 300aa–1 of this title] shall take effect on the date of the enactment of this Act [Nov. 26, 1991].

''(2) The amendments made by subsections (d) and (f) [amending sections 300aa–12, 300aa–15, 300aa–16, and 300aa–21 of this title] shall take effect as if the amendments had been in effect on and after October 1, 1988.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5(h) of Pub. L. 101–502 provided that: ''The amendments made by subsections (f)(1) and (g) [amending section 300aa–21 of this title and provisions set out as a note under section 300aa–1 of this title and enacting provisions set out as a note under section 300aa–12 of this title] shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) [amending this section and sections 300aa–12, 300aa–13, 300aa–15, 300aa–16, and 300aa–21 of this title] shall take effect as of September 30, 1990.''

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–12, 300aa–13, 300aa–14, 300aa–15, 300aa–16, 300aa–21, 300aa–23, 300aa–34 of this title.

§ 300aa–12. Court jurisdiction

(a) General rule

The United States Court of Federal Claims and the United States Court of Federal Claims special masters shall, in accordance with this section, have jurisdiction over proceedings to determine if a petitioner under section 300aa–11 of this title is entitled to compensation under the Program and the amount of such compensation. The United States Court of Federal Claims may issue and enforce such orders as the court deems necessary to assure the prompt payment of any compensation awarded.

(b) Parties

(1) In all proceedings brought by the filing of a petition under section 300aa–11(b) of this title, the Secretary shall be named as the respondent,

shall participate, and shall be represented in accordance with section 518(a) of title 28.

(2) Within 30 days after the Secretary receives service of any petition filed under section 300aa–11 of this title the Secretary shall publish notice of such petition in the Federal Register. The special master designated with respect to such petition under subsection (c) of this section shall afford all interested persons an opportunity to submit relevant, written information—

(A) relating to the existence of the evidence described in section 300aa–13(a)(1)(B) of this title, or

(B) relating to any allegation in a petition with respect to the matters described in section 300aa–11(c)(1)(C)(ii) of this title.

(c) United States Court of Federal Claims special masters

(1) There is established within the United States Court of Federal Claims an office of special masters which shall consist of not more than 8 special masters. The judges of the United States Court of Federal Claims shall appoint the special masters, 1 of whom, by designation of the judges of the United States Court of Federal Claims, shall serve as chief special master. The appointment and reappointment of the special masters shall be by the concurrence of a majority of the judges of the court.

(2) The chief special master and other special masters shall be subject to removal by the judges of the United States Court of Federal Claims for incompetency, misconduct, or neglect of duty or for physical or mental disability or for other good cause shown.

(3) A special master's office shall be terminated if the judges of the United States Court of Federal Claims determine, upon advice of the chief special master, that the services performed by that office are no longer needed.

(4) The appointment of any individual as a special master shall be for a term of 4 years, subject to termination under paragraphs (2) and (3). Individuals serving as special masters on December 19, 1989, shall serve for 4 years from the date of their original appointment, subject to termination under paragraphs (2) and (3). The chief special master in office on December 19, 1989, shall continue to serve as chief special master for the balance of the master's term, subject to termination under paragraphs (2) and (3).

(5) The compensation of the special masters shall be determined by the judges of the United States Court of Federal Claims, upon advice of the chief special master. The salary of the chief special master shall be the annual rate of basic pay for level IV of the Executive Schedule, as prescribed by section 5315, title 5. The salaries of the other special masters shall not exceed the annual rate of basic pay of level V of the Executive Schedule, as prescribed by section 5316, title 5.

(6) The chief special master shall be responsible for the following:

(A) Administering the office of special masters and their staff, providing for the efficient, expeditious, and effective handling of petitions, and performing such other duties related to the Program as may be assigned to the chief special master by a concurrence of a majority of the United States Claims Courts[1] judges.

(B) Appointing and fixing the salary and duties of such administrative staff as are necessary. Such staff shall be subject to removal for good cause by the chief special master.

(C) Managing and executing all aspects of budgetary and administrative affairs affecting the special masters and their staff, subject to the rules and regulations of the Judicial Conference of the United States. The Conference rules and regulations pertaining to United States magistrates shall be applied to the special masters.

(D) Coordinating with the United States Court of Federal Claims the use of services, equipment, personnel, information, and facilities of the United States Court of Federal Claims without reimbursement.

(E) Reporting annually to the Congress and the judges of the United States Court of Federal Claims on the number of petitions filed under section 300aa–11 of this title and their disposition, the dates on which the vaccine-related injuries and deaths for which the petitions were filed occurred, the types and amounts of awards, the length of time for the disposition of petitions, the cost of administering the Program, and recommendations for changes in the Program.

(d) Special masters

(1) Following the receipt and filing of a petition under section 300aa–11 of this title, the clerk of the United States Court of Federal Claims shall forward the petition to the chief special master who shall designate a special master to carry out the functions authorized by paragraph (3).

(2) The special masters shall recommend rules to the Court of Federal Claims and, taking into account such recommended rules, the Court of Federal Claims shall promulgate rules pursuant to section 2071 of title 28. Such rules shall—

(A) provide for a less-adversarial, expeditious, and informal proceeding for the resolution of petitions,

(B) include flexible and informal standards of admissibility of evidence,

(C) include the opportunity for summary judgment,

(D) include the opportunity for parties to submit arguments and evidence on the record without requiring routine use of oral presentations, cross examinations, or hearings, and

(E) provide for limitations on discovery and allow the special masters to replace the usual rules of discovery in civil actions in the United States Court of Federal Claims.

(3)(A) A special master to whom a petition has been assigned shall issue a decision on such petition with respect to whether compensation is to be provided under the Program and the amount of such compensation. The decision of the special master shall—

(i) include findings of fact and conclusions of law, and

[1] So in original. Probably should be a reference to the United States Court of Federal Claims.

(ii) be issued as expeditiously as practicable but not later than 240 days, exclusive of suspended time under subparagraph (C), after the date the petition was filed.

The decision of the special master may be reviewed by the United States Court of Federal Claims in accordance with subsection (e) of this section.

(B) In conducting a proceeding on a petition a special master—

(i) may require such evidence as may be reasonable and necessary,

(ii) may require the submission of such information as may be reasonable and necessary,

(iii) may require the testimony of any person and the production of any documents as may be reasonable and necessary,

(iv) shall afford all interested persons an opportunity to submit relevant written information—

(I) relating to the existence of the evidence described in section 300aa–13(a)(1)(B) of this title, or

(II) relating to any allegation in a petition with respect to the matters described in section 300aa–11(c)(1)(C)(ii) of this title, and

(v) may conduct such hearings as may be reasonable and necessary.

There may be no discovery in a proceeding on a petition other than the discovery required by the special master.

(C) In conducting a proceeding on a petition a special master shall suspend the proceedings one time for 30 days on the motion of either party. After a motion for suspension is granted, further motions for suspension by either party may be granted by the special master, if the special master determines the suspension is reasonable and necessary, for an aggregate period not to exceed 150 days.

(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before October 1, 1988, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 30 months (but for not more than 6 months at a time) in addition to the suspension time under subparagraph (C).

(4)(A) Except as provided in subparagraph (B), information submitted to a special master or the court in a proceeding on a petition may not be disclosed to a person who is not a party to the proceeding without the express written consent of the person who submitted the information.

(B) A decision of a special master or the court in a proceeding shall be disclosed, except that if the decision is to include information—

(i) which is trade secret or commercial or financial information which is privileged and confidential, or

(ii) which are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy,

and if the person who submitted such information objects to the inclusion of such information in the decision, the decision shall be disclosed without such information.

(e) Action by United States Court of Federal Claims

(1) Upon issuance of the special master's decision, the parties shall have 30 days to file with the clerk of the United States Court of Federal Claims a motion to have the court review the decision. If such a motion is filed, the other party shall file a response with the clerk of the United States Court of Federal Claims no later than 30 days after the filing of such motion.

(2) Upon the filing of a motion under paragraph (1) with respect to a petition, the United States Court of Federal Claims shall have jurisdiction to undertake a review of the record of the proceedings and may thereafter—

(A) uphold the findings of fact and conclusions of law of the special master and sustain the special master's decision,

(B) set aside any findings of fact or conclusion of law of the special master found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and issue its own findings of fact and conclusions of law, or

(C) remand the petition to the special master for further action in accordance with the court's direction.

The court shall complete its action on a petition within 120 days of the filing of a response under paragraph (1) excluding any days the petition is before a special master as a result of a remand under subparagraph (C). The court may allow not more than 90 days for remands under subparagraph (C).

(3) In the absence of a motion under paragraph (1) respecting the special master's decision or if the United States Court of Federal Claims takes the action described in paragraph (2)(A) with respect to the special master's decision, the clerk of the United States Court of Federal Claims shall immediately enter judgment in accordance with the special master's decision.

(f) Appeals

The findings of fact and conclusions of law of the United States Court of Federal Claims on a petition shall be final determinations of the matters involved, except that the Secretary or any petitioner aggrieved by the findings or conclusions of the court may obtain review of the judgment of the court in the United States court of appeals for the Federal Circuit upon petition filed within 60 days of the date of the judgment with such court of appeals within 60 days of the date of entry of the United States Claims Court's[2] judgment with such court of appeals.

(g) Notice

If—

(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) of this section (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D) of this section, and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C) of this section), or

[2] So in original. Probably should be a reference to the United States Court of Federal Claims.

(2) the United States Court of Federal Claims fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D) of this section, and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C) of this section) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 300aa–21(b) of this title or the petitioner may choose under section 300aa–21(b) of this title to have the petition remain before the special master or court, as the case may be.

(July 1, 1944, ch. 373, title XXI, § 2112, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3761; amended Pub. L. 100–203, title IV, §§ 4303(d)(2)(A), 4307(3), 4308(a), (b), Dec. 22, 1987, 101 Stat. 1330–222, 1330–224; Pub. L. 100–360, title IV, § 411(*o*)(2), (3)(A), July 1, 1988, 102 Stat. 808; Pub. L. 101–239, title VI, § 6601(d)–(i), Dec. 19, 1989, 103 Stat. 2286–2290; Pub. L. 101–502, § 5(b), Nov. 3, 1990, 104 Stat. 1286; Pub. L. 102–168, title II, § 201(c), (d)(1), (h)(2), (3), Nov. 26, 1991, 105 Stat. 1103, 1104; Pub. L. 102–572, title IX, § 902(b), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–66, title XIII, § 13632(c), Aug. 10, 1993, 107 Stat. 646.)

CODIFICATION

In subsec. (c)(4), ''on December 19, 1989,'' substituted for ''upon the date of the enactment of this subsection'' and ''on the date of the enactment of this subsection''.

In subsec. (d)(3)(D), ''October 1, 1988,'' substituted for ''the effective date of this part''.

PRIOR PROVISIONS

A prior section 300aa–12, act July 1, 1944, § 2113, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

A prior section 2112 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238i of this title.

AMENDMENTS

1993—Subsec. (d)(3)(D). Pub. L. 103–66 substituted ''30 months (but for not more than 6 months at a time)'' for ''540 days''.

1992—Subsecs. (a), (c) to (g). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' and ''Court of Federal Claims'' for ''Claims Court'', wherever appearing.

1991—Subsec. (d)(3)(D). Pub. L. 102–168, § 201(c), (h)(2), realigned margin and substituted ''540 days'' for ''180 days''.

Subsec. (g). Pub. L. 102–168, § 201(h)(3), made technical amendment to underlying provisions of original Act.

Pub. L. 102–168, § 201(d)(1), substituted ''or the petitioner may choose under section 300aa–21(b) of this title to have the petition remain before the special master or court, as the case may be'' for ''and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions'' before period at end.

1990—Subsec. (d)(3)(D). Pub. L. 101–502, § 5(b)(1), added subpar. (D).

Subsec. (g). Pub. L. 101–502, § 5(b)(2), added subsec. (g).

1989—Subsec. (a). Pub. L. 101–239, § 6601(d), substituted ''and the United States Claims Court special masters shall, in accordance with this section, have jurisdiction'' for ''shall have jurisdiction (1)'', ''. The United States Claims Court may issue'' for '', and (2) to issue'', and ''deems'' for ''deem''.

Subsec. (b)(1). Pub. L. 101–239, § 6601(f), substituted ''In all proceedings brought by the filing of a petition under section 300aa–11(b) of this title, the Secretary shall be named as the respondent, shall participate, and shall be represented in accordance with section 518(a) of title 28.'' for ''The Secretary shall be named as the respondent in all proceedings brought by the filing of a petition under section 300aa–11(b) of this title. Except as provided in paragraph (2), no other person may intervene in any such proceeding.''

Subsec. (c). Pub. L. 101–239, § 6601(e)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 101–239, § 6601(e)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 101–239, § 6601(g)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Following receipt of a petition under subsection (a) of this section, the United States Claims Court shall designate a special master to carry out the functions authorized by paragraph (2).''

Subsec. (d)(2) to (4). Pub. L. 101–239, § 6601(g)(2), added pars. (2) to (4) and struck out former par. (2) which prescribed functions of special masters.

Subsec. (e). Pub. L. 101–239, § 6601(h), substituted ''Action by United States Claims Court'' for ''Action by court'' as heading and amended text generally. Prior to amendment, text read as follows:

''(1) Upon objection by the petitioner or respondent to the proposed findings of fact or conclusions of law prepared by the special master or upon the court's own motion, the court shall undertake a review of the record of the proceedings and may thereafter make a de novo determination of any matter and issue its judgment accordingly, including findings of fact and conclusions of law, or remand for further proceedings.

''(2) If no objection is filed under paragraph (1) or if the court does not choose to review the proceeding, the court shall adopt the proposed findings of fact and conclusions of law of the special master as its own and render judgment thereon.

''(3) The court shall render its judgment on any petition filed under the Program as expeditiously as practicable but not later than 365 days after the date on which the petition was filed.''

Pub. L. 101–239, § 6601(e)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101–239, § 6601(i), inserted ''within 60 days of the date of entry of the United States Claims Court's judgment with such court of appeals'' after ''with such court of appeals''.

Pub. L. 101–239, § 6601(e)(1), redesignated subsec. (e) as (f).

1988—Subsec. (c)(2). Pub. L. 100–360, § 411(*o*)(3)(A), added Pub. L. 100–203, § 4308(a), see 1987 Amendment note below.

Subsec. (e). Pub. L. 100–360, § 411(*o*)(2), made technical amendment to directory language of Pub. L. 100–203, § 4307(3)(C), see 1987 Amendment note below.

Pub. L. 100–360, § 411(*o*)(3)(A), added Pub. L. 100–203, § 4308(b), see 1987 Amendment note below.

1987—Subsec. (a). Pub. L. 100–203, § 4307(3)(A), substituted ''United States Claims Court'' for ''district courts of the United States'' and ''the court'' for ''the courts''.

Subsec. (c)(1). Pub. L. 100–203, § 4307(3)(B), substituted ''the United States Claims Court'' for ''the district court of the United States in which the petition is filed''.

Subsec. (c)(2). Pub. L. 100–203, § 4308(a), as added by Pub. L. 100–360, § 411(*o*)(3)(A), inserted '', shall prepare and submit to the court proposed findings of fact and conclusions of law,'' in introductory provisions and struck out subpar. (E) which read as follows: ''prepare and submit to the court proposed findings of fact and conclusions of law.''

Subsec. (e). Pub. L. 100–203, § 4308(b), as added by Pub. L. 100–360, § 411(*o*)(3)(A), inserted ''within 60 days of the date of the judgment'' after ''petition filed''.

Pub. L. 100–203, § 4307(3)(C), as amended by Pub. L. 100–360, § 411(*o*)(2), substituted ''the United States

Claims Court'' for ''a district court of the United States'' and ''for the Federal Circuit'' for ''for the circuit in which the court is located''.

Pub. L. 100–203, § 4303(d)(2)(A), redesignated subsec. (g) as (e) and struck out former subsec. (e) relating to administration of an award.

Subsec. (f). Pub. L. 100–203, § 4303(d)(2)(A), struck out subsec. (f) which related to revision of an award.

Subsec. (g). Pub. L. 100–203, § 4303(d)(2)(A), redesignated subsec. (g) as (e).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 201(d)(1) of Pub. L. 102–168 effective as if in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102–168, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101–502, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, except that such suspension be excluded in determining the 240-day period prescribed in subsec. (d) of this section, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100–360, amendment by Pub. L. 100–360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, effective as if included in the enactment of that provision in Pub. L. 100–203, see section 411(a) of Pub. L. 100–360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

REVIEW BY 3-JUDGE PANEL

Section 322(c) of Pub. L. 99–660, as added by Pub. L. 101–502, § 5(g)(2), Nov. 3, 1990, 104 Stat. 1288, and amended by Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516, provided that: ''If the review authorized by section 2112(f) [subsec. (f) of this section] is held invalid because the judgment of the United States Court of Federal Claims being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Court of Federal Claims. Such panel shall not include the judge who participated in such judgment.''

[Enactment of section 322(c) of Pub. L. 99–660 by section 5(g)(2) of Pub. L. 101–502, set out above, effective Nov. 14, 1986, see section 5(h) of Pub. L. 101–502, set out as an Effective Date of 1990 Amendment note under section 300aa–11 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–11, 300aa–15, 300aa–21 of this title.

§ 300aa–13. Determination of eligibility and compensation

(a) General rule

(1) Compensation shall be awarded under the Program to a petitioner if the special master or court finds on the record as a whole—

(A) that the petitioner has demonstrated by a preponderance of the evidence the matters required in the petition by section 300aa–11(c)(1) of this title, and

(B) that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition.

The special master or court may not make such a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion.

(2) For purposes of paragraph (1), the term ''factors unrelated to the administration of the vaccine''—

(A) does not include any idiopathic, unexplained, unknown, hypothetical, or undocumentable cause, factor, injury, illness, or condition, and

(B) may, as documented by the petitioner's evidence or other material in the record, include infection, toxins, trauma (including birth trauma and related anoxia), or metabolic disturbances which have no known relation to the vaccine involved, but which in the particular case are shown to have been the agent or agents principally responsible for causing the petitioner's illness, disability, injury, condition, or death.

(b) Matters to be considered

(1) In determining whether to award compensation to a petitioner under the Program, the special master or court shall consider, in addition to all other relevant medical and scientific evidence contained in the record—

(A) any diagnosis, conclusion, medical judgment, or autopsy or coroner's report which is contained in the record regarding the nature, causation, and aggravation of the petitioner's illness, disability, injury, condition, or death, and

(B) the results of any diagnostic or evaluative test which are contained in the record and the summaries and conclusions.

Any such diagnosis, conclusion, judgment, test result, report, or summary shall not be binding on the special master or court. In evaluating the weight to be afforded to any such diagnosis, conclusion, judgment, test result, report, or summary, the special master or court shall consider the entire record and the course of the injury, disability, illness, or condition until the date of the judgment of the special master or court.

(2) The special master or court may find the first symptom or manifestation of onset or significant aggravation of an injury, disability, illness, condition, or death described in a petition occurred within the time period described in the Vaccine Injury Table even though the occurrence of such symptom or manifestation was not recorded or was incorrectly recorded as having occurred outside such period. Such a finding may be made only upon demonstration by a preponderance of the evidence that the onset or significant aggravation of the injury, disability, illness, condition, or death described in the petition did in fact occur within the time period described in the Vaccine Injury Table.

(c) "Record" defined

For purposes of this section, the term ''record'' means the record established by the special masters of the United States Court of Federal Claims in a proceeding on a petition filed under section 300aa–11 of this title.

(July 1, 1944, ch. 373, title XXI, § 2113, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3763; amended Pub. L. 100–203, title IV, § 4307(4), Dec. 22, 1987, 101 Stat. 1330–224; Pub. L. 101–239, title VI, § 6601(j), Dec. 19, 1989, 103 Stat. 2290; Pub. L. 101–502, § 5(c), Nov. 3, 1990, 104 Stat. 1287; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

PRIOR PROVISIONS

A prior section 300aa–13, act July 1, 1944, § 2114, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

A prior section 2113 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1990—Subsec. (c). Pub. L. 101–502 inserted ''the'' after ''special masters of''.

1989—Subsecs. (a)(1), (b). Pub. L. 101–239, § 6601(j)(1), substituted ''special master or court'' for ''court'' wherever appearing.

Subsec. (c). Pub. L. 101–239, § 6601(j)(2), inserted ''special masters of'' after ''established by the''.

1987—Subsec. (c). Pub. L. 100–203 substituted ''the United States Claims Court'' for ''a district court of the United States''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101–502, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–12 of this title.

§ 300aa–14. Vaccine Injury Table

(a) Initial table

The following is a table of vaccines, the injuries, disabilities, illnesses, conditions, and deaths resulting from the administration of such vaccines, and the time period in which the first symptom or manifestation of onset or of the significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths is to occur after vaccine administration for purposes of receiving compensation under the Program:

VACCINE INJURY TABLE

I.	DTP; P; DTP/Polio Combination; or Any Other Vaccine Containing Whole Cell Pertussis Bacteria, Extracted or Partial Cell Bacteria, or Specific Pertussis Antigen(s).	
	Illness, disability, injury, or condition covered:	Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration:
	A. Anaphylaxis or anaphylactic shock	24 hours
	B. Encephalopathy (or encephalitis)	3 days
	C. Shock-collapse or hypotonic-hyporesponsive collapse	3 days
	D. Residual seizure disorder in accordance with subsection (b)(2)	3 days
	E. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable
II.	Measles, mumps, rubella, or any vaccine containing any of the foregoing as a component; DT; Td; or Tetanus Toxoid.	
	A. Anaphylaxis or anaphylactic shock	24 hours
	B. Encephalopathy (or encephalitis)	15 days (for mumps, rubella, measles, or any vaccine containing any of the foregoing as a component). 3 days (for DT, Td, or tetanus toxoid).
	C. Residual seizure disorder in accordance with subsection (b)(2)	15 days (for mumps, rubella, measles, or any vaccine containing any of the foregoing as a component). 3 days (for DT, Td, or tetanus toxoid).
	D. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable
III.	Polio Vaccines (other than Inactivated Polio Vaccine).	
	A. Paralytic polio	
	—in a non-immunodeficient recipient	30 days
	—in an immunodeficient recipient	6 months
	—in a vaccine-associated community case	Not applicable
	B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable
IV.	Inactivated Polio Vaccine.	
	A. Anaphylaxis or anaphylactic shock	24 hours
	B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed	Not applicable

(b) Qualifications and aids to interpretation

The following qualifications and aids to interpretation shall apply to the Vaccine Injury Table in subsection (a) of this section:

(1) A shock-collapse or a hypotonic-hyporesponsive collapse may be evidenced by indicia or symptoms such as decrease or loss of muscle tone, paralysis (partial or complete), hemiplegia or hemiparesis, loss of color or turning pale white or blue, unresponsiveness to environmental stimuli, depression of consciousness, loss of consciousness, prolonged sleeping with difficulty arousing, or cardiovascular or respiratory arrest.

(2) A petitioner may be considered to have suffered a residual seizure disorder if the petitioner did not suffer a seizure or convulsion unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit before the first seizure or convulsion after the administration of the vaccine involved and if—

(A) in the case of a measles, mumps, or rubella vaccine or any combination of such vaccines, the first seizure or convulsion occurred within 15 days after administration of the vaccine and 2 or more seizures or convulsions occurred within 1 year after the administration of the vaccine which were unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit, and

(B) in the case of any other vaccine, the first seizure or convulsion occurred within 3 days after administration of the vaccine and 2 or more seizures or convulsions occurred within 1 year after the administration of the vaccine which were unaccompanied by fever or accompanied by a fever of less than 102 degrees Fahrenheit.

(3)(A) The term ''encephalopathy'' means any significant acquired abnormality of, or injury to, or impairment of function of the brain. Among the frequent manifestations of encephalopathy are focal and diffuse neurologic signs, increased intracranial pressure, or changes lasting at least 6 hours in level of consciousness, with or without convulsions. The neurological signs and symptoms of encephalopathy may be temporary with complete recovery, or may result in various degrees of permanent impairment. Signs and symptoms such as high pitched and unusual screaming, persistent unconsolable crying, and bulging fontanel are compatible with an encephalopathy, but in and of themselves are not conclusive evidence of encephalopathy. Encephalopathy usually can be documented by slow wave activity on an electroencephalogram.

(B) If in a proceeding on a petition it is shown by a preponderance of the evidence that an encephalopathy was caused by infection, toxins, trauma, or metabolic disturbances the encephalopathy shall not be considered to be a condition set forth in the table. If at the time a judgment is entered on a petition filed under section 300aa–11 of this title for a vaccine-related injury or death it is not possible to determine the cause, by a preponderance of the evidence, of an encephalopathy, the encephalopathy shall be considered to be a condition set forth in the table. In determining whether or not an encephalopathy is a condition set forth in the table, the court shall consider the entire medical record.

(4) For purposes of paragraphs (2) and (3), the terms ''seizure'' and ''convulsion'' include grand mal, petit mal, absence, myoclonic, tonic-clonic, and focal motor seizures and signs. If a provision of the table to which paragraph (1), (2), (3), or (4) applies is revised under subsection (c) or (d) of this section, such paragraph shall not apply to such provision after the effective date of the revision unless the revision specifies that such paragraph is to continue to apply.

(c) Administrative revision of table

(1) The Secretary may promulgate regulations to modify in accordance with paragraph (3) the Vaccine Injury Table. In promulgating such regulations, the Secretary shall provide for notice and opportunity for a public hearing and at least 180 days of public comment.

(2) Any person (including the Advisory Commission on Childhood Vaccines) may petition the Secretary to propose regulations to amend the Vaccine Injury Table. Unless clearly frivolous, or initiated by the Commission, any such petition shall be referred to the Commission for its recommendations. Following—

(A) receipt of any recommendation of the Commission, or

(B) 180 days after the date of the referral to the Commission,

whichever occurs first, the Secretary shall conduct a rulemaking proceeding on the matters proposed in the petition or publish in the Federal Register a statement of reasons for not conducting such proceeding.

(3) A modification of the Vaccine Injury Table under paragraph (1) may add to, or delete from, the list of injuries, disabilities, illnesses, conditions, and deaths for which compensation may be provided or may change the time periods for the first symptom or manifestation of the onset or the significant aggravation of any such injury, disability, illness, condition, or death.

(4) Any modification under paragraph (1) of the Vaccine Injury Table shall apply only with respect to petitions for compensation under the Program which are filed after the effective date of such regulation.

(d) Role of Commission

Except with respect to a regulation recommended by the Advisory Commission on Childhood Vaccines, the Secretary may not propose a regulation under subsection (c) of this section or any revision thereof, unless the Secretary has first provided to the Commission a copy of the proposed regulation or revision, requested recommendations and comments by the Commission, and afforded the Commission at least 90 days to make such recommendations.

(e) Additional vaccines

(1) Vaccines recommended before August 1, 1993

By August 1, 1995, the Secretary shall revise the Vaccine Injury Table included in subsection (a) of this section to include—

(A) vaccines which are recommended to the Secretary by the Centers for Disease Control and Prevention before August 1, 1993, for routine administration to children,

(B) the injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines, and

(C) the time period in which the first symptoms or manifestations of onset or other significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines may occur.

(2) Vaccines recommended after August 1, 1993

When after August 1, 1993, the Centers for Disease Control and Prevention recommends a vaccine to the Secretary for routine administration to children, the Secretary shall, within 2 years of such recommendation, amend the Vaccine Injury Table included in subsection (a) of this section to include—

(A) vaccines which were recommended for routine administration to children,

(B) the injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines, and

(C) the time period in which the first symptoms or manifestations of onset or other significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines may occur.

(July 1, 1944, ch. 373, title XXI, § 2114, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3764; amended Pub. L. 101–239, title VI, § 6601(k), Dec. 19, 1989, 103 Stat. 2290; Pub. L. 103–66, title XIII, § 13632(a)(2), Aug. 10, 1993, 107 Stat. 645.)

PRIOR PROVISIONS

A prior section 300aa–14, act July 1, 1944, § 2115, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

A prior section 2114 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

AMENDMENTS

1993—Subsec. (e). Pub. L. 103–66 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The Secretary may recommend to Congress revisions of the table to change the vaccines covered by the table.''

1989—Subsec. (a). Pub. L. 101–239, § 6601(k)(1), substituted ''(b)(2)'' for ''(c)(2)'' in items I.D. and II.C. in table.

Subsec. (b)(3)(B). Pub. L. 101–239, § 6601(k)(2), substituted ''300aa–11 of this title'' for ''300aa–11(b) of this title''.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

REVISIONS OF VACCINE INJURY TABLE

The Vaccine Injury Table as modified by regulations promulgated by the Secretary of Health and Human Services is set out at 42 CFR 100.3.

Section 13632(a)(3) of Pub. L. 103–66 provided that: ''A revision by the Secretary under section 2114(e) of the Public Health Service Act (42 U.S.C. 300aa–14(e)) (as amended by paragraph (2)) shall take effect upon the effective date of a tax enacted to provide funds for compensation paid with respect to the vaccine to be added to the vaccine injury table in section 2114(a) of the Public Health Service Act (42 U.S.C. 300aa–14(a)).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–25, 300aa–33 of this title.

§ 300aa–15. Compensation

(a) General rule

Compensation awarded under the Program to a petitioner under section 300aa–11 of this title for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, shall include the following:

(1)(A) Actual unreimbursable expenses incurred from the date of the judgment awarding such expenses and reasonable projected unreimbursable expenses which—

(i) result from the vaccine-related injury for which the petitioner seeks compensation,

(ii) have been or will be incurred by or on behalf of the person who suffered such injury, and

(iii)(I) have been or will be for diagnosis and medical or other remedial care determined to be reasonably necessary, or

(II) have been or will be for rehabilitation, developmental evaluation, special education, vocational training and placement, case management services, counseling, emotional or behavioral therapy, residential and custodial care and service expenses, special equipment, related travel expenses, and facilities determined to be reasonably necessary.

(B) Subject to section 300aa–16(a)(2) of this title, actual unreimbursable expenses incurred before the date of the judgment awarding such expenses which—

(i) resulted from the vaccine-related injury for which the petitioner seeks compensation,

(ii) were incurred by or on behalf of the person who suffered such injury, and

(iii) were for diagnosis, medical or other remedial care, rehabilitation, developmental evaluation, special education, vocational training and placement, case management services, counseling, emotional or behavioral therapy, residential and custodial care and service expenses, special equipment, related travel expenses, and facilities determined to be reasonably necessary.

(2) In the event of a vaccine-related death, an award of $250,000 for the estate of the deceased.

(3)(A) In the case of any person who has sustained a vaccine-related injury after attaining the age of 18 and whose earning capacity is or has been impaired by reason of such person's vaccine-related injury for which compensation is to be awarded, compensation for actual and anticipated loss of earnings determined in accordance with generally recognized actuarial principles and projections.

(B) In the case of any person who has sustained a vaccine-related injury before attain-

ing the age of 18 and whose earning capacity is or has been impaired by reason of such person's vaccine-related injury for which compensation is to be awarded and whose vaccine-related injury is of sufficient severity to permit reasonable anticipation that such person is likely to suffer impaired earning capacity at age 18 and beyond, compensation after attaining the age of 18 for loss of earnings determined on the basis of the average gross weekly earnings of workers in the private, non-farm sector, less appropriate taxes and the average cost of a health insurance policy, as determined by the Secretary.

(4) For actual and projected pain and suffering and emotional distress from the vaccine-related injury, an award not to exceed $250,000.

(b) Vaccines administered before effective date

Compensation awarded under the Program to a petitioner under section 300aa–11 of this title for a vaccine-related injury or death associated with the administration of a vaccine before October 1, 1988, may include the compensation described in paragraphs (1)(A) and (2) of subsection (a) of this section and may also include an amount, not to exceed a combined total of $30,000, for—

(1) lost earnings (as provided in paragraph (3) of subsection (a) of this section),

(2) pain and suffering (as provided in paragraph (4) of subsection (a) of this section), and

(3) reasonable attorneys' fees and costs (as provided in subsection (e) of this section.[1]

(c) Residential and custodial care and service

The amount of any compensation for residential and custodial care and service expenses under subsection (a)(1) of this section shall be sufficient to enable the compensated person to remain living at home.

(d) Types of compensation prohibited

Compensation awarded under the Program may not include the following:

(1) Punitive or exemplary damages.

(2) Except with respect to compensation payments under paragraphs (2) and (3) of subsection (a) of this section, compensation for other than the health, education, or welfare of the person who suffered the vaccine-related injury with respect to which the compensation is paid.

(e) Attorneys' fees

(1) In awarding compensation on a petition filed under section 300aa–11 of this title the special master or court shall also award as part of such compensation an amount to cover—

(A) reasonable attorneys' fees, and

(B) other costs,

incurred in any proceeding on such petition. If the judgment of the United States Court of Federal Claims on such a petition does not award compensation, the special master or court may award an amount of compensation to cover petitioner's reasonable attorneys' fees and other costs incurred in any proceeding on such petition if the special master or court determines that the petition was brought in good faith and there was a reasonable basis for the claim for which the petition was brought.

(2) If the petitioner, before October 1, 1988, filed a civil action for damages for any vaccine-related injury or death for which compensation may be awarded under the Program, and petitioned under section 300aa–11(a)(5) of this title to have such action dismissed and to file a petition for compensation under the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs and expenses incurred by the petitioner and the attorney of the petitioner before October 1, 1988, in preparing, filing, and prosecuting such civil action (including the reasonable value of the attorney's time if the civil action was filed under contingent fee arrangements).

(3) No attorney may charge any fee for services in connection with a petition filed under section 300aa–11 of this title which is in addition to any amount awarded as compensation by the special master or court under paragraph (1).

(f) Payment of compensation

(1) Except as provided in paragraph (2), no compensation may be paid until an election has been made, or has been deemed to have been made, under section 300aa–21(a) of this title to receive compensation.

(2) Compensation described in subsection (a)(1)(A)(iii) of this section shall be paid from the date of the judgment of the United States Court of Federal Claims under section 300aa–12 of this title awarding the compensation. Such compensation may not be paid after an election under section 300aa–21(a) of this title to file a civil action for damages for the vaccine-related injury or death for which such compensation was awarded.

(3) Payments of compensation under the Program and the costs of carrying out the Program shall be exempt from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

(4)(A) Except as provided in subparagraph (B), payment of compensation under the Program shall be determined on the basis of the net present value of the elements of the compensation and shall be paid from the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26 in a lump sum of which all or a portion may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner.

(B) In the case of a payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before October 1, 1988, the compensation shall be determined on the basis of the net present value of the elements of compensation and shall be paid from appropriations made available under subsection (j) of this section in a lump sum of which all or a portion may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner deter-

[1] So in original. Probably should be preceded by a closing parenthesis.

mined by the special master to be in the best interests of the petitioner. Any reasonable attorneys' fees and costs shall be paid in a lump sum. If the appropriations under subsection (j) of this section are insufficient to make a payment of an annual installment, the limitation on civil actions prescribed by section 300aa–21(a) of this title shall not apply to a civil action for damages brought by the petitioner entitled to the payment.

(C) In purchasing an annuity under subparagraph (A) or (B), the Secretary may purchase a guarantee for the annuity, may enter into agreements regarding the purchase price for and rate of return of the annuity, and may take such other actions as may be necessary to safeguard the financial interests of the United States regarding the annuity. Any payment received by the Secretary pursuant to the preceding sentence shall be paid to the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26, or to the appropriations account from which the funds were derived to purchase the annuity, whichever is appropriate.

(g) Program not primarily liable

Payment of compensation under the Program shall not be made for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service (1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program (other than under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]), or (2) by an entity which provides health services on a prepaid basis.

(h) Liability of health insurance carriers, prepaid health plans, and benefit providers

No policy of health insurance may make payment of benefits under the policy secondary to the payment of compensation under the Program and—

(1) no State, and

(2) no entity which provides health services on a prepaid basis or provides health benefits,

may make the provision of health services or health benefits secondary to the payment of compensation under the Program, except that this subsection shall not apply to the provision of services or benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(i) Source of compensation

(1) Payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before October 1, 1988, shall be made by the Secretary from appropriations under subsection (j) of this section.

(2) Payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine on or after October 1, 1988, shall be made from the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26.

(j) Authorization

For the payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before October 1, 1988, there are authorized to be appropriated to the Department of Health and Human Services $80,000,000 for fiscal year 1989, $80,000,000 for fiscal year 1990, $80,000,000 for fiscal year 1991, $80,000,000 for fiscal year 1992, $110,000,000 for fiscal year 1993, and $110,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B) of this section. Amounts appropriated under this subsection shall remain available until expended.

(July 1, 1944, ch. 373, title XXI, § 2115, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3767; amended Pub. L. 100–203, title IV, §§ 4302(b), 4303(a)–(d)(1), (e), (g), 4307(5), (6), Dec. 22, 1987, 101 Stat. 1330–221 to 1330–223, 1330–225; Pub. L. 100–360, title IV, § 411(*o*)(1), July 1, 1988, 102 Stat. 808; Pub. L. 101–239, title VI, § 6601(c)(8), (*l*), Dec. 19, 1989, 103 Stat. 2286, 2290; Pub. L. 101–502, § 5(d), Nov. 3, 1990, 104 Stat. 1287; Pub. L. 102–168, title II, § 201(e), (f), Nov. 26, 1991, 105 Stat. 1103; Pub. L. 102–531, title III, § 314, Oct. 27, 1992, 106 Stat. 3508; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–66, title XIII, § 13632(b), Aug. 10, 1993, 107 Stat. 646.)

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (f)(3), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038. Part C of the Act is classified generally to subchapter I (§ 900 et seq.) of chapter 20 of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

The Social Security Act, referred to in subsecs. (g) and (h), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

In subsecs. (a), (b), (e)(2), (f)(4)(B), (i), and (j), ''October 1, 1988'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

PRIOR PROVISIONS

A prior section 300aa–15, act July 1, 1944, § 2116, was successively renumbered by subsequent acts and transferred, see section 238m of this title.

A prior section 2115 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

AMENDMENTS

1993—Subsec. (j). Pub. L. 103–66 substituted ''$110,000,000 for each succeeding fiscal year'' for ''$80,000,000 for each succeeding fiscal year''.

1992—Subsecs. (e)(1), (f)(2). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

Subsec. (j). Pub. L. 102–531 increased authorization for fiscal year 1993 from $80,000,000 to $110,000,000.

1991—Subsec. (f)(4)(A). Pub. L. 102–168, § 201(e)(1)(A), (2), struck out ''of the proceeds'' after ''portion'' and substituted ''Vaccine Injury Compensation Trust Fund established under section 9510 of title 26'' for ''trust fund''.

Subsec. (f)(4)(B). Pub. L. 102–168, § 201(e)(1)(B), which directed substitution of ''shall be paid from appropriations made available under subsection (j) of this sec-

tion in a lump sum of which all or a portion'' for ''paid in 4 equal installments of which all or portion of the proceeds'' was executed by making the substitution for ''paid in 4 equal annual installments of which all or a portion of the proceeds'' to reflect the probable intent of Congress.

Subsec. (f)(4)(C). Pub. L. 102–168, § 201(f), added subpar. (C).

1990—Subsec. (e)(2). Pub. L. 101–502, § 5(d)(1), inserted ''of compensation'' before ''limited to the costs''.

Subsec. (f)(2). Pub. L. 101–502, § 5(d)(2)(A), substituted ''section 300aa–21(a)'' for ''section 300aa–21(b)''.

Subsec. (f)(4)(B). Pub. L. 101–502, § 5(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)'' and ''the limitation on civil actions prescribed by section 300aa–21(a) of this title'' for ''section 300aa–11(a) of this title''.

Subsec. (j). Pub. L. 101–502, § 5(d)(3), inserted before period at end of first sentence '', and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B) of this section''.

1989—Subsec. (b). Pub. L. 101–239, § 6601(*l*)(1), substituted ''may include the compensation described in paragraphs (1)(A) and (2) of subsection (a) of this section and may also include an amount, not to exceed a combined total of $30,000, for—'' and cls. (1) to (3) for ''may not include the compensation described in paragraph (1)(B) of subsection (a) of this section and may include attorneys' fees and other costs included in a judgment under subsection (e) of this section, except that the total amount that may be paid as compensation under paragraphs (3) and (4) of subsection (a) of this section and included as attorneys' fees and other costs under subsection (e) of this section may not exceed $30,000.''

Subsec. (e)(1). Pub. L. 101–239, § 6601(*l*)(2)(A), substituted ''In awarding compensation on a petition filed under section 300aa–11 of this title the special master or court shall also award as part of such compensation an amount to cover'' for ''The judgment of the United States Claims Court on a petition filed under section 300aa–11 of this title awarding compensation shall include an amount to cover''.

Pub. L. 101–239, § 6601(*l*)(2)(B), (C), substituted ''the special master or court may award an amount of compensation to cover'' for ''the court may include in the judgment an amount to cover'' and ''the special master or court determines that the petition was brought in good faith and there was a reasonable basis for the claim for which the petition'' for ''the court determines that the civil action was brought in good faith and there was a reasonable basis for the claim for which the civil action''.

Subsec. (e)(2). Pub. L. 101–239, § 6601(*l*)(2)(D), which directed amendment of par. (2) by substituting ''the special master or court may also award an amount of compensation'' for ''the judgment of the court on such petition may include an amount'', could not be executed because of the prior amendment by Pub. L. 101–239, § 6601(c)(8)(B), see Amendment note below.

Pub. L. 101–239, § 6601(c)(8), substituted ''and petitioned under section 300aa–11(a)(5) of this title to have such action dismissed'' for ''and elected under section 300aa–11(a)(4) of this title to withdraw such action'' and ''in awarding compensation on such petition the special master or court may include'' for ''the judgment of the court on such petition may include''.

Subsec. (e)(3). Pub. L. 101–239, § 6601(*l*)(2)(E), substituted ''awarded as compensation by the special master or court under paragraph (1)'' for ''included under paragraph (1) in a judgment on such petition''.

Subsec. (f)(3). Pub. L. 101–239, § 6601(*l*)(3)(A), inserted ''under the Program and the costs of carrying out the Program'' after ''Payments of compensation''.

Subsec. (f)(4)(A). Pub. L. 101–239, § 6601(*l*)(3)(B), struck out ''made in a lump sum'' after ''the Program shall be'' and inserted ''and shall be paid from the trust fund in a lump sum of which all or a portion of the proceeds may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner'' after ''elements of the compensation''.

Subsec. (f)(4)(B). Pub. L. 101–239, § 6601(*l*)(3)(C), substituted ''determined on the basis of the net present value of the elements of compensation and paid in 4 equal annual installments of which all or a portion of the proceeds may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner. Any reasonable attorneys' fees and costs shall be paid in a lump sum'' for ''paid in 4 equal annual installments''.

Subsec. (g). Pub. L. 101–239, § 6601(*l*)(4)(A), inserted ''(other than under title XIX of the Social Security Act)'' after ''State health benefits program''.

Subsec. (h). Pub. L. 101–239, § 6601(*l*)(4)(B), inserted before period at end '', except that this subsection shall not apply to the provision of services or benefits under title XIX of the Social Security Act''.

Subsec. (i)(1). Pub. L. 101–239, § 6601(*l*)(5), which directed amendment of par. (1) by substituting ''(j)'' for ''(i)'', could not be executed because ''(i)'' did not appear.

Subsec. (j). Pub. L. 101–239, § 6601(*l*)(6), struck out ''and'' after ''fiscal year 1991,'' and inserted '', $80,000,000 for fiscal year 1993'' after ''fiscal year 1992''.

1988—Subsec. (i)(1). Pub. L. 100–360, § 411(*o*)(1)(A), substituted ''by the Secretary from appropriations under subsection (j)'' for ''from appropriations under subsection (i)''.

Subsec. (j). Pub. L. 100–360, § 411(*o*)(1)(B), inserted ''to the Department of Health and Human Services''.

1987—Subsec. (a). Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Pub. L. 100–203, § 4303(d)(1)(A), struck out last two sentences which read as follows: ''Payments for projected expenses shall be paid on a periodic basis (but no payment may be made for a period in excess of 1 year). Payments for pain and suffering and emotional distress and incurred expenses may be paid in a lump sum.''

Subsec. (a)(1). Pub. L. 100–203, § 4303(c), struck out last sentence of subpars. (A) and (B) each of which read as follows: ''The amount of unreimbursable expenses which may be recovered under this subparagraph shall be limited to the amount in excess of the amount set forth in section 300aa–11(c)(1)(D)(ii) of this title.''

Subsec. (b). Pub. L. 100–203, § 4303(e), substituted ''may not include the compensation described in paragraph (1)(B) of subsection (a) of this section and may include attorneys' fees and other costs included in a judgment under subsection (e) of this section, except that the total amount that may be paid as compensation under paragraphs (3) and (4) of subsection (a) of this section and included as attorneys' fees and other costs under subsection (e) of this section may not exceed $30,000'' for ''shall only include the compensation described in paragraphs (1)(A) and (2) of subsection (a) of this section''.

Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (e)(1). Pub. L. 100–203, § 4307(5), substituted ''of the United States Claims Court'' for ''of a court'' in two places.

Subsec. (e)(2). Pub. L. 100–203, § 4302(b), substituted ''effective date of this subpart, filed a'' for ''effective date of this subchapter, filed a'' and ''effective date of this subpart in preparing'' for ''effective date of this part in preparing''.

Subsec. (f). Pub. L. 100–203, § 4303(d)(1)(B), (g), added par. (4) and redesignated a second subsec. (f), relating to the Program not being primarily liable, as subsec. (g).

Subsec. (f)(2). Pub. L. 100–203, § 4307(6), substituted ''United States Claims Court'' for ''district court of the United States''.

Subsecs. (g), (h). Pub. L. 100–203, § 4303(g), redesignated a second subsec. (f), relating to the Program not being liable, as (g) and redesignated former subsec. (g) as (h).

Subsecs. (i), (j). Pub. L. 100–203, § 4303(a), (b), added subsecs. (i) and (j).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 201(f) of Pub. L. 102–168 effective as if in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102–168, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101–502, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to all pending and subsequently filed petitions, see section 6601(s)(2) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100–360, amendment by Pub. L. 100–360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, effective as if included in the enactment of that provision in Pub. L. 100–203, see section 411(a) of Pub. L. 100–360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

§ 300aa–16. Limitations of actions

(a) General rule

In the case of—

(1) a vaccine set forth in the Vaccine Injury Table which is administered before October 1, 1988, if a vaccine-related injury or death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury or death after the expiration of 28 months after October 1, 1988, and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine,

(2) a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a vaccine-related injury occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury, and

(3) a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such death after the expiration of 24 months from the date of the death and no such petition may be filed more than 48 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of the injury from which the death resulted.

(b) Effect of revised table

If at any time the Vaccine Injury Table is revised and the effect of such revision is to permit an individual who was not, before such revision, eligible to seek compensation under the Program, or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 300aa–11(b)(2) of this title, file a petition for such compensation not later than 2 years after the effective date of the revision, except that no compensation may be provided under the Program with respect to a vaccine-related injury or death covered under the revision of the table if—

(1) the vaccine-related death occurred more than 8 years before the date of the revision of the table, or

(2) the vaccine-related injury occurred more than 8 years before the date of the revision of the table.

(c) State limitations of actions

If a petition is filed under section 300aa–11 of this title for a vaccine-related injury or death, limitations of actions under State law shall be stayed with respect to a civil action brought for such injury or death for the period beginning on the date the petition is filed and ending on the date (1) an election is made under section 300aa–21(a) of this title to file the civil action or (2) an election is made under section 300aa–21(b) of this title to withdraw the petition.

(July 1, 1944, ch. 373, title XXI, § 2116, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3769; amended Pub. L. 100–203, title IV, § 4302(b)(2), Dec. 22, 1987, 101 Stat. 1330–221; Pub. L. 101–239, title VI, § 6601(m)(1), Dec. 19, 1989, 103 Stat. 2291; Pub. L. 101–502, § 5(e), Nov. 3, 1990, 104 Stat. 1287; Pub. L. 102–168, title II, § 201(d)(2), Nov. 26, 1991, 105 Stat. 1103; Pub. L. 103–66, title XIII, § 13632(a)(1), Aug. 10, 1993, 107 Stat. 645.)

CODIFICATION

In subsec. (a)(1) to (3), ''October 1, 1988'' and ''October 1, 1988,'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

PRIOR PROVISIONS

A prior section 2116 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238m of this title.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–66 substituted ''or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 300aa–11(b)(2) of this title, file'' for ''such person may file''.

1991—Subsec. (c). Pub. L. 102–168 substituted ''or (2)'' for '', (2)'' and struck out '', or (3) the petition is considered withdrawn under section 300aa–21(b) of this title.''

1990—Subsec. (a)(1). Pub. L. 101–502, § 5(e)(1), substituted ''28 months'' for ''24 months'' and inserted before comma at end ''and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more

than 36 months after the date of administration of the vaccine''.

Subsec. (c). Pub. L. 101–502, § 5(e)(2), substituted ''and ending on the date (1) an election is made under section 300aa–21(a) of this title to file the civil action, (2) an election is made under section 300aa–21(b) of this title to withdraw the petition, or (3) the petition is considered withdrawn under section 300aa–21(b) of this title'' for ''and ending on the date a final judgment is entered on the petition''.

1989—Subsec. (c). Pub. L. 101–239 substituted ''300aa–11 of this title'' for ''300aa–11(b) of this title''.

1987—Subsec. (a). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this subchapter'' in pars. (1) to (3).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–168 effective as if in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102–168, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101–502, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–11, 300aa–15, 300aa–21 of this title.

§ 300aa–17. Subrogation

(a) General rule

Upon payment of compensation to any petitioner under the Program, the trust fund which has been established to provide such compensation shall be subrograted[1] to all rights of the petitioner with respect to the vaccine-related injury or death for which compensation was paid, except that the trust fund may not recover under such rights an amount greater than the amount of compensation paid to the petitioner.

(b) Disposition of amounts recovered

Amounts recovered under subsection (a) of this section shall be collected on behalf of, and deposited in, the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26.

(July 1, 1944, ch. 373, title XXI, § 2117, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3770; amended Pub. L. 100–203, title IV, § 4307(7), Dec. 22, 1987, 101 Stat. 1330–225; Pub. L. 101–239, title VI, § 6601(m)(2), Dec. 19, 1989, 103 Stat. 2291.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–239 substituted ''the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26'' for ''the trust fund which has been established to provide compensation under the Program''.

[1] So in original. Probably should be ''subrogated''.

1987—Subsec. (a). Pub. L. 100–203 struck out par. (1) designation before ''Upon'' and struck out par. (2) which read as follows: ''In any case in which it deems such action appropriate, a district court of the United States may, after entry of a final judgment providing for compensation to be paid under section 300aa–15 of this title for a vaccine-related injury or death, refer the record of such proceeding to the Secretary and the Attorney General with such recommendation as the court deems appropriate with respect to the investigation or commencement of a civil action by the Secretary under paragraph (1).''

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

§ 300aa–18. Repealed. Pub. L. 100–203, title IV, § 4303(d)(2)(B), Dec. 22, 1987, 101 Stat. 1330–222

Section, act July 1, 1944, ch. 373, title XXI, § 2118, as added Nov. 14, 1986, Pub. L. 99–660, title III, § 311(a), 100 Stat. 3771, provided for annual increases for inflation of compensation under subsections (a)(2) and (a)(4) of section 300aa–15 of this title and civil penalty under section 300aa–27(b) of this title.

§ 300aa–19. Advisory Commission on Childhood Vaccines

(a) Establishment

There is established the Advisory Commission on Childhood Vaccines. The Commission shall be composed of:

(1) Nine members appointed by the Secretary as follows:

(A) Three members who are health professionals, who are not employees of the United States, and who have expertise in the health care of children, the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines, of whom at least two shall be pediatricians.

(B) Three members from the general public, of whom at least two shall be legal representatives of children who have suffered a vaccine-related injury or death.

(C) Three members who are attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death and of whom one shall be an attorney whose specialty includes representation of vaccine manufacturers.

(2) The Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs (or the designees of such officials), each of whom shall be a nonvoting ex officio member.

The Secretary shall select members of the Commission within 90 days of October 1, 1988. The members of the Commission shall select a Chair from among the members.

(b) Term of office

Appointed members of the Commission shall be appointed for a term of office of 3 years, except that of the members first appointed, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as determined by the Secretary.

(c) Meetings

The Commission shall first meet within 60 days after all members of the Commission are appointed, and thereafter shall meet not less often than four times per year and at the call of the chair. A quorum for purposes of a meeting is 5. A decision at a meeting is to be made by a ballot of a majority of the voting members of the Commission present at the meeting.

(d) Compensation

Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall be compensated at a rate not to exceed the daily equivalent of the rate in effect for grade GS–18 of the General Schedule for each day (including travel-time) they are engaged in the performance of their duties as members of the Commission. All members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5 for employees serving intermittently.

(e) Staff

The Secretary shall provide the Commission with such professional and clerical staff, such information, and the services of such consultants as may be necessary to assist the Commission in carrying out effectively its functions under this section.

(f) Functions

The Commission shall—

(1) advise the Secretary on the implementation of the Program,

(2) on its own initiative or as the result of the filing of a petition, recommend changes in the Vaccine Injury Table,

(3) advise the Secretary in implementing the Secretary's responsibilities under section 300aa–27 of this title regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions,

(4) survey Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 300aa–25(b) of this title, and advise the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and

(5) recommend to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out this part.

(July 1, 1944, ch. 373, title XXI, § 2119, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3771; amended Pub. L. 100–203, title IV, § 4302(b)(1), Dec. 22, 1987, 101 Stat. 1330–221; Pub. L. 102–168, title II, § 201(g), Nov. 26, 1991, 105 Stat. 1104; Pub. L. 102–531, title III, § 312(d)(14), Oct. 27, 1992, 106 Stat. 3505.)

CODIFICATION

In subsec. (a), ''October 1, 1988'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1991—Subsec. (c). Pub. L. 102–168 inserted ''present at the meeting'' before period at end.

1987—Subsec. (a). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this part'' in last sentence.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–33 of this title.

SUBPART B—ADDITIONAL REMEDIES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 300aa–34 of this title.

§ 300aa–21. Authority to bring actions

(a) Election

After judgment has been entered by the United States Court of Federal Claims or, if an appeal is taken under section 300aa–12(f) of this title, after the appellate court's mandate is issued, the petitioner who filed the petition under section 300aa–11 of this title shall file with the clerk of the United States Court of Federal Claims—

(1) if the judgment awarded compensation, an election in writing to receive the com-

pensation or to file a civil action for damages for such injury or death, or

(2) if the judgment did not award compensation, an election in writing to accept the judgment or to file a civil action for damages for such injury or death.

An election shall be filed under this subsection not later than 90 days after the date of the court's final judgment with respect to which the election is to be made. If a person required to file an election with the court under this subsection does not file the election within the time prescribed for filing the election, such person shall be deemed to have filed an election to accept the judgment of the court. If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before October 1, 1988, or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered. For limitations on the bringing of civil actions for vaccine-related injuries or deaths associated with the administration of a vaccine after October 1, 1988, see section 300aa–11(a)(2) of this title.

(b) Continuance or withdrawal of petition

A petitioner under a petition filed under section 300aa–11 of this title may submit to the United States Court of Federal Claims a notice in writing choosing to continue or to withdraw the petition if—

(1) a special master fails to make a decision on such petition within the 240 days prescribed by section 300aa–12(d)(3)(A)(ii) of this title (excluding (i) any period of suspension under section 300aa–12(d)(3)(C) or 300aa–12(d)(3)(D) of this title, and (ii) any days the petition is before a special master as a result of a remand under section 300aa–12(e)(2)(C) of this title), or

(2) the court fails to enter a judgment under section 300aa–12 of this title on the petition within 420 days (excluding (i) any period of suspension under section 300aa–12(d)(3)(C) or 300aa–12(d)(3)(D) of this title, and (ii) any days the petition is before a special master as a result of a remand under section 300aa–12(e)(2)(C) of this title) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 300aa–12(g) of this title.

(c) Limitations of actions

A civil action for damages arising from a vaccine-related injury or death for which a petition was filed under section 300aa–11 of this title shall, except as provided in section 300aa–16(c) of this title, be brought within the period prescribed by limitations of actions under State law applicable to such civil action.

(July 1, 1944, ch. 373, title XXI, § 2121, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3772; amended Pub. L. 100–203, title IV, §§ 4304(c), 4307(8), 4308(c), Dec. 22, 1987, 101 Stat. 1330–224, 1330–225; Pub. L. 100–360, title IV, § 411(*o*)(3)(A), July 1, 1988, 102 Stat. 808; Pub. L. 101–239, title VI, § 6601(n), Dec. 19, 1989, 103 Stat. 2291; Pub. L. 101–502, § 5(f), Nov. 3, 1990, 104 Stat. 1287; Pub. L. 102–168, title II, § 201(d)(3), Nov. 26, 1991, 105 Stat. 1103; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

CODIFICATION

In subsec. (a), ''October 1, 1988,'' and ''October 1, 1988'' substituted for ''the effective date of this part''.

AMENDMENTS

1992—Subsecs. (a), (b). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' wherever appearing.

1991—Subsec. (b). Pub. L. 102–168 substituted ''Continuance or withdrawal of petition'' for ''Withdrawal of petition'' in heading, redesignated introductory provisions of par. (1) as introductory provisions of subsec. (b) and substituted ''a notice in writing choosing to continue or to withdraw the petition'' for ''a notice in writing withdrawing the petition'', redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and realigned margins, struck out at end of former par. (1) ''If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.'', and struck out par. (2) which read as follows: ''If a special master or the court does not enter a decision or make a judgment on a petition filed under section 300aa–11 of this title within 30 days of the provision of the notice in accordance with section 300aa–12(g) of this title, the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).''

1990—Subsec. (a). Pub. L. 101–502, § 5(f)(1), in closing provisions, inserted after second sentence ''If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before October 1, 1988, or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.'' and inserted ''for vaccine-related injuries or deaths associated with the administration of a vaccine after October 1, 1988'' after ''actions'' in last sentence.

Subsec. (b). Pub. L. 101–502, § 5(f)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''If the United States Claims Court fails to enter a judgment under section 300aa–12 of this title on a petition filed under section 300aa–11 of this title within 420 days (excluding any period of suspension under section 300aa–12(d) of this title and excluding any days the petition is before a special master as a result of a remand under section 300aa–12(e)(2)(C) of this title) after the date on which the petition was filed, the petitioner may submit to the court a notice in writing withdrawing the petition. An election shall be filed under this subsection not later than 90 days after the date of the entry of the Claims Court's judgment or the appellate court's mandate with respect to which the election is to be made. A person who has submitted a notice under this subsection may, notwithstanding section 300aa–11(a)(2) of this title, thereafter maintain a civil action for damages in a State or Federal court without regard to this subpart and consistent with otherwise applicable law.''

1989—Subsec. (a). Pub. L. 101–239, § 6601(n)(1)(A), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''After the judgment of the United States Claims Court under section 300aa–11 of this title on a petition filed for compensation under the Program for a vaccine-related injury or death has become final, the person who filed the petition shall file with the court—''.

Pub. L. 101–239, § 6601(n)(1)(B), amended last sentence generally. Prior to amendment, last sentence read as follows: ''If a person elects to receive compensation under a judgment of the court or is deemed to have accepted the judgment of the court, such person may not bring or maintain a civil action for damages against a vaccine manufacturer for the vaccine-related injury or death for which the judgment was entered.''

Subsec. (b). Pub. L. 101–239, § 6601(n)(2), substituted ''within 420 days (excluding any period of suspension under section 300aa–12(d) of this title and excluding any days the petition is before a special master as a result of a remand under section 300aa–12(e)(2)(C) of this title)'' for ''within 365 days'' in first sentence and amended second sentence generally. Prior to amendment, second sentence read as follows: ''Such a notice shall be filed not later than 90 days after the expiration of such 365-day period.''

1988—Subsec. (a). Pub. L. 100–360 added Pub. L. 100–203, § 4308(c), see 1987 Amendment note below.

1987—Subsec. (a). Pub. L. 100–203, § 4308(c), as added by Pub. L. 100–360, substituted ''the court's final judgment'' for ''the entry of the court's judgment'' in concluding provisions.

Pub. L. 100–203, § 4307(8), substituted ''the United States Claims Court'' for ''a district court of the United States'' and ''the court'' for ''a court'' in three places.

Subsecs. (b), (c). Pub. L. 100–203, § 4304(c), added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–168 effective as in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102–168, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 5(f)(1) of Pub. L. 101–502 effective Nov. 14, 1986, and amendment by section 5(f)(2) of Pub. L. 101–502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101–502, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, except that such suspension be excluded in determining the 420-day period prescribed in subsec. (b) of this section, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100–360, amendment by Pub. L. 100–360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, effective as if included in the enactment of that provision in Pub. L. 100–203, see section 411(a) of Pub. L. 100–360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE

Subpart effective Oct. 1, 1988, see section 323 of Pub. L. 99–660, set out as a note under section 300aa–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300aa–11, 300aa–12, 300aa–15, 300aa–16, 300aa–34 of this title.

§ 300aa–22. Standards of responsibility

(a) General rule

Except as provided in subsections (b), (c), and (e) of this section State law shall apply to a civil action brought for damages for a vaccine-related injury or death.

(b) Unavoidable adverse side effects; warnings

(1) No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings.

(2) For purposes of paragraph (1), a vaccine shall be presumed to be accompanied by proper directions and warnings if the vaccine manufacturer shows that it complied in all material respects with all requirements under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] and section 262 of this title (including regulations issued under such provisions) applicable to the vaccine and related to vaccine-related injury or death for which the civil action was brought unless the plaintiff shows—

(A) that the manufacturer engaged in the conduct set forth in subparagraph (A) or (B) of section 300aa–23(d)(2) of this title, or

(B) by clear and convincing evidence that the manufacturer failed to exercise due care notwithstanding its compliance with such Act and section (and regulations issued under such provisions).

(c) Direct warnings

No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, solely due to the manufacturer's failure to provide direct warnings to the injured party (or the injured party's legal representative) of the potential dangers resulting from the administration of the vaccine manufactured by the manufacturer.

(d) Construction

The standards of responsibility prescribed by this section are not to be construed as authorizing a person who brought a civil action for damages against a vaccine manufacturer for a vaccine-related injury or death in which damages were denied or which was dismissed with prejudice to bring a new civil action against such manufacturer for such injury or death.

(e) Preemption

No State may establish or enforce a law which prohibits an individual from bringing a civil action against a vaccine manufacturer for damages for a vaccine-related injury or death if such civil action is not barred by this part.

(July 1, 1944, ch. 373, title XXI, § 2122, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3773; amended Pub. L. 100–203, title IV, § 4302(b)(1), Dec. 22, 1987, 101 Stat. 1330–221.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(2), 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 Tables.

CODIFICATION

In subsecs. (b)(1), (c), ''October 1, 1988'' was substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1987—Subsecs. (b)(1), (c). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this part''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–23 of this title.

§ 300aa–23. Trial

(a) General rule

A civil action against a vaccine manufacturer for damages for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, which is not barred by section 300aa–11(a)(2) of this title shall be tried in three stages.

(b) Liability

The first stage of such a civil action shall be held to determine if a vaccine manufacturer is liable under section 300aa–22 of this title.

(c) General damages

The second stage of such a civil action shall be held to determine the amount of damages (other than punitive damages) a vaccine manufacturer found to be liable under section 300aa–22 of this title shall be required to pay.

(d) Punitive damages

(1) If sought by the plaintiff, the third stage of such an action shall be held to determine the amount of punitive damages a vaccine manufacturer found to be liable under section 300aa–22 of this title shall be required to pay.

(2) If in such an action the manufacturer shows that it complied, in all material respects, with all requirements under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] and this chapter applicable to the vaccine and related to the vaccine injury or death with respect to which the action was brought, the manufacturer shall not be held liable for punitive damages unless the manufacturer engaged in—

(A) fraud or intentional and wrongful withholding of information from the Secretary during any phase of a proceeding for approval of the vaccine under section 262 of this title,

(B) intentional and wrongful withholding of information relating to the safety or efficacy of the vaccine after its approval, or

(C) other criminal or illegal activity relating to the safety and effectiveness of vaccines,

which activity related to the vaccine-related injury or death for which the civil action was brought.

(e) Evidence

In any stage of a civil action, the Vaccine Injury Table, any finding of fact or conclusion of law of the United States Court of Federal Claims or a special master in a proceeding on a petition filed under section 300aa–11 of this title and the final judgment of the United States Court of Federal Claims and subsequent appellate review on such a petition shall not be admissible.

(July 1, 1944, ch. 373, title XXI, § 2123, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3774; amended Pub. L. 100–203, title IV, §§ 4302(b)(1), 4307(9), Dec. 22, 1987, 101 Stat. 1330–221, 1330–225; Pub. L. 101–239, title VI, § 6601(*o*), Dec. 19, 1989, 103 Stat. 2292; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (d)(2), 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 Tables.

CODIFICATION

In subsec. (a), ''October 1, 1988'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' in two places.

1989—Subsec. (e). Pub. L. 101–239 substituted ''finding of fact or conclusion of law'' for ''finding'', ''special master'' for ''master appointed by such court'', and directed substitution of ''the United States Claims Court and subsequent appellate review'' for ''a district court of the United States'' which was executed by inserting ''and subsequent appellate review'' after ''the United States Claims Court'' the second place it appeared to reflect the probable intent of Congress and the amendment by Pub. L. 100–203, § 4307(a), see 1987 Amendment note below.

1987—Subsec. (a). Pub. L. 100–203, § 4302(b)(1), substituted ''effective date of this subpart'' for ''effective date of this part''.

Subsec. (e). Pub. L. 100–203, § 4307(9), substituted ''the United States Claims Court'' for ''a district court of the United States'' in two places.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–22 of this title.

SUBPART C—ASSURING A SAFER CHILDHOOD VACCINATION PROGRAM IN UNITED STATES

§ 300aa–25. Recording and reporting of information

(a) General rule

Each health care provider who administers a vaccine set forth in the Vaccine Injury Table to

any person shall record, or ensure that there is recorded, in such person's permanent medical record (or in a permanent office log or file to which a legal representative shall have access upon request) with respect to each such vaccine—

(1) the date of administration of the vaccine,

(2) the vaccine manufacturer and lot number of the vaccine,

(3) the name and address and, if appropriate, the title of the health care provider administering the vaccine, and

(4) any other identifying information on the vaccine required pursuant to regulations promulgated by the Secretary.

(b) Reporting

(1) Each health care provider and vaccine manufacturer shall report to the Secretary—

(A) the occurrence of any event set forth in the Vaccine Injury Table, including the events set forth in section 300aa–14(b) of this title which occur within 7 days of the administration of any vaccine set forth in the Table or within such longer period as is specified in the Table or section,

(B) the occurrence of any contraindicating reaction to a vaccine which is specified in the manufacturer's package insert, and

(C) such other matters as the Secretary may by regulation require.

Reports of the matters referred to in subparagraphs (A) and (B) shall be made beginning 90 days after December 22, 1987. The Secretary shall publish in the Federal Register as soon as practicable after such date a notice of the reporting requirement.

(2) A report under paragraph (1) respecting a vaccine shall include the time periods after the administration of such vaccine within which vaccine-related illnesses, disabilities, injuries, or conditions, the symptoms and manifestations of such illnesses, disabilities, injuries, or conditions, or deaths occur, and the manufacturer and lot number of the vaccine.

(3) The Secretary shall issue the regulations referred to in paragraph (1)(C) within 180 days of December 22, 1987.

(c) Release of information

(1) Information which is in the possession of the Federal Government and State and local governments under this section and which may identify an individual shall not be made available under section 552 of title 5, or otherwise, to any person except—

(A) the person who received the vaccine, or

(B) the legal representative of such person.

(2) For purposes of paragraph (1), the term ''information which may identify an individual'' shall be limited to the name, street address, and telephone number of the person who received the vaccine and of that person's legal representative and the medical records of such person relating to the administration of the vaccine, and shall not include the locality and State of vaccine administration, the name of the health care provider who administered the vaccine, the date of the vaccination, or information concerning any reported illness, disability, injury, or condition resulting from the administration of the vaccine, any symptom or manifestation of such illness, disability, injury, or condition, or death resulting from the administration of the vaccine.

(3) Except as provided in paragraph (1), all information reported under this section shall be available to the public.

(July 1, 1944, ch. 373, title XXI, § 2125, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3774; amended Pub. L. 100–203, title IV, § 4302(b)(1), Dec. 22, 1987, 101 Stat. 1330–221.)

CODIFICATION

In subsec. (b)(1), (3), ''December 22, 1987'' was substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1987—Subsec. (b)(1), (3). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this part''.

EFFECTIVE DATE

Subpart effective Dec. 22, 1987, see section 323 of Pub. L. 99–660, set out as a note under section 300aa–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–19 of this title.

§ 300aa–26. Vaccine information

(a) General rule

Not later than 1 year after December 22, 1987, the Secretary shall develop and disseminate vaccine information materials for distribution by health care providers to the legal representatives of any child or to any other individual receiving a vaccine set forth in the Vaccine Injury Table. Such materials shall be published in the Federal Register and may be revised.

(b) Development and revision of materials

Such materials shall be developed or revised—

(1) after notice to the public and 60 days of comment thereon, and

(2) in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care providers and parent organizations, the Centers for Disease Control and Prevention, and the Food and Drug Administration.

(c) Information requirements

The information in such materials shall be based on available data and information, shall be presented in understandable terms and shall include—

(1) a concise description of the benefits of the vaccine,

(2) a concise description of the risks associated with the vaccine,

(3) a statement of the availability of the National Vaccine Injury Compensation Program, and

(4) such other relevant information as may be determined by the Secretary.

(d) Health care provider duties

On and after a date determined by the Secretary which is—

(1) after the Secretary develops the information materials required by subsection (a) of this section, and

(2) not later than 6 months after the date such materials are published in the Federal Register,

each health care provider who administers a vaccine set forth in the Vaccine Injury Table shall provide to the legal representatives of any child or to any other individual to whom such provider intends to administer such vaccine a copy of the information materials developed pursuant to subsection (a) of this section, supplemented with visual presentations or oral explanations, in appropriate cases. Such materials shall be provided prior to the administration of such vaccine.

(July 1, 1944, ch. 373, title XXI, § 2126, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3775; amended Pub. L. 100–203, title IV, § 4302(b)(1), Dec. 22, 1987, 101 Stat. 1330–221; Pub. L. 101–239, title VI, § 6601(p), Dec. 19, 1989, 103 Stat. 2292; Pub. L. 102–531, title III, § 312(d)(15), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 103–183, title VII, § 708, Dec. 14, 1993, 107 Stat. 2242.)

CODIFICATION

In subsec. (a), ''December 22, 1987'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–183, § 708(c), inserted ''or to any other individual'' after ''to the legal representatives of any child''.

Subsec. (b). Pub. L. 103–183, § 708(a), struck out ''by rule'' after ''revised'' in introductory provisions and substituted ''and 60'' for '', opportunity for a public hearing, and 90'' in par. (1).

Subsec. (c). Pub. L. 103–183, § 708(b), inserted in introductory provisions ''shall be based on available data and information,'' after ''such materials'', added pars. (1) to (4), and struck out former pars. (1) to (10) which read as follows:

''(1) the frequency, severity, and potential long-term effects of the disease to be prevented by the vaccine,

''(2) the symptoms or reactions to the vaccine which, if they occur, should be brought to the immediate attention of the health care provider,

''(3) precautionary measures legal representatives should take to reduce the risk of any major adverse reactions to the vaccine that may occur,

''(4) early warning signs or symptoms to which legal representatives should be alert as possible precursors to such major adverse reactions,

''(5) a description of the manner in which legal representatives should monitor such major adverse reactions, including a form on which reactions can be recorded to assist legal representatives in reporting information to appropriate authorities,

''(6) a specification of when, how, and to whom legal representatives should report any major adverse reaction,

''(7) the contraindications to (and bases for delay of) the administration of the vaccine,

''(8) an identification of the groups, categories, or characteristics of potential recipients of the vaccine who may be at significantly higher risk of major adverse reaction to the vaccine than the general population,

''(9) a summary of—

''(A) relevant Federal recommendations concerning a complete schedule of childhood immunizations, and

''(B) the availability of the Program, and

''(10) such other relevant information as may be determined by the Secretary.''

Subsec. (d). Pub. L. 103–183, § 708(c), (d), in concluding provisions, inserted ''or to any other individual'' after ''to the legal representatives of any child'', substituted ''supplemented with visual presentations or oral explanations, in appropriate cases'' for ''or other written information which meets the requirements of this section'', and struck out ''or other information'' after ''Such materials''.

1992—Subsec. (b)(2). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1989—Subsec. (c)(9). Pub. L. 101–239 amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''a summary of relevant State and Federal laws concerning the vaccine, including information on—

''(A) the number of vaccinations required for school attendance and the schedule recommended for such vaccinations, and

''(B) the availability of the Program, and''.

1987—Subsec. (a). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this part''.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

§ 300aa–27. Mandate for safer childhood vaccines

(a) General rule

In the administration of this part and other pertinent laws under the jurisdiction of the Secretary, the Secretary shall—

(1) promote the development of childhood vaccines that result in fewer and less serious adverse reactions than those vaccines on the market on December 22, 1987, and promote the refinement of such vaccines, and

(2) make or assure improvements in, and otherwise use the authorities of the Secretary with respect to, the licensing, manufacturing, processing, testing, labeling, warning, use instructions, distribution, storage, administration, field surveillance, adverse reaction reporting, and recall of reactogenic lots or batches, of vaccines, and research on vaccines, in order to reduce the risks of adverse reactions to vaccines.

(b) Task force

(1) The Secretary shall establish a task force on safer childhood vaccines which shall consist of the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Director of the Centers for Disease Control.

(2) The Director of the National Institutes of Health shall serve as chairman of the task force.

(3) In consultation with the Advisory Commission on Childhood Vaccines, the task force shall prepare recommendations to the Secretary concerning implementation of the requirements of subsection (a) of this section.

(c) Report

Within 2 years after December 22, 1987, and periodically thereafter, the Secretary shall prepare and transmit to the Committee on Energy

and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the actions taken pursuant to subsection (a) of this section during the preceding 2-year period.

(July 1, 1944, ch. 373, title XXI, § 2127, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3777; amended Pub. L. 100–203, title IV, § 4302(b)(1), Dec. 22, 1987, 101 Stat. 1330–221; Pub. L. 101–239, title VI, § 6601(q), Dec. 19, 1989, 103 Stat. 2292.)

CODIFICATION

In subsecs. (a)(1), (c), ''December 22, 1987'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1989—Subsecs. (b), (c). Pub. L. 101–239 added subsec. (b) and redesignated former subsec. (b) as (c).

1987—Subsecs. (a)(1), (b). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this part''.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–19 of this title.

§ 300aa–28. Manufacturer recordkeeping and reporting

(a) General rule

Each vaccine manufacturer of a vaccine set forth in the Vaccine Injury Table or any other vaccine the administration of which is mandated by the law or regulations of any State, shall, with respect to each batch, lot, or other quantity manufactured or licensed after December 22, 1987—

(1) prepare and maintain records documenting the history of the manufacturing, processing, testing, repooling, and reworking of each batch, lot, or other quantity of such vaccine, including the identification of any significant problems encountered in the production, testing, or handling of such batch, lot, or other quantity,

(2) if a safety test on such batch, lot, or other quantity indicates a potential imminent or substantial public health hazard is presented, report to the Secretary within 24 hours of such safety test which the manufacturer (or manufacturer's representative) conducted, including the date of the test, the type of vaccine tested, the identity of the batch, lot, or other quantity tested, whether the batch, lot, or other quantity tested is the product of repooling or reworking of previous batches, lots, or other quantities (and, if so, the identity of the previous batches, lots, or other quantities which were repooled or reworked), the complete test results, and the name and address of the person responsible for conducting the test,

(3) include with each such report a certification signed by a responsible corporate official that such report is true and complete, and

(4) prepare, maintain, and upon request submit to the Secretary product distribution records for each such vaccine by batch, lot, or other quantity number.

(b) Sanction

Any vaccine manufacturer who intentionally destroys, alters, falsifies, or conceals any record or report required under paragraph (1) or (2) of subsection (a) of this section shall—

(1) be subject to a civil penalty of up to $100,000 per occurrence, or

(2) be fined $50,000 or imprisoned for not more than 1 year, or both.

Such penalty shall apply to the person who intentionally destroyed, altered, falsified, or concealed such record or report, to the person who directed that such record or report be destroyed, altered, falsified, or concealed, and to the vaccine manufacturer for which such person is an agent, employee, or representative. Each act of destruction, alteration, falsification, or concealment shall be treated as a separate occurrence.

(July 1, 1944, ch. 373, title XXI, § 2128, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3777; amended Pub. L. 100–203, title IV, § 4302(b)(1), Dec. 22, 1987, 101 Stat. 1330–221.)

CODIFICATION

In subsec. (a), ''December 22, 1987'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–203 substituted ''effective date of this subpart'' for ''effective date of this part''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300aa–33 of this title.

SUBPART D—GENERAL PROVISIONS

§ 300aa–31. Citizen's actions

(a) General rule

Except as provided in subsection (b) of this section, any person may commence in a district court of the United States a civil action on such person's own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this part.

(b) Notice

No action may be commenced under subsection (a) of this section before the date which is 60 days after the person bringing the action

has given written notice of intent to commence such action to the Secretary.

(c) Costs of litigation

The court, in issuing any final order in any action under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any plaintiff who substantially prevails on one or more significant issues in the action.

(July 1, 1944, ch. 373, title XXI, § 2131, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3778; amended Pub. L. 100–203, title IV, § 4305, Dec. 22, 1987, 101 Stat. 1330–224.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–203, which directed that subsec. (c) be amended by substituting ''to any plaintiff who substantially prevails on one or more significant issues in the action'' for ''to any party, whenever the court determines that such award is appropriate'', was executed by making the substitution for ''to any party, whenever the court determines such award is appropriate'', to reflect the probable intent of Congress.

EFFECTIVE DATE

Subpart effective Dec. 22, 1987, see section 323 of Pub. L. 99–660, set out as a note under section 300aa–1 of this title.

§ 300aa–32. Judicial review

A petition for review of a regulation under this part may be filed in a court of appeals of the United States within 60 days from the date of the promulgation of the regulation or after such date if such petition is based solely on grounds arising after such 60th day.

(July 1, 1944, ch. 373, title XXI, § 2132, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3778.)

§ 300aa–33. Definitions

For purposes of this part:

(1) The term ''health care provider'' means any licensed health care professional, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities) under whose authority a vaccine set forth in the Vaccine Injury Table is administered.

(2) The term ''legal representative'' means a parent or an individual who qualifies as a legal guardian under State law.

(3) The term ''manufacturer'' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any vaccine set forth in the Vaccine Injury Table, except that, for purposes of section 300aa–28 of this title, such term shall include the manufacturer of any other vaccine covered by that section. The term ''manufacture'' means to manufacture, import, process, or distribute a vaccine.

(4) The term ''significant aggravation'' means any change for the worse in a preexisting condition which results in markedly greater disability, pain, or illness accompanied by substantial deterioration of health.

(5) The term ''vaccine-related injury or death'' means an illness, injury, condition, or death associated with one or more of the vaccines set forth in the Vaccine Injury Table, except that the term does not include an illness, injury, condition, or death associated with an adulterant or contaminant intentionally added to such a vaccine.

(6)(A) The term ''Advisory Commission on Childhood Vaccines'' means the Commission established under section 300aa–19 of this title.

(B) The term ''Vaccine Injury Table'' means the table set out in section 300aa–14 of this title.

(July 1, 1944, ch. 373, title XXI, § 2133, as added Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3778.)

§ 300aa–34. Termination of program

(a) Reviews

The Secretary shall review the number of awards of compensation made under the program to petitioners under section 300aa–11 of this title for vaccine-related injuries and deaths associated with the administration of vaccines on or after December 22, 1987, as follows:

(1) The Secretary shall review the number of such awards made in the 12-month period beginning on December 22, 1987.

(2) At the end of each 3-month period beginning after the expiration of the 12-month period referred to in paragraph (1) the Secretary shall review the number of such awards made in the 3-month period.

(b) Report

(1) If in conducting a review under subsection (a) of this section the Secretary determines that at the end of the period reviewed the total number of awards made by the end of that period and accepted under section 300aa–21(a) of this title exceeds the number of awards listed next to the period reviewed in the table in paragraph (2)—

(A) the Secretary shall notify the Congress of such determination, and

(B) beginning 180 days after the receipt by Congress of a notification under paragraph (1), no petition for a vaccine-related injury or death associated with the administration of a vaccine on or after December 22, 1987, may be filed under section 300aa–11 of this title.

Section 300aa–11(a) of this title and subpart B of this part shall not apply to civil actions for damages for a vaccine-related injury or death for which a petition may not be filed because of subparagraph (B).

(2) The table referred to in paragraph (1) is as follows:

Period reviewed:	Total number of awards by the end of the period reviewed
12 months after December 22, 1987	150
13th through the 15th month after December 22, 1987	188
16th through the 18th month after December 22, 1987	225
19th through the 21st month after December 22, 1987	263
22nd through the 24th month after December 22, 1987	300

25th through the 27th month after December 22, 1987	338
28th through the 30th month after December 22, 1987	375
31st through the 33rd month after December 22, 1987	413
34th through the 36th month after December 22, 1987	450
37th through the 39th month after December 22, 1987	488
40th through the 42nd month after December 22, 1987	525
43rd through the 45th month after December 22, 1987	563
46th through the 48th month after December 22, 1987	600.

(July 1, 1944, ch. 373, title XXI, § 2134, as added Pub. L. 100–203, title IV, § 4303(f), Dec. 22, 1987, 101 Stat. 1330–222.)

CODIFICATION

In subsecs. (a) and (b), ''December 22, 1987'' substituted for ''the effective date of this subpart'' on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

SUBCHAPTER XX—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300gg–91, 1396a, 1396e of this title; title 26 section 9832; title 29 section 1191b.

§ 300bb–1. State and local governmental group health plans must provide continuation coverage to certain individuals

(a) In general

In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this chapter, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this subchapter, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

(b) Exception for certain plans

Subsection (a) of this section shall not apply to—

(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

(July 1, 1944, ch. 373, title XXII, § 2201, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 232; amended Pub. L. 101–239, title VI, § 6801(a)(1), Dec. 19, 1989, 103 Stat. 2296.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–239 struck out at end ''Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of title 26 (relating to employers under common control) shall apply for purposes of paragraph (1).''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6801(a)(2) of Pub. L. 101–239 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to years beginning after December 31, 1986.''

EFFECTIVE DATE

Section 10003(b) of Pub. L. 99–272 provided that:

''(1) GENERAL RULE.—The amendments made by this section [enacting this subchapter] shall apply to plan years beginning on or after July 1, 1986.

''(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act [Apr. 7, 1986], the amendments made by this section shall not apply to plan years beginning before the later of—

''(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

''(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300bb–2 of this title.

§ 300bb–2. Continuation coverage

For purposes of section 300bb–1 of this title, the term ''continuation coverage'' means coverage under the plan which meets the following requirements:

(1) Type of benefit coverage

The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part[1] in connection with such group.

(2) Period of coverage

The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

(A) Maximum required period

(i) General rule for terminations and reduced hours

In the case of a qualifying event described in section 300bb–3(2) of this title, except as provided in clause (ii), the date which is 18 months after the date of the qualifying event.

[1] So in original. This subchapter is not divided into parts.

(ii) Special rule for multiple qualifying events

If a qualifying event occurs during the 18 months after the date of a qualifying event described in section 300bb–3(2) of this title, the date which is 36 months after the date of the qualifying event described in section 300bb–3(2) of this title.

(iii) General rule for other qualifying events

In the case of a qualifying event not described in section 300bb–3(2) of this title, the date which is 36 months after the date of the qualifying event.

(iv) Medicare entitlement followed by qualifying event

In the case of a qualifying event described in section 300bb–3(2) of this title that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.

In the case of a qualified beneficiary who is determined, under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.], to have been disabled at any time during the first 60 days of continuation coverage under this subchapter, any reference in clause (i) or (ii) to 18 months is deemed a reference to 29 months (with respect to all qualified beneficiaries), but only if the qualified beneficiary has provided notice of such determination under section 300bb–6(3) of this title before the end of such 18 months.

(B) End of plan

The date on which the employer ceases to provide any group health plan to any employee.

(C) Failure to pay premium

The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.

(D) Group health plan coverage or medicare entitlement

The date on which the qualified beneficiary first becomes, after the date of the election—

(i) covered under any other group health plan (as an employee or otherwise) which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary (other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of title 26, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181 et seq.], or subchapter XXV of this chapter), or

(ii) entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].

(E) Termination of extended coverage for disability

In the case of a qualified beneficiary who is disabled at any time during the first 60 days of continuation coverage under this subchapter, the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.] that the qualified beneficiary is no longer disabled.

(3) Premium requirements

The plan may require payment of a premium for any period of continuation coverage, except that such premium—

(A) shall not exceed 102 percent of the applicable premium for such period, and

(B) may, at the election of the payor, be made in monthly installments.

In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.[2] In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to ''102 percent'' is deemed a reference to ''150 percent'' for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).

(4) No requirement of insurability

The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

(5) Conversion option

In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

(July 1, 1944, ch. 373, title XXII, § 2202, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 233; amended Pub. L. 99–514, title XVIII, § 1895(d)(1)(C), (2)(C), (3)(C), (4)(C), Oct. 22, 1986, 100 Stat. 2937–2939; Pub. L. 101–239, title VI, §§ 6702(a), (b), 6801(b)(1)(A), (2)(A), (3)(A), Dec. 19, 1989, 103 Stat. 2295, 2297; Pub. L. 104–188, title I, § 1704(g)(1)(C), Aug. 20, 1996, 110 Stat. 1880; Pub. L. 104–191, title IV, § 421(a)(1), Aug. 21, 1996, 110 Stat. 2087.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (2)(A), (D)(ii), and (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II, XVI, and XVIII of the Social Security Act are classified generally to subchapters II

[2] See 1989 Amendment note below.

(§401 et seq.), XVI (§1381 et seq.), and XVIII (§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.

The Employee Retirement Income Security Act of 1974, referred to in par. (2)(D)(i), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Part 7 of subtitle B of title I of the Act is classified generally to part 7 (§1181 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1996—Par. (2)(A). Pub. L. 104–191, §421(a)(1)(A)(ii)(IV), inserted ''(with respect to all qualified beneficiaries)'' after ''29 months'' in concluding provisions.

Pub. L. 104–191, §421(a)(1)(A)(ii)(III), which directed amendment of concluding provisions by striking ''with respect to such event,'', was executed by striking that phrase, which did not contain a comma at end, before ''is deemed a reference'' to reflect the probable intent of Congress.

Pub. L. 104–191, §421(a)(1)(A)(ii)(I), (II), in concluding provisions, substituted ''a qualified beneficiary'' for ''an individual'' and ''at any time during the first 60 days of continuation coverage under this subchapter'' for ''at the time of a qualifying event described in section 300bb–3(2) of this title''.

Pub. L. 104–191, §421(a)(1)(A)(i), transferred sentence following cl. (iii) to appear as concluding provisions following cl. (iv).

Par. (2)(A)(iv). Pub. L. 104–188 amended heading and text of cl. (iv) generally. Prior to amendment, text read as follows: ''In the case of an event described in section 300bb–3(4) of this title (without regard to whether such event is a qualifying event), the period of coverage for qualified beneficiaries other than the covered employee for such event or any subsequent qualifying event shall not terminate before the close of the 36-month period beginning on the date the covered employee becomes entitled to benefits under title XVIII of the Social Security Act.''

Par. (2)(D)(i). Pub. L. 104–191, §421(a)(1)(B), inserted ''(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of title 26, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or subchapter XXV of this chapter)'' before '', or''.

Par. (2)(E). Pub. L. 104–191, §421(a)(1)(C), substituted ''at any time during the first 60 days of continuation coverage under this subchapter'' for ''at the time of a qualifying event described in section 300bb–3(2) of this title''.

1989—Par. (2)(A). Pub. L. 101–239, §6702(a)(1), inserted after cl. (iii) ''In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 300bb–3(2) of this title, any reference in clause (i) or (ii) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under section 300bb–6(3) of this title before the end of such 18 months.''

Par. (2)(A)(iv). Pub. L. 101–239, §6801(b)(1)(A), added cl. (iv).

Par. (2)(D). Pub. L. 101–239, §6801(b)(2)(A), substituted ''entitlement'' for ''eligibility'' in heading and inserted ''which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary'' after ''or otherwise)'' in cl. (i).

Par. (2)(E). Pub. L. 101–239, §6702(a)(2), added subpar. (E).

Par. (3). Pub. L. 101–239, §6801(b)(3)(A), which directed the general amendment of the concluding provision was executed by amending the first sentence of the concluding provision generally to reflect the probable intent of Congress and amendment of concluding provision by Pub. L. 101–239, §6702(b). Prior to amendment, first sentence of the concluding provision read as follows: ''If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.''

Pub. L. 101–239, §6702(b), inserted at end of concluding provision ''In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '150 percent' for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).'' See Amendment note above.

1986—Par. (1). Pub. L. 99–514, §1895(d)(1)(C), inserted at end ''If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part in connection with such group.''

Par. (2)(A). Pub. L. 99–514, §1895(d)(2)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''MAXIMUM PERIOD.—In the case of—

''(i) a qualifying event described in section 300bb–3(2) of this title (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

''(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.''

Par. (2)(C). Pub. L. 99–514, §1895(d)(3)(C), inserted at end ''The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.''

Par. (2)(D). Pub. L. 99–514, §1895(d)(4)(C)(ii), (iii), substituted ''Group health plan coverage'' for ''Reemployment'' in heading, added cl. (i), and struck out former cl. (i) which read as follows: ''a covered employee under any other group health plan, or''.

Par. (2)(E). Pub. L. 99–514, §1895(d)(4)(C)(i), struck out subpar. (E), remarriage of spouse, which read as follows: ''In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104–191, set out as a note under section 4980B of Title 26, Internal Revenue Code.

Amendment by Pub. L. 104–188 applicable to plan years beginning after Dec. 31, 1989, see section 1704(g)(2) of Pub. L. 104–188, set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6702(d) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section and section 300bb–6 of this title] shall apply to plan years beginning on or after the date of the enactment of this Act [Dec. 19, 1989], regardless of whether the qualifying event occurred before, on, or after such date.''

Section 6801(b)(1)(B) of Pub. L. 101–239 provided that: ''The amendments made by this paragraph [amending this section] shall apply to plan years beginning after December 31, 1989.''

Section 6801(b)(2)(B) of Pub. L. 101–239 provided that: ''The amendments made by subparagraph (A) [amending this section] shall apply to—

''(i) qualifying events occurring after December 31, 1989, and

''(ii) in the case of qualified beneficiaries who elected continuation coverage after December 31, 1988, the period for which the required premium was paid (or was attempted to be paid but was rejected as such).''

Section 6801(b)(3)(B) of Pub. L. 101–239 provided that: ''The amendment made by subparagraph (A) [amending this section] shall apply to plan years beginning after December 31, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, see section 1895(e) of Pub. L. 99–514, set out as a note under section 162 of Title 26, Internal Revenue Code.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 300bb–3. Qualifying event

For purposes of this subchapter, the term ''qualifying event'' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subchapter, would result in the loss of coverage of a qualified beneficiary:

(1) The death of the covered employee.

(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

(3) The divorce or legal separation of the covered employee from the employee's spouse.

(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].

(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

(July 1, 1944, ch. 373, title XXII, § 2203, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 234.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300bb–2, 300bb–6, 300bb–8 of this title.

§ 300bb–4. Applicable premium

For purposes of this subchapter—

(1) In general

The term ''applicable premium'' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

(2) Special rule for self-insured plans

To the extent that a plan is a self-insured plan—

(A) In general

Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

(i) is determined on an actuarial basis, and

(ii) takes into account such factors as the Secretary may prescribe in regulations.

(B) Determination on basis of past cost

If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

(C) Subparagraph (B) not to apply where significant change

A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

(3) Determination period

The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

(July 1, 1944, ch. 373, title XXII, § 2204, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 234.)

§ 300bb–5. Election

For purposes of this subchapter—

(1) Election period

The term ''election period'' means the period which—

(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

(B) is of at least 60 days' duration, and

(C) ends not earlier than 60 days after the later of—

(i) the date described in subparagraph (A), or

(ii) in the case of any qualified beneficiary who receives notice under section 300bb–6(4) of this title, the date of such notice.

(2) Effect of election on other beneficiaries

Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 300bb–8(3) of this title shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

(July 1, 1944, ch. 373, title XXII, § 2205, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 235; amended Pub. L. 99–514, title XVIII, § 1895(d)(5)(C), Oct. 22, 1986, 100 Stat. 2939.)

AMENDMENTS

1986—Par. (2). Pub. L. 99–514 inserted ''of continuation coverage'' after ''any election'' and inserted at end ''If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, see section 1895(e) of Pub. L. 99–514, set out as a note under section 162 of Title 26, Internal Revenue Code.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 300bb–6. Notice requirements

In accordance with regulations prescribed by the Secretary—

(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,[1]

(2) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in paragraph (1), (2), or (4) of section 300bb–3 of this title within 30 days of the date of the qualifying event,

(3) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 300bb–3 of this title within 60 days after the date of the qualifying event and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.], to have been disabled at any time during the first 60 days of continuation coverage under this subchapter is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled, and

(4) the plan administrator shall notify—

(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 300bb–3 of this title, any qualified beneficiary with respect to such event, and

(B) in the case of a qualifying event described in paragraph (3) or (5) of section 300bb–3 of this title where the covered employee notifies the plan administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.[1]

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the plan administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

(July 1, 1944, ch. 373, title XXII, § 2206, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 235; amended Pub. L. 99–514, title XVIII, § 1895(d)(6)(C), Oct. 22, 1986, 100 Stat. 2939; Pub. L. 100–203, title IV, § 4009(j)(8), Dec. 22, 1987, 101 Stat. 1330–59; Pub. L. 101–239, title VI, § 6702(c), Dec. 19, 1989, 103 Stat. 2295; Pub. L. 104–191, title IV, § 421(a)(2), Aug. 21, 1996, 110 Stat. 2088.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 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.

AMENDMENTS

1996—Par. (3). Pub. L. 104–191 substituted ''at any time during the first 60 days of continuation coverage under this subchapter'' for ''at the time of a qualifying event described in section 300bb–3(2) of this title''.

1989—Par. (3). Pub. L. 101–239 inserted ''and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 300bb–3(2) of this title is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled'' after ''date of the qualifying event''.

1987—Par. (3). Pub. L. 100–203 amended directory language of Pub. L. 99–514, see 1986 Amendment note below.

1986—Par. (3). Pub. L. 99–514, as amended by Pub. L. 100–203, inserted ''within 60 days after the date of the qualifying event''.

[1] So in original. Probably should be ''subchapter''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104–191, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to plan years beginning on or after Dec. 19, 1989, regardless of whether the qualifying event occurred before, on, or after such date, see section 6702(d) of Pub. L. 101–239, set out as a note under section 300bb–2 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 4009(j)(8) of Pub. L. 100–203 provided that the amendment made by that section is effective as if included in Pub. L. 99–514.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable only with respect to qualifying events occurring after Oct. 22, 1986, see section 1895(d)(6)(D) of Pub. L. 99–514, set out as a note under section 162 of Title 26, Internal Revenue Code.

NOTIFICATION TO COVERED EMPLOYEES

Section 10003(c) of Pub. L. 99–272 provided that: ''At the time that the amendments made by this section [enacting this subchapter] apply to a group health plan (covered under section 2201 of the Public Health Service Act [section 300bb–1 of this title]), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under title XXII of such Act [this subchapter]. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 2206(1) of such Act [par. (1) of this section] with respect to such individuals.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300bb–2, 300bb–5 of this title.

§ 300bb–7. Enforcement

Any individual who is aggrieved by the failure of a State, political subdivision, or agency or instrumentality thereof, to comply with the requirements of this subchapter may bring an action for appropriate equitable relief.

(July 1, 1944, ch. 373, title XXII, § 2207, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 236.)

CONTINUED COVERAGE OF COSTS OF PEDIATRIC VACCINE UNDER CERTAIN GROUP HEALTH PLANS

Pub. L. 103–66, title XIII, § 13631(d), Aug. 10, 1993, 107 Stat. 643, provided that:

''(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act [Aug. 10, 1993], is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 1928(h)(6) of the Social Security Act [section 1396s(h)(6) of this title]) below the coverage it provided as of May 1, 1993.

''(2) ENFORCEMENT.—For purposes of section 2207 of the Public Health Service Act [this section], the requirement of paragraph (1) is deemed a requirement of title XXII of such Act [this subchapter].''

§ 300bb–8. Definitions

For purposes of this subchapter—

(1) Group health plan

The term ''group health plan'' has the meaning given such term in 5000(b)[1] of title 26. Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).

(2) Covered employee

The term ''covered employee'' means an individual who is (or was) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26).

(3) Qualified beneficiary

(A) In general

The term ''qualified beneficiary'' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

(i) as the spouse of the covered employee, or

(ii) as the dependent child of the employee.

Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this subchapter.

(B) Special rule for terminations and reduced employment

In the case of a qualifying event described in section 300bb–3(2) of this title, the term ''qualified beneficiary'' includes the covered employee.

(4) Plan administrator

The term ''plan administrator'' has the meaning given the term ''administrator'' by section 1002(16)(A) of title 29.

(July 1, 1944, ch. 373, title XXII, § 2208, as added Pub. L. 99–272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 236; amended Pub. L. 100–647, title III, § 3011(b)(7), Nov. 10, 1988, 102 Stat. 3625; Pub. L. 101–239, title VI, § 6801(c)(1), Dec. 19, 1989, 103 Stat. 2297; Pub. L. 104–191, title I, § 102(d), title III, § 321(d)(3), title IV, § 421(a)(3), Aug. 21, 1996, 110 Stat. 1978, 2059, 2088.)

AMENDMENTS

1996—Par. (1). Pub. L. 104–191, § 321(d)(3), inserted at end ''Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).''

Pub. L. 104–191, § 102(d), substituted ''5000(b)'' for ''section 162(i)(2)''.

Par. (3)(A). Pub. L. 104–191, § 421(a)(3), inserted at end ''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this subchapter.''

1989—Par. (2). Pub. L. 101–239 substituted ''the performance of services by the individual for 1 or more persons maintaining the plan (including as an em-

[1] So in original. Probably should be preceded by ''section''.

ployee defined in section 401(c)(1) of title 26)'' for ''the individual's employment or previous employment with an employer''.

1988—Par. (1). Pub. L. 100–647 substituted ''section 162(i)(2) of the Internal Revenue Code of 1986'' for ''section 162(i)(3) of the Internal Revenue Code of 1954'', which for purposes of codification was translated as ''section 162(i)(2) of title 26''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 321(d)(3) of Pub. L. 104–191 applicable to contracts issued after Dec. 31, 1996, see section 321(f) of Pub. L. 104–191, set out as an Effective Date note under section 7702B of Title 26, Internal Revenue Code.

Amendment by section 421(a)(3) of Pub. L. 104–191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104–191, set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6801(c)(2) of Pub. L. 101–239 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to plan years beginning after December 31, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1988, but not applicable to any plan for any plan year to which section 162(k) of Title 26, Internal Revenue Code (as in effect on the day before Nov. 10, 1988), did not apply by reason of section 10001(e)(2) of Pub. L. 99–272, see section 3011(d) of Pub. L. 100–647, set out as a note under section 162 of Title 26.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300bb–5 of this title.

SUBCHAPTER XXI—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

PRIOR PROVISIONS

A prior subchapter XXI (§ 300cc et seq.), comprised of title XXIII of the Public Health Service Act, act July 1, 1944, ch. 373, 2301–2316, was renumbered title XXV, §§ 2501–2514, of the Public Health Service Act, and transferred to subchapter XXV (§ 300aaa et seq.) of this chapter, renumbered title XXVI, §§ 2601–2614, of the Public Health Service Act, renumbered title XXVII, §§ 2701–2714, of the Public Health Service Act, and renumbered title II, part B, §§ 231–244, of the Public Health Service Act, and transferred to part B (§ 238 et seq.) of subchapter I of this chapter.

PART A—ADMINISTRATION OF RESEARCH PROGRAMS

§ 300cc. Requirement of annual comprehensive report on all expenditures by Secretary with respect to acquired immune deficiency syndrome

(a) In general

Not later than December 1 of each fiscal year, the Secretary shall prepare and submit to the Congress a report on the expenditures by the Secretary of amounts appropriated for the preceding fiscal year with respect to acquired immune deficiency syndrome.

(b) Inclusion of certain information

The report required in subsection (a) of this section shall, with respect to acquired immune deficiency syndrome, include—

(1) for each program, project, or activity with respect to such syndrome, a specification of the amount obligated by each office and agency of the Department of Health and Human Services;

(2) a summary description of each such program, project, or activity;

(3) a list of such programs, projects, or activities that are directed towards members of minority groups;

(4) a description of the extent to which programs, projects, and activities described in paragraph (3) have been coordinated between the Director of the Office of Minority Health and the Director of the Centers for Disease Control and Prevention;

(5) a summary of the progress made by each such program, project, or activity with respect to the prevention and control of acquired immune deficiency syndrome;

(6) a summary of the evaluations conducted under this subchapter; and

(7) any report required in this chapter to be submitted to the Secretary for inclusion in the report required in subsection (a) of this section.

(July 1, 1944, ch. 373, title XXIII, § 2301, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3063; amended Pub. L. 102–531, title III, § 312(d)(16), Oct. 27, 1992, 106 Stat. 3505.)

PRIOR PROVISIONS

A prior section 300cc, act July 1, 1944, § 2301, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

LIMITATION ON EXPENDITURES FOR AIDS AND HIV ACTIVITIES

Pub. L. 104–146, § 11, May 20, 1996, 110 Stat. 1373, provided that: ''Notwithstanding any other provision of law, the total amounts of Federal funds expended in any fiscal year for AIDS and HIV activities may not exceed the total amounts expended in such fiscal year for activities related to cancer.''

VACCINES FOR HUMAN IMMUNODEFICIENCY VIRUS

Pub. L. 103–43, title XIX, § 1901(b), June 10, 1993, 107 Stat. 200, provided that:

''(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Institutes of Health, shall develop a plan for the appropriate inclusion of HIV-infected women, including pregnant women, HIV-infected infants, and HIV-infected children in studies conducted by or through the National Institutes of Health concerning the safety and efficacy of HIV vaccines for the treatment and prevention of HIV infection. Such plan shall ensure the full participation of other Federal agencies currently conducting HIV vaccine studies and require that such studies conform fully to the requirements of part 46 of title 45, Code of Federal Regulations.

''(2) REPORT.—Not later than 180 days after the date of the enactment of this Act [June 10, 1993], the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the plan developed under paragraph (1).

''(3) IMPLEMENTATION.—Not later than 12 months after the date of the enactment of this Act, the Secretary of

Health and Human Services shall implement the plan developed under paragraph (1), including measures for the full participation of other Federal agencies currently conducting HIV vaccine studies.

''(4) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.''

REQUIREMENT OF CERTAIN RESEARCH STUDIES

Section 203 of Pub. L. 100–607 provided that after consultation with Director of National Center for Health Services Research and Health Care Technology Assessment, the Secretary of Health and Human Services, acting through the Director of Centers for Disease Control, was to conduct a study for purpose of determining mortality rates with respect to acquired immune deficiency syndrome among individuals of various groups at risk of such syndrome, among various geographic areas, and among individuals with varying financial resources for payment of health care services, with a report to be submitted to Congress not later than 18 months after Nov. 4, 1988, and further directed Secretary to request the National Academy of Sciences and other similar appropriate nonprofit institutions to report to the Secretary findings made by such institutions with respect to the manner in which research on, and the development of, vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome and related conditions can be enhanced by the establishment of consortia designed to combine and share resources needed for such research and development, consisting of businesses involved in such research and development, of nonprofit research institutions, or of combinations of such businesses and such institutions, and the appropriate participation, if any, of the Federal Government in such consortia, with a report to be submitted to Congress not later than 1 year after Nov. 4, 1988.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Subtitle D (§§ 241–249) of title II of Pub. L. 100–607, as amended by Pub. L. 100–690, title II, § 2602(a), Nov. 18, 1988, 102 Stat. 4233, established National Commission on Acquired Immune Deficiency Syndrome for the purpose of promoting the development of a national consensus on policy concerning acquired immune deficiency syndrome and of studying and making recommendations for a consistent national policy concerning such syndrome, including financing of health care needs and research, dissemination of information to prevent spread of such syndrome, behavioral changes needed to combat such syndrome, and related civil rights issues, provided for membership of Commission, reports, executive director and staff of Commission, powers, and appropriations, and provided for termination of Commission 30 days after submission of its final report.

EX. ORD. NO. 12963. PRESIDENTIAL ADVISORY COUNCIL ON HIV/AIDS

Ex. Ord. No. 12963, June 14, 1995, 60 F.R. 31905, as amended by Ex. Ord. No. 13009, June 14, 1996, 61 F.R. 39799 [30799], provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the Secretary of Health and Human Services to exercise her discretion as follows:

SECTION 1. *Establishment*. (a) The Secretary of Health and Human Services (the ''Secretary'') shall establish an HIV/AIDS Advisory Council (the ''Advisory Council'' or the ''Council''), to be known as the Presidential Advisory Council on HIV/AIDS. The Advisory Council shall be composed of not more than 35 members to be appointed or designated by the Secretary. The Advisory Council shall comply with the Federal Advisory Committee Act, as amended (5 U.S.C. App.).

(b) The Secretary shall designate a Chairperson from among the members of the Advisory Council.

SEC. 2. *Functions*. The Advisory Council shall provide advice, information, and recommendations to the Secretary regarding programs and policies intended to (a) promote effective prevention of HIV disease, (b) advance research on HIV and AIDS, and (c) promote quality services to persons living with HIV disease and AIDS. The functions of the Advisory Council shall be solely advisory in nature. The Secretary shall provide the President with copies of all written reports provided to the Secretary by the Advisory Council.

SEC. 3. *Administration*. (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Advisory Council with such information as it may require for purposes of carrying out its functions.

(b) Any members of the Advisory Council that receive compensation shall be compensated in accordance with Federal law. Committee members may be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. section 5701–5707).

(c) To the extent permitted by law, and subject to the availability of appropriations, the Department of Health and Human Services shall provide the Advisory Council with such funds and support as may be necessary for the performance of its functions.

SEC. 4. *General Provisions*. (a) Notwithstanding the provisions of any other Executive order, any functions of the President under the Federal Advisory Committee Act that are applicable to the Advisory Council, except that of reporting annually to the Congress, shall be performed by the Department of Health and Human Services, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) This order is intended only to improve the internal management of the executive branch, and it is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, it officers, or any person.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300cc–1, 300cc–41, 300ee–22 of this title.

§ 300cc–1. Requirement of expediting awards of grants and contracts for research

(a) In general

The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

(b) Time limitations with respect to certain applications

(1) With respect to programs of grants, contracts, and cooperative agreements described in subsection (a) of this section, any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period beginning on the expiration of the period described in subparagraph (A).

(2) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (1) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

(c) Requirements with respect to adjustments in time limitations

With respect to any program for which a determination described in subsection (b)(2) of this section is made, the Secretary shall—

(1) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

(2) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

(d) Annual reports to Congress

Except as provided in subsection (e) of this section, the Secretary shall annually prepare, for inclusion in the comprehensive report required in section 300cc of this title, a report—

(A) summarizing programs for which the Secretary has made a determination described in subsection (b)(2) of this section, including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

(B) summarizing applications that—

(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (1) of subsection (b) of this section for which a determination described in paragraph (2) of such subsection has not been made; and

(ii) were not processed in accordance with the time limitations described in such paragraph (1).

(e) Quarterly reports for fiscal year 1989

For fiscal year 1989, the report required in subsection (d) of this section shall, not less than quarterly, be prepared and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(July 1, 1944, ch. 373, title XXIII, § 2302, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3063.)

PRIOR PROVISIONS

A prior section 300cc–1, act July 1, 1944, § 2302, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300cc–2. Requirements with respect to processing of requests for personnel and administrative support

(a) In general

The Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, not later than 21 days after the date on which such request is made. If the Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, does not disapprove a priority request during the 21-day period, the request shall be deemed to be approved.

(b) Notice to Secretary and to Assistant Secretary for Health

The Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall, respectively, transmit to the Secretary and the Assistant Secretary for Health a copy of each priority request made under this section by the agency head involved. The copy shall be transmitted on the date on which the priority request involved is made.

(c) "Priority request" defined

For purposes of this section, the term ''priority request'' means any request that—

(1) is designated as a priority request by the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health; and

(2)(A) is made to the Director of the Office of Personnel Management for the allocation of personnel to carry out activities with respect to acquired immune deficiency syndrome; or

(B) is made to the Administrator of General Services for administrative support or space in carrying out such activities.

(July 1, 1944, ch. 373, title XXIII, § 2303, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3064; amended Pub. L. 102–321, title I, §§ 161, 163(b)(7), July 10, 1992, 106 Stat. 375, 376; Pub. L. 102–531, title III, § 312(d)(17), Oct. 27, 1992, 106 Stat. 3505.)

PRIOR PROVISIONS

A prior section 300cc–2, act July 1, 1944, § 2303, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

Pub. L. 102–321, § 161, substituted ''Administrator of the Substance Abuse and Mental Health Services Administration'' for ''Administrator of the Alcohol, Drug Abuse, and Mental Health Administration''.

Subsec. (b). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

Pub. L. 102–321, § 163(b)(7)(A), substituted ''Administrator of the Substance Abuse and Mental Health Services Administration'' for ''Administrator of the Alcohol, Drug Abuse, and Mental Health Administration''.

Subsec. (c)(1). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

Pub. L. 102–321, § 163(b)(7)(B), substituted ''Administrator of the Substance Abuse and Mental Health Services Administration'' for ''Administrator of the Alcohol, Drug Abuse, and Mental Health Administration''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, see section 801(c) of Pub. L. 102–321, set out as a note under section 236 of this title.

§ 300cc–3. Establishment of Research Advisory Committee

(a) In general

After consultation with the Commissioner of Food and Drugs, the Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish within such Institute an advisory committee to be known as the AIDS Research Advisory Committee (hereafter in this section referred to as the ''Committee'').

(b) Composition

The Committee shall be composed of physicians whose clinical practice includes a significant number of patients with acquired immune deficiency syndrome.

(c) Duties

The Committee shall—

(1) advise the Director of such Institute (and may provide advice to the Directors of other agencies of the National Institutes of Health, as appropriate) on appropriate research activities to be undertaken with respect to clinical treatment of such syndrome, including advice with respect to—

(A) research on drugs for preventing or minimizing the development of symptoms or conditions arising from infection with the etiologic agent for such syndrome, including recommendations on the projects of research with respect to diagnosing immune deficiency and with respect to predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases; and

(B) research on the effectiveness of treating such symptoms or conditions with drugs that—

(i) are not approved by the Commissioner of Food and Drugs for the purpose of treating such symptoms or conditions; and

(ii) are being utilized for such purpose by individuals infected with such etiologic agent;

(2)(A) review ongoing publicly and privately supported research on clinical treatment for acquired immune deficiency syndrome, including research on drugs described in paragraph (1); and

(B) periodically issue, and make available to health care professionals, reports describing and evaluating such research;

(3) conduct studies and convene meetings for the purpose of determining the recommendations among physicians in clinical practice on clinical treatment of acquired immune deficiency syndrome, including treatment with the drugs described in paragraph (1); and

(4) conduct a study for the purpose of developing, with respect to individuals infected with the etiologic agent for acquired immune deficiency syndrome, a consensus among health care professionals on clinical treatments for preventing or minimizing the development of symptoms or conditions arising from infection with such etiologic agent.

(July 1, 1944, ch. 373, title XXIII, § 2304, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3065; amended Pub. L. 100–690, title II, § 2617(a), Nov. 18, 1988, 102 Stat. 4240; Pub. L. 103–43, title XVIII, § 1811(1), title XX, § 2008(d)(1), June 10, 1993, 107 Stat. 199, 212.)

PRIOR PROVISIONS

A prior section 300cc–3, acts July 1, 1944, ch. 373, title XXIII, § 2304, formerly title V, § 504, 58 Stat. 710; June 25, 1948, ch. 654, § 6, 62 Stat. 1018; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered title XXI, § 2104, Apr. 26, 1983, Pub. L. 98–24, § 2(a)(1), 97 Stat. 176; renumbered title XXIII, § 2304, Nov. 14, 1986, Pub. L. 99–660, title III, § 311(a), 100 Stat. 3755, related to care of Service patients at Saint Elizabeths Hospital, prior to repeal by Pub. L. 98–621, § 10(s), Nov. 8, 1984, 98 Stat. 3381, effective Oct. 1, 1987. Subsequent to repeal, section 2104 of title XXI of act July 1, 1944, was renumbered section 2304 of title XXIII of that act by section 311(a) of Pub. L. 99–660.

A prior section 300cc–4, acts July 1, 1944, ch. 373, title XXI, § 2105, formerly title V, § 505, 58 Stat. 710; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered title XXI, § 2105, Apr. 26, 1983, Pub. L. 98–24, § 2(a)(1), 97 Stat. 176, provided procedures under which the Secretary could settle claims for damages from collisions or incident to the operation of vessels within a year of the accrual of such claims and not to exceed $3,000, prior to repeal by Pub. L. 99–117, § 12(f), Oct. 7, 1985, 99 Stat. 495. Subsequent to repeal, section 2105 of title XXI of act July 1, 1944, was renumbered section 2305 of title XXIII of that act by Pub. L. 99–660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3755.

Prior sections 300cc–5 to 300cc–10, act July 1, 1944, §§ 2306 to 2311, respectively, were successively renumbered by subsequent acts and transferred, see sections 238c to 238h of this title.

AMENDMENTS

1993—Pub. L. 103–43, § 2008(d)(1)(A), substituted ''Research Advisory Committee'' for ''Clinical Research Review Committee'' in section catchline.

Subsec. (a). Pub. L. 103–43, § 2008(d)(1)(B), substituted ''AIDS Research Advisory Committee'' for ''AIDS Clinical Research Review Committee''.

Subsec. (c)(1). Pub. L. 103–43, § 1811(1), in introductory provisions inserted ''(and may provide advice to the Directors of other agencies of the National Institutes of Health, as appropriate)'' after ''Director of such Institute'' and in subpar. (A) inserted before semicolon at end '', including recommendations on the projects of research with respect to diagnosing immune deficiency and with respect to predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases''.

1988—Subsec. (c)(2)(B). Pub. L. 100–690 substituted semicolon for period.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved

Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300cc–12, 300cc–14, 300cc–17, 300cc–18 of this title.

PART B—RESEARCH AUTHORITY

§ 300cc–11. Clinical evaluation units at National Institutes of Health

(a) In general

The Secretary, acting through the Director of the National Cancer Institute and the Director of the National Institute of Allergy and Infectious Diseases, shall for each such Institute establish a clinical evaluation unit at the Clinical Center at the National Institutes of Health. Each of the clinical evaluation units—

(1) shall conduct clinical evaluations of experimental treatments for acquired immune deficiency syndrome developed within the preclinical drug development program, including evaluations of methods of diagnosing immune deficiency and evaluations of methods of predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases; and

(2) may conduct clinical evaluations of experimental treatments for such syndrome that are developed by any other national research institute of the National Institutes of Health or by any other entity.

(b) Personnel and administrative support

(1) For the purposes described in subsection (a) of this section, the Secretary, acting through the Director of the National Institutes of Health, shall provide each of the clinical evaluation units required in such subsection—

(A)(i) with not less than 50 beds; or

(ii) with an outpatient clinical capacity equal to not less than twice the outpatient clinical capacity, with respect to acquired immune deficiency syndrome, possessed by the Clinical Center of the National Institutes of Health on June 1, 1988; and

(B) with such personnel, such administrative support, and such other support services as may be necessary.

(2) Facilities, personnel, administrative support, and other support services provided pursuant to paragraph (1) shall be in addition to the number or level of facilities, personnel, administrative support, and other support services that otherwise would be available at the Clinical Center at the National Institutes of Health for the provision of clinical care for individuals with diseases or disorders.

(c) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(July 1, 1944, ch. 373, title XXIII, § 2311, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3066; amended Pub. L. 103–43, title XVIII, § 1811(2), June 10, 1993,107 Stat. 199.)

PRIOR PROVISIONS

A prior section 300cc–11, act July 1, 1944, § 2312, was successively renumbered by subsequent acts and transferred, see section 238i of this title.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–43 inserted before semicolon at end ‘‘, including evaluations of methods of diagnosing immune deficiency and evaluations of methods of predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases’’.

§ 300cc–12. Use of investigational new drugs with respect to acquired immune deficiency syndrome

(a) Encouragement of applications with respect to clinical trials

(1) If, in the determination of the Secretary, there is preliminary evidence that a new drug has effectiveness in humans with respect to the prevention or treatment of acquired immune deficiency syndrome, the Secretary shall, through statements published in the Federal Register—

(A) announce the fact of such determination; and

(B) with respect to the new drug involved, encourage an application for an exemption for investigational use of the new drug under regulations issued under section 355(i) of title 21.

(2)(A) The AIDS Research Advisory Committee established pursuant to section 300cc–3 of this title shall make recommendations to the Secretary with respect to new drugs appropriate for determinations described in paragraph (1).

(B) The Secretary shall, as soon as is practicable, determine the merits of recommendations received by the Secretary pursuant to subparagraph (A).

(b) Encouragement of applications with respect to treatment use in circumstances other than clinical trials

(1) In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a) of this section and with respect to which an exemption is in effect for purposes of section 355(i) of title 21, the Secretary shall—

(A) as appropriate, encourage the sponsor of the investigation of the new drug to submit to the Secretary, in accordance with regulations issued under such section, an application to use the drug in the treatment of individuals—

(i) who are infected with the etiologic agent for acquired immune deficiency syndrome; and

(ii) who are not participating in the clinical trials conducted pursuant to such exemption; and

(B) if such an application is approved, encourage, as appropriate, licensed medical practitioners to obtain, in accordance with such regulations, the new drug from such sponsor for the purpose of treating such individuals.

(2) If the sponsor of the investigation of a new drug described in paragraph (1) does not submit to the Secretary an application described in such paragraph (relating to treatment use), the Secretary shall, through statements published in the Federal Register, encourage, as appropriate, licensed medical practitioners to submit to the Secretary such applications in accordance with regulations described in such paragraph.

(c) Technical assistance with respect to treatment use

In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a) of this section, the Secretary may, directly or through grants or contracts, provide technical assistance with respect to the process of—

(1) submitting to the Secretary applications for exemptions described in paragraph (1)(B) of such subsection;

(2) submitting to the Secretary applications described in subsection (b) of this section; and

(3) with respect to sponsors of investigations of new drugs, facilitating the transfer of new drugs from such sponsors to licensed medical practitioners.

(d) "New drug" defined

For purposes of this section, the term ''new drug'' has the meaning given such term in section 321 of title 21.

(July 1, 1944, ch. 373, title XXIII, § 2312, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3066; amended Pub. L. 103–43, title XX, § 2008(d)(2), June 10, 1993, 107 Stat. 212.)

PRIOR PROVISIONS

A prior section 300cc–12, act July 1, 1944, § 2313, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

AMENDMENTS

1993—Subsec. (a)(2)(A). Pub. L. 103–43 substituted ''AIDS Research Advisory Committee'' for ''AIDS Clinical Research Review Committee''.

§ 300cc–13. Terry Beirn Community-Based AIDS Research Initiative

(a) In general

After consultation with the Commissioner of Food and Drugs, the Director of the National Institutes of Health, acting through the Director of the National Institute of Allergy and Infectious Diseases, may make grants to public entities and nonprofit private entities concerned with acquired immune deficiency syndrome, and may enter into contracts with public and private such[1] entities, for the purpose of planning and conducting, in the community involved, clinical trials of experimental treatments for infection with the etiologic agent for such syndrome that are approved by the Commissioner of Food and Drugs for investigational use under regulations issued under section 355 of title 21.

(b) Requirement of certain projects

(1) Financial assistance under subsection (a) of this section shall include such assistance to community-based organizations and community health centers for the purpose of—

(A) retaining appropriate medical supervision;

(B) assisting with administration, data collection and record management; and

(C) conducting training of community physicians, nurse practitioners, physicians' assistants and other health professionals for the purpose of conducting clinical trials.

(2)(A) Financial assistance under subsection (a) of this section shall include such assistance for demonstration projects designed to implement and conduct community-based clinical trials in order to provide access to the entire scope of communities affected by infections with the etiologic agent for acquired immune deficiency syndrome, including minorities, hemophiliacs and transfusion-exposed individuals, women, children, users of intravenous drugs, and individuals who are asymptomatic with respect to such infection.

(B) The Director of the National Institutes of Health may not provide financial assistance under this paragraph unless the application for such assistance is approved—

(i) by the Commissioner of Food and Drugs;

(ii) by a duly constituted Institutional Review Board that meets the requirements of part 56 of title 21, Code of Federal Regulations; and

(iii) by the Director of the National Institute of Allergy and Infectious Diseases.

(c) Participation of private industry, schools of medicine and primary providers

Programs carried out with financial assistance provided under subsection (a) of this section shall be designed to encourage private industry and schools of medicine, osteopathic medicine, and existing consortia of primary care providers organized to conduct clinical research concerning acquired immune deficiency syndrome to participate in, and to support, the clinical trials conducted pursuant to the programs.

(d) Requirement of application

The Secretary may not provide financial assistance under subsection (a) of this section unless—

(1) an application for the assistance is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the assistance is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) Authorization of appropriations

(1) For the purpose of carrying out subsection (b)(1) of this section, there are authorized to be

[1] So in original.

appropriated such sums as may be necessary for each of the fiscal years 1989 through 1996.

(2) For the purpose of carrying out subsection (b)(2) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1996.

(July 1, 1944, ch. 373, title XXIII, §2313, as added Pub. L. 100–607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3068; amended Pub. L. 100–690, title II, §2617(b), Nov. 18, 1988, 102 Stat. 4240; Pub. L. 101–93, §6, Aug. 16, 1989, 103 Stat. 615; Pub. L. 102–96, §3, Aug. 14, 1991, 105 Stat. 481.)

PRIOR PROVISIONS

A prior section 300cc–13, act July 1, 1944, §2314, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

AMENDMENTS

1991—Pub. L. 102–96, §3(1), substituted ''Terry Beirn Community-Based AIDS Research Initiative'' for ''Community-based evaluations of experimental therapies'' in section catchline.

Subsec. (c). Pub. L. 102–96, §3(2), substituted '', schools of medicine and primary providers'' for ''and schools of medicine'' in heading and substituted ''schools of medicine, osteopathic medicine, and existing consortia of primary care providers organized to conduct clinical research concerning acquired immune deficiency syndrome'' for ''schools of medicine and osteopathic medicine''.

Subsec. (e). Pub. L. 102–96, §3(3), substituted ''1996'' for ''1991'' in pars. (1) and (2).

1989—Subsec. (c). Pub. L. 101–93 inserted ''and osteopathic medicine'' after ''schools of medicine''.

1988—Subsec. (a). Pub. L. 100–690, §2617(b)(1), which directed substitution of ''through the Director of the National Institute of Allergy'' for ''through the National Institutes of Allergy'', was executed by making substitution for ''through the National Institute of Allergy'' as the probable intent of Congress.

Subsec. (b)(2)(B)(iii). Pub. L. 100–690, §2617(b)(2), which directed substitution of ''Institute'' for ''Institutes'', could not be executed because ''Institute'' was singular in original.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

FINDINGS AND SENSE OF CONGRESS

Section 2 of Pub. L. 102–96 provided that:

''(a) FINDINGS.—Congress finds that—

''(1) community-based clinical trials complement the National Institute of Allergy and Infectious Diseases' university-based research in order to provide increased access to experimental therapies;

''(2) community-based clinical trials provide an efficient and cost-effective means to develop new HIV-related treatments, benefiting all people living with HIV disease and other illnesses; and

''(3) because the community-based clinical trials model has a proven ability to conduct rapid trials that meet the very highest standards of scientific inquiry, this program should be reauthorized and significantly expanded.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that, because of Terry Beirn's tireless efforts to foster a partnership among all parties invested in AIDS research (including the National Institutes of Health university-based research system, primary care physicians practicing in the community, and patients), the community-based clinical trials program should be renamed as the 'Terry Beirn Community-Based AIDS Research Initiative' in his honor.''

§300cc–14. Evaluation of certain treatments

(a) Establishment of program

(1) After consultation with the AIDS Research Advisory Committee established pursuant to section 300cc–3 of this title, the Secretary shall establish a program for the evaluation of drugs that—

(A) are not approved by the Commissioner of Food and Drugs for the purpose of treatments with respect to acquired immune deficiency syndrome; and

(B) are being utilized for such purpose by individuals infected with the etiologic agent for such syndrome.

(2) The program established under paragraph (1) shall include evaluations of the effectiveness and the risks of the treatment involved, including the risks of foregoing treatments with respect to acquired immune deficiency syndrome that are approved by the Commissioner of Food and Drugs.

(b) Authority with respect to grants and contracts

(1) For the purpose of conducting evaluations required in subsection (a) of this section, the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

(2) Nonprofit private entities under paragraph (1) may include nonprofit private organizations that—

(A) are established for the purpose of evaluating treatments with respect to acquired immune deficiency syndrome; and

(B) consist primarily of individuals infected with the etiologic agent for such syndrome.

(c) Scientific and ethical guidelines

(1) The Secretary shall establish appropriate scientific and ethical guidelines for the conduct of evaluations carried out pursuant to this section. The Secretary may not provide financial assistance under subsection (b)(1) of this section unless the applicant for such assistance agrees to comply with such guidelines.

(2) The Secretary may establish the guidelines described in paragraph (1) only after consulting with—

(A) physicians whose clinical practice includes a significant number of individuals with acquired immune deficiency syndrome;

(B) individuals who are infected with the etiologic agent for such syndrome; and

(C) other individuals with appropriate expertise or experience.

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(July 1, 1944, ch. 373, title XXIII, §2314, as added Pub. L. 100–607, title II, §201(4), Nov. 4, 1988, 102

Stat. 3069; amended Pub. L. 103–43, title XX, § 2008(d)(3), June 10, 1993, 107 Stat. 212.)

PRIOR PROVISIONS

A prior section 300cc–14, act July 1, 1944, § 2315, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–43 substituted ''AIDS Research Advisory Committee'' for ''Clinical Research Review Committee'' in introductory provisions.

§ 300cc–15. Support of international efforts

(a) Grants and contracts for research

(1) Under section 242*l* of this title, the Secretary, acting through the Director of the National Institutes of Health—

(A) shall, for the purpose described in paragraph (2), make grants to, enter into cooperative agreements and contracts with, and provide technical assistance to, international organizations concerned with public health; and

(B) may, for such purpose, provide technical assistance to foreign governments.

(2) The purpose referred to in paragraph (1) is promoting and expediting international research and training concerning the natural history and pathogenesis of the human immunodeficiency virus and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome and opportunistic infections.

(b) Grants and contracts for additional purposes

After consultation with the Administrator of the Agency for International Development, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall under section 242*l* of this title make grants to, enter into contracts with, and provide technical assistance to, international organizations concerned with public health and may provide technical assistance to foreign governments, in order to support—

(1) projects for training individuals with respect to developing skills and technical expertise for use in the prevention, diagnosis, and treatment of acquired immune deficiency syndrome; and

(2) epidemiological research relating to acquired immune deficiency syndrome.

(c) Special Programme of World Health Organization

Support provided by the Secretary pursuant to this section shall be in furtherance of the global strategy of the World Health Organization Special Programme on Acquired Immunodeficiency Syndrome.

(d) Preferences

In providing grants, cooperative agreements, contracts, and technical assistance under subsections (a) and (b) of this section, the Secretary shall—

(1) give preference to activities under such subsections conducted by, or in cooperation with, the World Health Organization; and

(2) with respect to activities carried out under such subsections in the Western Hemisphere, give preference to activities conducted by, or in cooperation with, the Pan American Health Organization or the World Health Organization.

(e) Requirement of application

The Secretary may not make a grant or enter into a cooperative agreement or contract under this section unless—

(1) an application for such assistance is submitted to the Secretary;

(2) with respect to carrying out the purpose for which such assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(f) 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 fiscal year.

(July 1, 1944, ch. 373, title XXIII, § 2315, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3070; amended Pub. L. 102–531, title III, § 312(d)(18), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 103–43, title XVIII, § 1811(3), June 10, 1993, 107 Stat. 199.)

PRIOR PROVISIONS

A prior section 300cc–15, act July 1, 1944, § 2316, was successively renumbered by subsequent acts and transferred, see section 238m of this title.

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–43, § 1811(3)(A), substituted ''international research and training concerning the natural history and pathogenesis of the human immunodeficiency virus and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome and opportunistic infections'' for ''international research concerning the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome''.

Subsec. (f). Pub. L. 103–43, § 1811(3)(B), substituted ''such sums as may be necessary for each fiscal year'' for ''there are authorized to be appropriated $40,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991''.

1992—Subsec. (b). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

§ 300cc–16. Research centers

(a) In general

(1) The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, may make grants to, and enter into contracts with, public and nonprofit private entities to assist such entities in planning, establishing, or strengthening, and providing basic operating support for, centers for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immune deficiency syndrome.

(2) A grant or contract under paragraph (1) shall be provided in accordance with policies established by the Secretary, acting through the Director of the National Institutes of Health, and after consultation with the advisory council for the National Institute of Allergy and Infectious Diseases.

(3) The Secretary shall ensure that, as appropriate, clinical research programs carried out under paragraph (1) include as research subjects women, children, hemophiliacs, and minorities.

(b) Use of financial assistance

(1) Financial assistance under subsection (a) of this section may be expended for—

(A) the renovation or leasing of space;

(B) staffing and other basic operating costs, including such patient care costs as are required for clinical research;

(C) clinical training with respect to acquired immune deficiency syndrome (including such training for allied health professionals); and

(D) demonstration purposes, including projects in the long-term monitoring and outpatient treatment of individuals infected with the etiologic agent for such syndrome.

(2) Financial assistance under subsection (a) of this section may not be expended to provide research training for which National Research Service Awards may be provided under section 288 of this title.

(c) Duration of support

Support of a center under subsection (a) of this section may be for not more than five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(July 1, 1944, ch. 373, title XXIII, § 2316, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3071.)

§ 300cc–17. Information services

(a) Establishment of program

The Secretary shall establish, maintain, and operate a program with respect to information on research, treatment, and prevention activities relating to infection with the etiologic agent for acquired immune deficiency syndrome. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated.

(b) Toll-free telephone communications for health care entities

(1) After consultation with the Director of the Office of AIDS Research, the Administrator of the Health Resources and Services Administration, and the Director of the Centers for Disease Control and Prevention, the Secretary shall provide for toll-free telephone communications to provide medical and technical information with respect to acquired immune deficiency syndrome to health care professionals, allied health care providers, and to professionals providing emergency health services.

(2) Information provided pursuant to paragraph (1) shall include—

(A) information on prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome; and

(B) information contained in the data banks established in subsections (c) and (d) of this section.

(c) Data bank on research information

(1) After consultation with the Director of the Office of AIDS Research, the Director of the Centers for Disease Control and Prevention, and the National Library of Medicine, the Secretary shall establish a data bank of information on the results of research with respect to acquired immune deficiency syndrome conducted in the United States and other countries.

(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. To the extent practicable, the Secretary shall make such information available to researchers, physicians, and other appropriate individuals, of countries other than the United States.

(d) Data bank on clinical trials and treatments

(1) After consultation with the Commissioner of Food and Drugs, the AIDS Research Advisory Committee established under section 300cc–3 of this title, and the Director of the Office of AIDS Research, the Secretary shall, in carrying out subsection (a) of this section, establish a data bank of information on clinical trials and treatments with respect to infection with the etiologic agent for acquired immune deficiency syndrome (hereafter in this section referred to as the ''Data Bank'').

(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. The Secretary shall disseminate such information through information systems available to individuals infected with the etiologic agent for acquired immune deficiency syndrome, to other members of the public, to health care providers, and to researchers.

(e) Requirements with respect to data bank on clinical trials and treatments

The Data Bank shall include the following:

(1) A registry of clinical trials of experimental treatments for acquired immune deficiency syndrome and related illnesses conducted under regulations promulgated pursuant to section 355 of title 21 that provides a description of the purpose of each experimental drug protocol either with the consent of the protocol sponsor, or when a trial to test efficacy begins. Information provided shall include eligibility criteria and the location of trial sites, and must be forwarded to the Data Bank by the sponsor of the trial not later than 21 days after the approval by the Food and Drug Administration.

(2) Information pertaining to experimental treatments for acquired immune deficiency syndrome that may be available under a treatment investigational new drug application that has been submitted to the Food and Drug Administration pursuant to part 312 of title 21, Code of Federal Regulations. The Data Bank

shall also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, of such experimental treatments, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatment.

(July 1, 1944, ch. 373, title XXIII, § 2317, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3071; amended Pub. L. 100–690, title II, § 2617(c), Nov. 18, 1988, 102 Stat. 4240; Pub. L. 102–531, title III, § 312(d)(19), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 103–43, title XX, § 2008(d)(4), June 10, 1993, 107 Stat. 212.)

AMENDMENTS

1993—Subsec. (d)(1). Pub. L. 103–43 substituted ''AIDS Research Advisory Committee established under section 300cc–3 of this title'' for ''Clinical Research Review Committee''.

1992—Subsecs. (b)(1), (c)(1). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1988—Subsec. (e). Pub. L. 100–690 substituted ''data bank on clinical trials and treatments'' for ''data bank'' in heading.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

§ 300cc–18. Development of model protocols for clinical care of infected individuals

(a) In general

(1) The Secretary, acting through the Director of the National Institutes of Health and after consultation with the Administrator for Health Care Policy and Research, may make grants to public and nonprofit private entities for the establishment of projects to develop model protocols for the clinical care of individuals infected with the etiologic agent for acquired immune deficiency syndrome, including treatment and prevention of HIV infection and related conditions among women.

(2) The Secretary may not make a grant under paragraph (1) unless—

(A) the applicant for the grant is a provider of comprehensive primary care; or

(B) the applicant for the grant agrees, with respect to the project carried out pursuant to paragraph (1), to enter into a cooperative arrangement with an entity that is a provider of comprehensive primary care.

(b) Requirement of provision of certain services

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees that, with respect to patients participating in the project carried out with the grant, services provided pursuant to the grant will include—

(1) monitoring, in clinical laboratories, of the condition of such patients;

(2) clinical intervention for infection with the etiologic agent for acquired immune deficiency syndrome, including measures for the prevention of conditions arising from the infection;

(3) information and counseling on the availability of treatments for such infection approved by the Commissioner of Food and Drugs, on the availability of treatments for such infection not yet approved by the Commissioner, and on the reports issued by the AIDS Research Advisory Committee under section 300cc–3(c)(2)(B) of this title;

(4) support groups; and

(5) information on, and referrals to, entities providing appropriate social support services.

(c) Limitation on imposition of charges for services

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees that, if the applicant will routinely impose a charge for providing services pursuant to the grant, the applicant will not impose the charge on any individual seeking such services who is unable to pay the charge.

(d) Evaluation and reports

(1) The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees, with respect to the project carried out pursuant to subsection (a) of this section, to submit to the Secretary—

(A) information sufficient to assist in the replication of the model protocol developed pursuant to the project; and

(B) such reports as the Secretary may require.

(2) The Secretary shall provide for evaluations of projects carried out pursuant to subsection (a) of this section and shall annually submit to the Congress a report describing such projects. The report shall include the findings made as a result of such evaluations and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to the program established in this section.

(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 1989 through 1991, and such sums as may be necessary for each of the fiscal years 1994 through 1996.

(July 1, 1944, ch. 373, title XXIII, § 2318, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3073; amended Pub. L. 103–43, title XVIII, § 1811(4), title XX, § 2008(d)(5), June 10, 1993, 107 Stat. 199, 212.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–43, § 1811(4)(A), inserted '', acting through the Director of the National Institutes of Health and after consultation with the Administrator for Health Care Policy and Research,'' after ''The Secretary'' and '', including treatment and prevention of HIV infection and related conditions among women'' after ''syndrome''.

Subsec. (b)(3). Pub. L. 103–43, § 2008(d)(5), substituted ''AIDS Research Advisory Committee'' for ''Clinical Research Review Committee''.

Subsec. (e). Pub. L. 103–43, § 1811(4)(B), inserted before period at end '', and such sums as may be necessary for each of the fiscal years 1994 through 1996''.

§300cc–19. National blood resource education program

After consultation with the Director of the National Heart, Lung, and Blood Institute and the Commissioner of Food and Drugs, the Secretary shall establish a program of research and education regarding blood donations and transfusions to maintain and improve the safety of the blood supply. Education programs shall be directed at health professionals, patients, and the community to—

(1) in the case of the public and patients undergoing treatment—

(A) increase awareness that the process of donating blood is safe;

(B) promote the concept that blood donors are contributors to a national need to maintain an adequate and safe blood supply;

(C) encourage blood donors to donate more than once a year; and

(D) encourage repeat blood donors to recruit new donors;

(2) in the case of health professionals—

(A) improve knowledge, attitudes, and skills of health professionals in the appropriate use of blood and blood components;

(B) increase the awareness and understanding of health professionals regarding the risks versus benefits of blood transfusion; and

(C) encourage health professionals to consider alternatives to the administration of blood or blood components for their patients; and

(3) in the case of the community, increase coordination, communication, and collaboration among community, professional, industry, and government organizations regarding blood donation and transfusion issues.

(July 1, 1944, ch. 373, title XXIII, §2319, as added Pub. L. 100–607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3074.)

§300cc–20. Additional authority with respect to research

(a) Data collection with respect to national prevalence

(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may, through representative sampling and other appropriate methodologies, provide for the continuous collection of data on the incidence in the United States of cases of acquired immune deficiency syndrome and of cases of infection with the etiologic agent for such syndrome. The Secretary may carry out the program of data collection directly or through cooperative agreements and contracts with public and nonprofit private entities.

(2) The Secretary shall encourage each State to enter into a cooperative agreement or contract under paragraph (1) with the Secretary in order to facilitate the prompt collection of the most recent accurate data on the incidence of cases described in such paragraph.

(3) The Secretary shall ensure that data collected under paragraph (1) includes data on the demographic characteristics of the population of individuals with cases described in paragraph (1), including data on specific subpopulations at risk of infection with the etiologic agent for acquired immune deficiency syndrome.

(4) In carrying out this subsection, the Secretary shall, for the purpose of assuring the utility of data collected under this section, request entities with expertise in the methodologies of data collection to provide, as soon as is practicable, assistance to the Secretary and to the States with respect to the development and utilization of uniform methodologies of data collection.

(5) The Secretary shall provide for the dissemination of data collected pursuant to this subsection. In carrying out this paragraph, the Secretary may publish such data as frequently as the Secretary determines to be appropriate with respect to the protection of the public health. The Secretary shall publish such data not less than once each year.

(b) Epidemiological and demographic data

(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop an epidemiological data base and shall provide for long-term studies for the purposes of—

(A) collecting information on the demographic characteristics of the population of individuals infected with the etiologic agent for acquired immune deficiency syndrome and the natural history of such infection; and

(B) developing models demonstrating the long-term domestic and international patterns of the transmission of such etiologic agent.

(2) The Secretary may carry out paragraph (1) directly or through grants to, or cooperative agreeements[1] or contracts with, public and nonprofit private entities, including Federal agencies.

(c) Long-term research

The Secretary may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting long-term research into treatments for acquired immune deficiency syndrome developed from knowledge of the genetic nature of the etiologic agent for such syndrome.

(d) Social sciences research

The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

(e) Authorization of appropriations

(1) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year.

(2) Amounts appropriated pursuant to paragraph (1) to carry out subsection (c) of this section shall remain available until expended.

(July 1, 1944, ch. 373, title XXIII, §2320, as added Pub. L. 100–607, title II, §201(4), Nov. 4, 1988, 102

[1] So in original.

Stat. 3074; amended Pub. L. 100–690, title II, § 2617(d), Nov. 18, 1988, 102 Stat. 4240; Pub. L. 102–531, title III, § 312(d)(20), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 103–43, title XVIII, § 1811(5), (6), June 10, 1993, 107 Stat. 200.)

AMENDMENTS

1993—Subsec. (b)(1)(A). Pub. L. 103–43, § 1811(5), inserted ''and the natural history of such infection'' after ''syndrome''.

Subsec. (e)(1). Pub. L. 103–43, § 1811(6), substituted ''fiscal year'' for ''of the fiscal years 1989 through 1991''.

1992—Subsecs. (a)(1), (b)(1). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1988—Subsec. (a)(5). Pub. L. 100–690 substituted ''subsection'' for ''section''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

PART C—RESEARCH TRAINING

§ 300cc–31. Fellowships and training

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish fellowship and training programs to be conducted by the Centers for Disease Control and Prevention to train individuals to develop skills in epidemiology, surveillance, testing, counseling, education, information, and laboratory analysis relating to acquired immune deficiency syndrome. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in national and international efforts toward the prevention, diagnosis, and treatment of acquired immune deficiency syndrome.

(b) Programs conducted by National Institute of Mental Health

The Secretary, acting through the Director of the National Institute of Mental Health, shall conduct or support fellowship and training programs for individuals pursuing graduate or postgraduate study in order to train such individuals to conduct scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

(c) Relationship to limitation on number of employees

Any individual receiving a fellowship or receiving training under subsection (a) or (b) of this section shall not be included in any determination of the number of full-time equivalent employees of the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after November 4, 1988.

(d) 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 fiscal year.

(July 1, 1944, ch. 373, title XXIII, § 2341, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3076; amended Pub. L. 100–690, title II, § 2617(e), Nov. 18, 1988, 102 Stat. 4240; Pub. L. 102–531, title III, § 312(d)(21), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 103–43, title XVIII, § 1811(7), June 10, 1993, 107 Stat. 200.)

AMENDMENTS

1993—Subsec. (d). Pub. L. 103–43 substituted ''fiscal year'' for ''of the fiscal years 1989 through 1991''.

1992—Subsec. (a). Pub. L. 102–531, which directed the substitution of ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'', was executed by making the substitution in two places to reflect the probable intent of Congress.

1988—Subsec. (c). Pub. L. 100–690 substituted ''date of the enactment of the AIDS Amendments of 1988'' for ''date of the enactment of the AIDS Federal Policy Act of 1988'' which for purposes of codification was translated as ''November 4, 1988''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

PART D—OFFICE OF AIDS RESEARCH

SUBPART I—INTERAGENCY COORDINATION OF ACTIVITIES

AMENDMENTS

1993—Pub. L. 103–43, title XVIII, § 1801(a)(1), (3), June 10, 1993, 107 Stat. 192, added part D designation and heading and subpart I heading and struck out former part D designation and heading ''Special Authorities of the Director of the National Institutes of Health''.

§ 300cc–40. Establishment of Office

(a) In general

There is established within the National Institutes of Health an office to be known as the Office of AIDS Research. The Office shall be headed by a director, who shall be appointed by the Secretary.

(b) Duties

(1) Interagency coordination of AIDS activities

With respect to acquired immune deficiency syndrome, the Director of the Office shall plan, coordinate, and evaluate research and other activities conducted or supported by the agencies of the National Institutes of Health. In carrying out the preceding sentence, the Director of the Office shall evaluate the AIDS activities of each of such agencies and shall provide for the periodic reevaluation of such activities.

(2) Consultations

The Director of the Office shall carry out this subpart (including developing and revising the plan required in section 300cc–40b of this title) in consultation with the heads of the agencies of the National Institutes of Health, with the advisory councils of the agencies, and with the advisory council established under section 300cc–40a of this title.

(3) Coordination

The Director of the Office shall act as the primary Federal official with responsibility for overseeing all AIDS research conducted or supported by the National Institutes of Health, and

(A) shall serve to represent the National Institutes of Health AIDS Research Program at all relevant Executive branch task forces and committees; and

(B) shall maintain communications with all relevant Public Health Service agencies and with various other departments of the Federal Government, to ensure the timely transmission of information concerning advances in AIDS research and the clinical treatment of acquired immune deficiency syndrome and its related conditions, between these various agencies for dissemination to affected communities and health care providers.

(July 1, 1944, ch. 373, title XXIII, § 2351, as added Pub. L. 103–43, title XVIII, § 1801(a)(3), June 10, 1993, 107 Stat. 192.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300cc–40b of this title.

§ 300cc–40a. Advisory Council; coordinating committees

(a) Advisory Council

(1) In general

The Secretary shall establish an advisory council for the purpose of providing advice to the Director of the Office on carrying out this part. (Such council is referred to in this subsection as the ''Advisory Council''.)

(2) Composition, compensation, terms, chair, etc.

Subsections (b) through (g) of section 284a of this title apply to the Advisory Council to the same extent and in the same manner as such subsections apply to advisory councils for the national research institutes, except that—

(A) in addition to the ex officio members specified in section 284a(b)(2) of this title, there shall serve as such members of the Advisory Council a representative from the advisory council of each of the National Cancer Institute and the National Institute on Allergy and Infectious Diseases; and

(B) with respect to the other national research institutes, there shall serve as ex officio members of such Council, in addition to such members specified in subparagraph (A), a representative from the advisory council of each of the 2 institutes that receive the greatest funding for AIDS activities.

(b) Individual coordinating committees regarding research disciplines

(1) In general

The Director of the Office shall establish, for each research discipline in which any activity under the plan required in section 300cc–40b of this title is carried out, a committee for the purpose of providing advice to the Director of the Office on carrying out this part with respect to such discipline. (Each such committee is referred to in this subsection as a ''coordinating committee''.)

(2) Composition

Each coordinating committee shall be composed of representatives of the agencies of the National Institutes of Health with significant responsibilities regarding the research discipline involved.

(July 1, 1944, ch. 373, title XXIII, § 2352, as added Pub. L. 103–43, title XVIII, § 1801(a)(3), June 10, 1993, 107 Stat. 193.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300cc–40, 300cc–40b, 300cc–43 of this title.

§ 300cc–40b. Comprehensive plan for expenditure of appropriations

(a) In general

Subject to the provisions of this section and other applicable law, the Director of the Office, in carrying out section 300cc–40 of this title, shall—

(1) establish a comprehensive plan for the conduct and support of all AIDS activities of the agencies of the National Institutes of Health (which plan shall be first established under this paragraph not later than 12 months after June 10, 1993);

(2) ensure that the Plan establishes priorities among the AIDS activities that such agencies are authorized to carry out;

(3) ensure that the Plan establishes objectives regarding such activities, describes the means for achieving the objectives, and designates the date by which the objectives are expected to be achieved;

(4) ensure that all amounts appropriated for such activities are expended in accordance with the Plan;

(5) review the Plan not less than annually, and revise the Plan as appropriate; and

(6) ensure that the Plan serves as a broad, binding statement of policies regarding AIDS activities of the agencies, but does not remove the responsibility of the heads of the agencies for the approval of specific programs or projects, or for other details of the daily administration of such activities, in accordance with the Plan.

(b) Certain components of Plan

With respect to AIDS activities of the agencies of the National Institutes of Health, the Director of the Office shall ensure that the Plan—

(1) provides for basic research;

(2) provides for applied research;

(3) provides for research that is conducted by the agencies;

(4) provides for research that is supported by the agencies;

(5) provides for proposals developed pursuant to solicitations by the agencies and for proposals developed independently of such solicitations; and

(6) provides for behavioral research and social sciences research.

(c) Budget estimates

(1) Full-funding budget

(A) With respect to a fiscal year, the Director of the Office shall prepare and submit directly to the President, for review and transmittal to the Congress, a budget estimate for carrying out the Plan for the fiscal year, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the advisory council established under section 300cc–40a of this title. The budget estimate shall include an estimate of the number and type of personnel needs for the Office.

(B) The budget estimate submitted under subparagraph (A) shall estimate the amounts necessary for the agencies of the National Institutes of Health to carry out all AIDS activities determined by the Director of the Office to be appropriate, without regard to the probability that such amounts will be appropriated.

(2) Alternative budgets

(A) With respect to a fiscal year, the Director of the Office shall prepare and submit to the Secretary and the Director of the National Institutes of Health the budget estimates described in subparagraph (B) for carrying out the Plan for the fiscal year. The Secretary and such Director shall consider each of such estimates in making recommendations to the President regarding a budget for the Plan for such year.

(B) With respect to the fiscal year involved, the budget estimates referred to in subparagraph (A) for the Plan are as follows:

(i) The budget estimate submitted under paragraph (1).

(ii) A budget estimate developed on the assumption that the amounts appropriated will be sufficient only for—

(I) continuing the conduct by the agencies of the National Institutes of Health of existing AIDS activities (if approved for continuation), and continuing the support of such activities by the agencies in the case of projects or programs for which the agencies have made a commitment of continued support; and

(II) carrying out, of activities that are in addition to activities specified in subclause (I), only such activities for which the Director determines there is the most substantial need.

(iii) Such other budget estimates as the Director of the Office determines to be appropriate.

(d) Funding

(1) Authorization of appropriations

For the purpose of carrying out AIDS activities under the Plan, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

(2) Receipt of funds

For the first fiscal year beginning after the date on which the Plan first established under subsection (a)(1) of this section has been in effect for 12 months, and for each subsequent fiscal year, the Director of the Office shall receive directly from the President and the Director of the Office of Management and Budget all funds available for AIDS activities of the National Institutes of Health.

(3) Allocations for agencies

(A) Each fiscal year the Director of the Office shall, from the amounts received under paragraph (2) for the fiscal year, allocate to the agencies of the National Institutes of Health (in accordance with the Plan) all amounts available for such year for carrying out the AIDS activities specified in subsection (c)(2)(B)(ii)(I) of this section for such year. Such allocation shall, to the extent practicable, be made not later than 15 days after the date on which the Director receives amounts under paragraph (2).

(B) Each fiscal year the Director of the Office shall, from the amounts received under paragraph (2) for the fiscal year, allocate to the agencies of the National Institutes of Health (in accordance with the Plan) all amounts available for such year for carrying out AIDS activities that are not referred to in subparagraph (A). Such allocation shall, to the extent practicable, be made not later than 30 days after the date on which the Director receives amounts under paragraph (2).

(July 1, 1944, ch. 373, title XXIII, § 2353, as added Pub. L. 103–43, title XVIII, § 1801(a)(3), June 10, 1993, 107 Stat. 194.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 284, 300cc–40, 300cc–40a, 300cc–45 of this title.

§ 300cc–41. Additional authorities

(a) In general

In carrying out AIDS research, the Director of the Office—

(1) shall develop and expand clinical trials of treatments and therapies for infection with the etiologic agent for acquired immune deficiency syndrome, including such clinical trials for women, infants, children, hemophiliacs, and minorities;

(2) may establish or support the large-scale development and preclinical screening, production, or distribution of specialized biological materials and other therapeutic substances for AIDS research and set standards of safety and care for persons using such materials;

(3) may support—

(A) AIDS research conducted outside the United States by qualified foreign profes-

sionals if such research can reasonably be expected to benefit the people of the United States;

(B) collaborative research involving American and foreign participants; and

(C) the training of American scientists abroad and foreign scientists in the United States;

(4) may encourage and coordinate AIDS research conducted by any industrial concern that evidences a particular capability for the conduct of such research;

(5)(A) may acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director of the Office determines necessary;

(B) may make grants for the construction or renovation of facilities; and

(C) may acquire, without regard to section 34 of title 40 by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Institutes of Health for a period not to exceed ten years; and

(6) subject to section 284(b)(2) of this title and without regard to section 3324 of title 31 and section 5 of title 41, may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immune deficiency syndrome.

(b) Report to Secretary

The Director of the Office shall each fiscal year prepare and submit to the Secretary, for inclusion in the comprehensive report required in section 300cc(a) of this title, a report—

(1) describing and evaluating the progress made in such fiscal year in research, treatment, and training with respect to acquired immune deficiency syndrome conducted or supported by the Institutes;

(2) summarizing and analyzing expenditures made in such fiscal year for activities with respect to acquired immune deficiency syndrome conducted or supported by the National Institutes of Health; and

(3) containing such recommendations as the Director considers appropriate.

(c) Projects for cooperation among public and private health entities

In carrying out subsection (a) of this section, the Director of the Office shall establish projects to promote cooperation among Federal agencies, State, local, and regional public health agencies, and private entities, in research concerning the diagnosis, prevention, and treatment of acquired immune deficiency syndrome.

(July 1, 1944, ch. 373, title XXIII, § 2354, formerly § 2351, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3076; renumbered § 2354 and amended Pub. L. 103–43, title XVIII, § 1801(a)(2), (b), June 10, 1993, 107 Stat. 192, 196.)

AMENDMENTS

1993—Pub. L. 103–43, § 1801(b)(1), substituted ''Additional'' for ''Establishment of'' in section catchline.

Subsec. (a). Pub. L. 103–43, § 1801(b)(2)(A), in introductory provisions substituted ''AIDS research, the Director of the Office'' for ''research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health''.

Subsec. (a)(1). Pub. L. 103–43, § 1801(b)(2)(B), redesignated par. (3) as (1) and struck out former par. (1) which read as follows:

''(A) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director appointed by the Director of the National Institutes of Health; and

''(B) shall provide administrative support and support services to the Director of such Office;''.

Subsec. (a)(2). Pub. L. 103–43, § 1801(b)(2)(B), (E), redesignated par. (4) as (2), substituted ''AIDS research'' for ''research relating to acquired immune deficiency syndrome'', and struck out former par. (2) which read as follows: ''shall coordinate activities relating to acquired immune deficiency syndrome conducted by the national research institutes and the agencies of the National Institutes of Health;''.

Subsec. (a)(3). Pub. L. 103–43, § 1801(b)(2)(B), (C), (E), redesignated par. (5) as (3), struck out '', in consultation with the advisory council for the appropriate national research institute of the National Institutes of Health,'' after ''may'' in introductory provisions, and substituted ''AIDS research'' for ''research relating to acquired immune deficiency syndrome'' in subpar. (A). Former par. (3) redesignated (1).

Subsec. (a)(4). Pub. L. 103–43, § 1801(b)(2)(B), (E), redesignated par. (6) as (4) and substituted ''AIDS research'' for ''research relating to acquired immune deficiency syndrome''. Former par. (4) redesignated (2).

Subsec. (a)(5). Pub. L. 103–43, § 1801(b)(2)(B), (D), redesignated par. (7) as (5), in subpar. (A) struck out '', in consultation with such advisory council,'' after ''may'' and substituted ''Director of the Office determines'' for ''Director of the National Institutes of Health determines'', and in subpars. (B) and (C) struck out '', in consultation with such advisory council,'' after ''may''. Former par. (5) redesignated (3).

Subsec. (a)(6) to (8). Pub. L. 103–43, § 1801(b)(2)(B), redesignated pars. (6) to (8) as (4) to (6), respectively.

Subsec. (b). Pub. L. 103–43, § 1801(b)(3), substituted ''The Director of the Office shall'' for ''The Director of the National Institutes of Health, acting through the Director of the Office of AIDS Research, shall''.

Subsec. (c). Pub. L. 103–43, § 1801(b)(4), substituted ''the Director of the Office shall'' for ''the Director of the National Institutes of Health shall''.

SUBPART II—EMERGENCY DISCRETIONARY FUND

§ 300cc–43. Emergency Discretionary Fund

(a) In general

(1) Establishment

There is established a fund consisting of such amounts as may be appropriated under subsection (g) of this section. Subject to the provisions of this section, the Director of the Office, after consultation with the advisory council established under section 300cc–40a of this title, may expend amounts in the Fund for the purpose of conducting and supporting such AIDS activities, including projects of AIDS research, as may be authorized in this chapter for the National Institutes of Health.

(2) Preconditions to use of Fund

Amounts in the Fund may be expended only if—

(A) the Director identifies the particular set of AIDS activities for which such amounts are to be expended;

(B) the set of activities so identified constitutes either a new project or additional AIDS activities for an existing project;

(C) the Director of the Office has made a determination that there is a significant need for such set of activities; and

(D) as of June 30 of the fiscal year preceding the fiscal year in which the determination is made, such need was not provided for in any appropriations Act passed by the House of Representatives to make appropriations for the Departments of Labor, Health and Human Services (including the National Institutes of Health), Education, and related agencies for the fiscal year in which the determination is made.

(3) Two-year use of Fund for project involved

In the case of an identified set of AIDS activities, obligations of amounts in the Fund may not be made for such set of activities after the expiration of the 2-year period beginning on the date on which the initial obligation of such amounts is made for such set.

(b) Peer review

With respect to an identified set of AIDS activities carried out with amounts in the Fund, this section may not be construed as waiving applicable requirements for peer review.

(c) Limitations on use of Fund

(1) Construction of facilities

Amounts in the Fund may not be used for the construction, renovation, or relocation of facilities, or for the acquisition of land.

(2) Congressional disapproval of projects

(A) Amounts in the Fund may not be expended for the fiscal year involved for an identified set of AIDS activities, or a category of AIDS activities, for which—

(i)(I) amounts were made available in an appropriations Act for the preceding fiscal year; and

(II) amounts are not made available in any appropriations Act for the fiscal year involved; or

(ii) amounts are by law prohibited from being expended.

(B) A determination under subparagraph (A)(i) of whether amounts have been made available in appropriations Acts for a fiscal year shall be made without regard to whether such Acts make available amounts for the Fund.

(3) Investment of Fund amounts

Amounts in the Fund may not be invested.

(d) Applicability of limitation regarding number of employees

The purposes for which amounts in the Fund may be expended include the employment of individuals necessary to carry out identified sets of AIDS activities approved under subsection (a) of this section. Any individual employed under the preceding sentence may not be included in any determination of the number of full-time equivalent employees for the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after June 10, 1993.

(e) Report to Congress

Not later than February 1 of each fiscal year, the Director of the Office shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the identified sets of AIDS activities carried out during the preceding fiscal year with amounts in the Fund. The report shall provide a description of each such set of activities and an explanation of the reasons underlying the use of the Fund for the set.

(f) Definitions

For purposes of this section:

(1) The term ''Fund'' means the fund established in subsection (a) of this section.

(2) The term ''identified set of AIDS activities'' means a particular set of AIDS activities identified under subsection (a)(2)(A) of this section.

(g) Funding

(1) Authorization of appropriations

For the purpose of providing amounts for the Fund, there is authorized to be appropriated $100,000,000 for each of the fiscal years 1994 through 1996.

(2) Availability

Amounts appropriated for the Fund are available until expended.

(July 1, 1944, ch. 373, title XXIII, § 2356, as added Pub. L. 103–43, title XVIII, § 1802, June 10, 1993, 107 Stat. 196.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

SUBPART III—GENERAL PROVISIONS

§ 300cc–45. General provisions regarding Office

(a) Administrative support for Office

The Secretary, acting through the Director of the National Institutes of Health, shall provide administrative support and support services to the Director of the Office and shall ensure that such support takes maximum advantage of existing administrative structures at the agencies of the National Institutes of Health.

(b) Evaluation and report

(1) Evaluation

Not later than 5 years after June 10, 1993, the Secretary shall conduct an evaluation to—

(A) determine the effect of this section on the planning and coordination of the AIDS research programs at the institutes, centers and divisions of the National Institutes of Health;

(B) evaluate the extent to which this part has eliminated the duplication of administrative resources among such Institutes, centers and divisions; and

(C) provide recommendations concerning future alterations with respect to this part.

(2) Report

Not later than 1 year after the date on which the evaluation is commenced under paragraph (1), the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report concerning the results of such evaluation.

(c) Definitions

For purposes of this part:

(1) The term ''AIDS activities'' means AIDS research and other activities that relate to acquired immune deficiency syndrome.

(2) The term ''AIDS research'' means research with respect to acquired immune deficiency syndrome.

(3) The term ''Office'' means the Office of AIDS Research.

(4) The term ''Plan'' means the plan required in section 300cc–40b(a)(1) of this title.

(July 1, 1944, ch. 373, title XXIII, § 2359, as added Pub. L. 103–43, title XVIII, § 1803, June 10, 1993, 107 Stat. 198.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

PART E—GENERAL PROVISIONS

§ 300cc–51. Definitions

For purposes of this subchapter:

(1) The term ''infection'', with respect to the etiologic agent for acquired immune deficiency syndrome, includes opportunistic cancers and infectious diseases and any other conditions arising from infection with such etiologic agent.

(2) The term ''treatment'', with respect to the etiologic agent for acquired immune deficiency syndrome, includes primary and secondary prophylaxis.

(July 1, 1944, ch. 373, title XXIII, § 2361, as added Pub. L. 100–607, title II, § 201(4), Nov. 4, 1988, 102 Stat. 3078; amended Pub. L. 103–43, title XVIII, § 1811(8), June 10, 1993, 107 Stat. 200.)

AMENDMENTS

1993—Pub. L. 103–43 substituted provisions defining ''infection'' and ''treatment'' for former provisions which read as follows: ''For purposes of this subchapter, the term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from infection with such etiologic agent''.

SUBCHAPTER XXII—HEALTH SERVICES WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

PART A—FORMULA GRANTS TO STATES FOR HOME AND COMMUNITY-BASED HEALTH SERVICES

§§ 300dd to 300dd–14. Repealed. July 1, 1944, ch. 373, title XXIV, § 2415, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3088; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(g), 102 Stat. 4241

Section 300dd, act July 1, 1944, ch. 373, title XXIV, § 2401, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3079, established program of formula grants for home and community-based health services.

Section 300dd–1, act July 1, 1944, ch. 373, title XXIV, § 2402, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3080; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(a), 102 Stat. 4240, provided requirements for carrying out purpose of grants.

Section 300dd–2, act July 1, 1944, ch. 373, title XXIV, § 2403, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3081, required submission of description of intended uses of grant.

Section 300dd–3, act July 1, 1944, ch. 373, title XXIV, § 2404, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3081; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(b), 102 Stat. 4240, restricted use of grants.

Section 300dd–4, act July 1, 1944, ch. 373, title XXIV, § 2405, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3082, required reports and audits by States.

Section 300dd–5, act July 1, 1944, ch. 373, title XXIV, § 2406, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3083, required additional agreements.

Section 300dd–6, act July 1, 1944, ch. 373, title XXIV, § 2407, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3084, required submission of application containing certain agreements and assurances.

Section 300dd–7, act July 1, 1944, ch. 373, title XXIV, § 2408, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3084, provided for determination of amount of allotments for States.

Section 300dd–8, act July 1, 1944, ch. 373, title XXIV, § 2409, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3085; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(c), 102 Stat. 4241, related to failure to comply with agreements.

Section 300dd–9, act July 1, 1944, ch. 373, title XXIV, § 2410, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3087, prohibited certain false statements.

Section 300dd–10, act July 1, 1944, ch. 373, title XXIV, § 2411, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3087; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(d), 102 Stat. 4241, authorized the Secretary to provide technical assistance and supplies and services in lieu of grant funds.

Section 300dd–11, act July 1, 1944, ch. 373, title XXIV, § 2412, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3087, required report by Secretary.

Section 300dd–12, act July 1, 1944, ch. 373, title XXIV, § 2413, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3087; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(e), 102 Stat. 4241, defined terms for this part.

Section 300dd–13, act July 1, 1944, ch. 373, title XXIV, § 2414, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3088; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(f), 102 Stat. 4241, provided funding.

Section 300dd–14, act July 1, 1944, ch. 373, title XXIV, § 2415, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3088; amended Nov. 18, 1988, Pub. L. 100–690, title II, § 2618(g), 102 Stat. 4241, repealed this part effective with respect to appropriations made for any period after fiscal year 1990.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to appropriations made for any period after fiscal year 1990, see section 2415 of

act July 1, 1944, which was classified to former section 300dd–14 of this title.

PART B—SUBACUTE CARE

§ 300dd–21. Demonstration projects

(a) Definitions

As used in this section:

(1) The term ''individuals infected with the etiologic agent for acquired immune deficiency syndrome'' means individuals who have a disease, or are recovering from a disease, attributable to the infection of such individuals with such etiologic agent, and as a result of the effects of such disease, are in need of subacute-care services.

(2) The term ''subacute care'' means medical and health care services that are required for individuals recovering from acute care episodes that are less intensive than the level of care provided in acute-care hospitals, and includes skilled nursing care, hospice care, and other types of health services provided in other long-term-care facilities.

(b) Authorization to conduct three projects

The Secretary shall conduct three demonstration projects to determine the effectiveness and cost of providing the subacute-care services described in subsection (b) of this section to individuals infected with the etiologic agent for acquired immune deficiency syndrome, and the impact of such services on the health status of such individuals.

(c) Services

(1) The services provided under each demonstration project shall be designed to meet the specific needs of individuals infected with the etiologic agent for acquired immune deficiency syndrome, and shall include—

(A) the care and treatment of such individuals by providing—

(i) subacute care;

(ii) emergency medical care and specialized diagnostic and therapeutic services as needed and where appropriate, either directly or through affiliation with a hospital that has experience in treating individuals with acquired immune deficiency syndrome; and

(iii) case management services to ensure, through existing services and programs whenever possible, appropriate discharge planning for such individuals; and

(B) technical assistance, to other facilities in the region served by such facility, that is directed toward education and training of physicians, nurses, and other health-care professionals in the subacute care and treatment of individuals infected with the etiologic agent for acquired immune deficiency syndrome.

(2) Services provided under each demonstration project may also include—

(A) hospice services;

(B) outpatient care; and

(C) outreach activities in the surrounding community to hospitals and other health-care facilities that serve individuals infected with the etiologic agent for acquired immune deficiency syndrome.

(d) Time and place

The demonstration projects shall be conducted—

(1) during a 4-year period beginning not later than 9 months after November 4, 1988; and

(2) at sites that—

(A) are geographically diverse and located in areas that are appropriate for the provision of the required and authorized services; and

(B) have the highest incidence of cases of acquired immune deficiency syndrome and the greatest need for subacute-care services.

(e) Evaluation and report

The Secretary shall evaluate the operations of the demonstration projects and shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) not later than 18 months after the beginning of the first project, a preliminary report that contains—

(A) a description of the sites at which the projects are being conducted and of the services being provided in each project; and

(B) a preliminary evaluation of the experience of the projects in the first 12 months of operation; and

(2) not later than 6 months after the completion of the last project, a final report that contains—

(A) an assessment of the costs of subacute care for individuals infected with the etiologic agent for acquired immune deficiency syndrome, including a breakdown of all other sources of funding for the care provided to cover subacute care; and

(B) recommendations for appropriate legislative changes.

(f) Other research

Each demonstration project shall provide for other research to be carried out at the site of such demonstration project including—

(1) clinical research on acquired immune deficiency syndrome, concentrating on research on the neurological manifestations resulting from infection with the etiologic agent for such syndrome; and

(2) the study of the psychological and mental health issues related to such syndrome.

(g) Authorization of appropriations

(1) To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 through 1992.

(2) Amounts appropriated pursuant to paragraph (1) shall remain available until September 10, 1992.

(h) Services to veterans

The Secretary shall enter into an agreement with the Secretary of the Department of Veterans Affairs to ensure that appropriate provision will be made for the furnishing, through demonstration projects, of services to eligible veterans, under contract with the Department of Veterans Affairs pursuant to section 1720 of title 38.

(July 1, 1944, ch. 373, title XXIV, § 2421, as added Pub. L. 100–607, title II, § 211, Nov. 4, 1988, 102

Stat. 3088; amended Pub. L. 100–527, § 10(1), (2), Oct. 25, 1988, 102 Stat. 2640, 2641; Pub. L. 100–690, title II, § 2618(h), Nov. 18, 1988, 102 Stat. 4241; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Subsec. (h). Pub. L. 102–83 substituted ''section 1720 of title 38'' for ''section 620 of title 38''.

1988—Subsec. (a)(1). Pub. L. 100–690, § 2618(h)(1), substituted '' 'individuals infected with the etiologic agent for acquired immune deficiency syndrome' means individuals who'' for '' 'patients infected with the human immunodeficiency virus' means persons who'' and ''such individuals with such etiologic agent'' for ''such person with the human immunodeficiency virus''.

Subsec. (a)(2). Pub. L. 100–690, § 2618(h)(2), substituted ''individuals'' for ''persons''.

Subsec. (b). Pub. L. 100–690, § 2618(h)(3), substituted ''individuals infected with the etiologic agent for acquired immune deficiency syndrome'' for ''patients infected with the human immunodeficiency virus'' and ''such individuals'' for ''such patients''.

Subsec. (c)(1). Pub. L. 100–690, § 2618(h)(4)(A), in introductory provisions substituted ''individuals infected with the etiologic agent for acquired immune deficiency syndrome'' for ''patients infected with the human immunodeficiency virus''.

Subsec. (c)(1)(A). Pub. L. 100–690, § 2618(h)(4)(B), substituted in introductory provisions ''such individuals'' for ''such patients'', in cl. (ii) ''individuals with acquired immune deficiency syndrome'' for ''AIDS patients'', and in cl. (iii) ''such individuals'' for ''patients''.

Subsec. (c)(1)(B), (2)(C). Pub. L. 100–690, § 2618(h)(4)(C), (5), substituted ''individuals infected with the etiologic agent for acquired immune deficiency syndrome'' for ''patients infected with the human immunodeficiency virus''.

Subsec. (d)(2)(B). Pub. L. 100–690, § 2618(h)(6), substituted ''cases of acquired immune deficiency syndrome'' for ''AIDS cases''.

Subsec. (e)(2)(A). Pub. L. 100–690, § 2618(h)(7), substituted ''individuals infected with the etiologic agent for acquired immune deficiency syndrome'' for ''patients infected with the human immunodeficiency virus''.

Subsec. (f)(1). Pub. L. 100–690, § 2618(h)(8), substituted ''acquired immune deficiency syndrome'' for ''the acquired immunodeficiency syndrome'' and ''etiologic agent for such syndrome'' for ''human immunodeficiency virus''.

Subsec. (f)(2). Pub. L. 100–690, § 2618(h)(9), substituted ''such syndrome'' for ''the acquired immunodeficiency syndrome''.

Subsec. (g)(1). Pub. L. 100–690, § 2618(h)(10), substituted ''fiscal year 1989'' for ''fiscal year 1988'' and ''fiscal years 1990 through 1992'' for ''fiscal years 1989 through 1991''.

Subsec. (h). Pub. L. 100–527 substituted ''Secretary of the Department of Veterans Affairs'' and ''Department of Veterans Affairs'' for ''Administrator of the Veterans' Administration'' and ''Veterans' Administration'', respectively.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

PART C—OTHER HEALTH SERVICES

CODIFICATION

Prior to revision by Pub. L. 102–321, this part was comprised of subpart I, consisting of sections 300dd–31 to 300dd–33, and subpart II, consisting of section 300dd–41.

§ 300dd–31. Grants for anonymous testing

The Secretary may make grants to the States for the purpose of providing opportunities for individuals—

(1) to undergo counseling and testing with respect to the etiologic agent for acquired immune deficiency syndrome without being required to provide any information relating to the identity of the individuals; and

(2) to undergo such counseling and testing through the use of a pseudonym.

(July 1, 1944, ch. 373, title XXIV, § 2431, as added Pub. L. 100–607, title II, § 211, Nov. 4, 1988, 102 Stat. 3090.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300dd–32, 300dd–33 of this title.

§ 300dd–32. Requirement of provision of certain counseling services

(a) Counseling before testing

The Secretary may not make a grant under section 300dd–31 of this title to a State unless the State agrees that, before testing an individual pursuant to such section, the State will provide to the individual appropriate counseling with respect to acquired immune deficiency syndrome (based on the most recent scientific data relating to such syndrome), including—

(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

(2) the accuracy and reliability of the results of such testing;

(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome; and

(4) encouraging individuals, as appropriate, to undergo testing for such etiologic agent and providing information on the benefits of such testing.

(b) Counseling of individuals with negative test results

The Secretary may not make a grant under section 300dd–31 of this title to a State unless the State agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the State will review for the individual the information provided pursuant to subsection (a) of this section with respect to such syndrome, including—

(1) the information described in paragraphs (1) through (3) of such subsection; and

(2) the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome.

(c) Counseling of individuals with positive test results

The Secretary may not make a grant under section 300dd–31 of this title to a State unless the State agrees that, if the results of testing conducted pursuant to such section indicate that an individual is infected with the etiologic agent for acquired immune deficiency syndrome, the State will provide to the individual appropriate counseling with respect to such syndrome, including—

(1) reviewing the information described in paragraphs (1) through (3) of subsection (a) of this section;

(2) reviewing the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

(3) the importance of not exposing others to the etiologic agent for acquired immune deficiency syndrome;

(4) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and social and support services;

(5) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

(6) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (5).

(d) Rule of construction with respect to counseling without testing

Agreements entered into pursuant to subsections (a) through (c) of this section may not be construed to prohibit any grantee under section 300dd–31 of this title from expending the grant for the purpose of providing counseling services described in such subsections to an individual who will not undergo testing described in such section as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

(e) Use of funds

(1) The purpose of this subpart[1] is to provide for counseling and testing services to prevent and reduce exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome.

(2) All individuals receiving counseling pursuant to this subpart[1] are to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

(3) None of the fund appropriated to carry out this subpart[1] may be used to provide counseling that is designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous drug abuse.

(4) Paragraph (3) may not be construed to prohibit a counselor who has already performed the counseling of an individual required by paragraph (2), to provide accurate information about means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

(July 1, 1944, ch. 373, title XXIV, § 2432, as added Pub. L. 100–607, title II, § 211, Nov. 4, 1988, 102 Stat. 3090; amended Pub. L. 100–690, title II, § 2618(i), Nov. 18, 1988, 102 Stat. 4242; Pub. L. 102–321, title I, § 118(b)(1)(B), July 10, 1992, 106 Stat. 348.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–321, which directed the substitution of "part" for "subpart" wherever appearing in subsec. (a), could not be executed because the word "subpart" does not appear in subsec. (a).

1988—Subsec. (c). Pub. L. 100–690, § 2618(i)(1), substituted "indicate that an individual" for "indicate that the individual" in introductory provisions and "paragraph (5)" for "paragraph (4)" in par. (6).

Subsec. (e)(1) to (3). Pub. L. 100–690, § 2618(i)(2), substituted "subpart" for "part".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

§ 300dd–33. Funding

For the purpose of grants under section 300dd–31 of this title, there are authorized to be appropriated $100,000,000 for each of the fiscal years 1989 and 1990.

(July 1, 1944, ch. 373, title XXIV, § 2433, as added Pub. L. 100–607, title II, § 211, Nov. 4, 1988, 102 Stat. 3091.)

§ 300dd–41. Transferred

CODIFICATION

Section, act July 1, 1944, ch. 373, title XXIV, § 2441, as added Nov. 4, 1988, Pub. L. 100–607, title II, § 211, 102 Stat. 3092, which related to demonstration projects for individuals with positive AIDS test results, was renumbered section 520B of act July 1, 1944, by Pub. L. 102–321, title I, § 118(a), July 10, 1992, 106 Stat. 348, and was transferred to section 290bb–33 of this title.

SUBCHAPTER XXIII—PREVENTION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME

§ 300ee. Use of funds

(a) In general

The purpose of this subchapter is to provide for the establishment of education and information programs to prevent and reduce exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

(b) Contents of programs

All programs of education and information receiving funds under this subchapter shall include information about the harmful effects of promiscuous sexual activity and intravenous

[1] So in original. Probably should be "part".

substance abuse, and the benefits of abstaining from such activities.

(c) Limitation

None of the funds appropriated to carry out this subchapter may be used to provide education or information designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous substance abuse.

(d) Construction

Subsection (c) of this section may not be construed to restrict the ability of an education program that includes the information required in subsection (b) of this section to provide accurate information about various means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2500, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3093; amended Pub. L. 100–690, title II, § 2619(a), Nov. 18, 1988, 102 Stat. 4242; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–690 substituted ''this subchapter'' for ''this part''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

§ 300ee–1. Establishment of office with respect to minority health and acquired immune deficiency syndrome

The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall establish an office for the purpose of ensuring that, in carrying out the duties of the Secretary with respect to prevention of acquired immune deficiency syndrome, the Secretary develops and implements prevention programs targeted at minority populations and provides appropriate technical assistance in the implementation of such programs.

(Pub. L. 100–607, title II, § 252, Nov. 4, 1988, 102 Stat. 3108; Pub. L. 102–531, title III, § 312(e)(2), Oct. 27, 1992, 106 Stat. 3506.)

CODIFICATION

Section was enacted as part of the AIDS Amendments of 1988 and as part of the Health Omnibus Programs Extension of 1988, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1992—Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

REQUIREMENT OF STUDY WITH RESPECT TO MINORITY HEALTH AND ACQUIRED IMMUNE DEFICIENCY SYNDROME

Section 251 of Pub. L. 100–607, as amended by Pub. L. 100–690, title II, § 2602(b), Nov. 18, 1988, 102 Stat. 4234, provided that:

''(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Office of Minority Health, shall conduct a study for the purpose of determining—

''(1) the level of knowledge within minority communities concerning acquired immune deficiency syndrome, the risks of the transmission of the etiologic agent for such syndrome, and the means of reducing such risk; and

''(2) the effectiveness of Federal, State, and local prevention programs with respect to acquired immune deficiency syndrome in minority communities.

''(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this title [Nov. 4, 1988], complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.''

§ 300ee–2. Information for health and public safety workers

(a) Development and dissemination of guidelines

Not later than 90 days after November 4, 1988, the Secretary of Health and Human Services (hereafter in this section referred to as the ''Secretary''), acting through the Director of the Centers for Disease Control and Prevention, shall develop, issue, and disseminate emergency guidelines to all health workers and public safety workers (including emergency response employees) in the United States concerning—

(1) methods to reduce the risk in the workplace of becoming infected with the etiologic agent for acquired immune deficiency syndrome; and

(2) circumstances under which exposure to such etiologic agent may occur.

(b) Use in occupational standards

The Secretary shall transmit the guidelines issued under subsection (a) of this section to the Secretary of Labor for use by the Secretary of Labor in the development of standards to be issued under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.].

(c) Development and dissemination of model curriculum for emergency response employees

(1) Not later than 90 days after November 4, 1988, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop a model curriculum for emergency response employees with respect to the prevention of exposure to the etiologic agent for acquired immune deficiency syndrome during the process of responding to emergencies.

(2) In carrying out paragraph (1), the Secretary shall consider the guidelines issued by the Secretary under subsection (a) of this section.

(3) The model curriculum developed under paragraph (1) shall, to the extent practicable, include—

(A) information with respect to the manner in which the etiologic agent for acquired immune deficiency syndrome is transmitted; and

(B) information that can assist emergency response employees in distinguishing between conditions in which such employees are at risk with respect to such etiologic agent and conditions in which such employees are not at risk with respect[1] such etiologic agent.

(4) The Secretary shall establish a task force to assist the Secretary in developing the model

[1] So in original. Probably should be ''respect to''.

curriculum required in paragraph (1). The Secretary shall appoint to the task force representatives of the Centers for Disease Control and Prevention, representatives of State governments, and representatives of emergency response employees.

(5) The Secretary shall—

(A) transmit to State public health officers copies of the guidelines and the model curriculum developed under paragraph (1) with the request that such officers disseminate such copies as appropriate throughout the State; and

(B) make such copies available to the public.

(Pub. L. 100–607, title II, § 253, Nov. 4, 1988, 102 Stat. 3108; Pub. L. 100–690, title II, § 2602(c), Nov. 18, 1988, 102 Stat. 4234; Pub. L. 102–531, title III, § 312(e)(3), Oct. 27, 1992, 106 Stat. 3506.)

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the AIDS Amendments of 1988 and as part of the Health Omnibus Programs Extension of 1988, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1992—Subsecs. (a), (c)(1), (4). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1988—Subsec. (a). Pub. L. 100–690 substituted ''health workers and public safety workers'' for ''health workers, public safety workers''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

GUIDELINES FOR PREVENTION OF TRANSMISSION OF HUMAN IMMUNODEFICIENCY AND HEPATITIS B VIRUSES DURING INVASIVE PROCEDURES

Pub. L. 102–141, title VI, § 633, Oct. 28, 1991, 105 Stat. 876, provided that: ''Notwithstanding any other provision of law, each State Public Health Official shall, not later than one year after the date of enactment of this Act [Oct. 28, 1991], certify to the Secretary of Health and Human Services that guidelines issued by the Centers for Disease Control, or guidelines which are equivalent to those promulgated by the Centers for Disease Control concerning recommendations for preventing the transmission of the human immunodeficiency virus and the hepatitis B virus during exposure prone invasive procedures, except for emergency situations when the patient's life or limb is in danger, have been instituted in the State. State guidelines shall apply to health professionals practicing within the State and shall be consistent with Federal law. Compliance with such guidelines shall be the responsibility of the State Public Health Official. Said responsibilities shall include a process for determining what appropriate disciplinary or other actions shall be taken to ensure compliance. If such certification is not provided under this section within the one-year period, the State shall be ineligible to receive assistance under the Public Health Service Act (42 U.S.C. 301 [201] et seq.) until such certification is provided, except that the Secretary may extend the time period for a State, upon application of such State, that additional time is required for instituting said guidelines.''

[Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ee–12, 300ff–80 of this title.

§ 300ee–3. Continuing education for health care providers

(a) In general

The Secretary of Health and Human Services (hereafter in this section referred to as the ''Secretary'') may make grants to nonprofit organizations composed of, or representing, health care providers to assist in the payment of the costs of projects to train such providers concerning—

(1) appropriate infection control procedures to reduce the transmission of the etiologic agent for acquired immune deficiency syndrome; and

(2) the provision of care and treatment to individuals with such syndrome or related illnesses.

(b) Limitation

The Secretary may make a grant under subsection (a) of this section to an entity only if the entity will provide services under the grant in a geographic area, or to a population of individuals, not served by a program substantially similar to the program described in subsection (a) of this section.

(c) Requirement of matching funds

(1) The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available, directly or through donations from public or private entities, non-Federal contributions (in cash or in kind under paragraph (2)) toward such costs in an amount equal to not less than $2 for each $1 of Federal funds provided in such payments.

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

(d) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(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 1989 through 1991.

(Pub. L. 100–607, title II, § 254, Nov. 4, 1988, 102 Stat. 3109.)

CODIFICATION

Section was enacted as part of the AIDS Amendments of 1988 and as part of the Health Omnibus Programs Extension of 1988, and not as part of the Public Health Service Act which comprises this chapter.

§ 300ee–4. Technical assistance

The Secretary of Health and Human Services shall provide technical assistance to public and nonprofit private entities carrying out programs, projects, and activities relating to acquired immune deficiency syndrome.

(Pub. L. 100–607, title II, § 255, Nov. 4, 1988, 102 Stat. 3110.)

CODIFICATION

Section was enacted as part of the AIDS Amendments of 1988 and as part of the Health Omnibus Programs Extension of 1988, and not as part of the Public Health Service Act which comprises this chapter.

§ 300ee–5. Use of funds to supply hypodermic needles or syringes for illegal drug use; prohibition

None of the funds provided under this Act or an amendment made by this Act shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome.

(Pub. L. 100–607, title II, § 256(b), Nov. 4, 1988, 102 Stat. 3110; Pub. L. 100–690, title II, § 2602(d)(1), Nov. 18, 1988, 102 Stat. 4234.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 100–607, Nov. 4, 1988, 102 Stat. 3048, as amended, known as the ''Health Omnibus Programs Extension of 1988''. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the AIDS Amendments of 1988 and as part of the Health Omnibus Programs Extension of 1988, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1988—Pub. L. 100–690 substituted ''Surgeon General of the Public Health Service'' for ''Surgeon General of the United States''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300x–31 of this title.

§ 300ee–6. Transferred

CODIFICATION

Section, Pub. L. 100–607, title IX, § 902, Nov. 4, 1988, 102 Stat. 3171; Pub. L. 100–690, title II, § 2605(a), Nov. 18, 1988, 102 Stat. 4234, which provided for testing of State prisoners, was renumbered section 2648 of the Public Health Service Act by Pub. L. 101–381, title III, § 301(b)(1), Aug. 18, 1990, 104 Stat. 615, and is classified to section 300ff–48 of this title.

PART A—FORMULA GRANTS TO STATES

§ 300ee–11. Establishment of program

(a) Allotments for States

For the purpose described in subsection (b) of this section, the Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 300ee–17 of this title. The Secretary shall make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 300ee–13 of this title.

(b) Purpose of grants

The Secretary may not make payments under subsection (a) of this section for a fiscal year unless the State involved agrees to expend the payments only for the purpose of carrying out, in accordance with section 300ee–12 of this title, public information activities with respect to acquired immune deficiency syndrome.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2501, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3093; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2501 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ee–12, 300ee–13, 300ee–14, 300ee–15, 300ee–16, 300ee–17, 300ee–18, 300ee–19, 300ee–20, 300ee–24 of this title.

§ 300ee–12. Provisions with respect to carrying out purpose of grants

A State may expend payments received under section 300ee–11(a) of this title—

(1) to develop, establish, and conduct public information activities relating to the prevention and diagnosis of acquired immune deficiency syndrome for those populations or communities in the State in which there are a significant number of individuals at risk of infection with the etiologic agent for such syndrome;

(2) to develop, establish, and conduct such public information activities for the general public relating to the prevention and diagnosis of such syndrome;

(3) to develop, establish, and conduct activities to reduce risks relating to such syndrome, including research into the prevention of such syndrome;

(4) to conduct demonstration projects for the prevention of such syndrome;

(5) to provide technical assistance to public entities, to nonprofit private entities concerned with such syndrome, to schools, and to employers, for the purpose of developing information programs relating to such syndrome;

(6) with respect to education and training programs for the prevention of such syndrome, to conduct such programs for health professionals (including allied health professionals), public safety workers (including emergency response employees), teachers, school administrators, and other appropriate education personnel;

(7) to conduct appropriate programs for educating school-aged children with respect to such syndrome, after consulting with local school boards;

(8) to make available to physicians and dentists in the State information with respect to acquired immune deficiency syndrome, including measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome (which information is updated not less than annually with the most recently available scientific date[1] relating to such syndrome);

(9) to carry out the initial implementation of recommendations contained in the guidelines and the model curriculum developed under section 300ee–2 of this title; and

(10) to make grants to public entities, and to nonprofit private entities concerned with acquired immune deficiency syndrome, for the purpose of the development, establishment, and expansion of programs for education directed toward individuals at increased risk of infection with the etiologic agent for such syndrome and activities to reduce the risks of exposure to such etiologic agent, with preference to programs directed toward populations in which there is significant evidence of such infection.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2502, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3094; amended Pub. L. 100–690, title II, § 2619(b), Nov. 18, 1988, 102 Stat. 4242; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2502 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238a of this title.

AMENDMENTS

1988—Par. (9). Pub. L. 100–690 made technical amendment to reference to section 300ee–2 of this title to correct reference to corresponding provision of original act.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ee–11, 300ee–16 of this title.

[1] So in original. Probably should be ''data''.

§ 300ee–13. Requirement of submission of application containing certain agreements and assurances

(a) In general

The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless—

(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the payments for the fiscal year;

(2) the description identifies the populations, areas, and localities in the State with a need for the services for which amounts may be provided by the State under this part;

(3) the description provides information relating to the programs and activities to be supported and services to be provided, including a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities;

(4) the State submits to the Secretary an application for the payments containing agreements in accordance with this part;

(5) the agreements are made through certification from the chief executive officer of the State;

(6) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

(7) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) Opportunity for public comment

The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees that, in developing and carrying out the description required in subsection (a) of this section, the State will provide public notice with respect to the description (including any revisions) and will facilitate comments from interested persons.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2503, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3095; amended Pub. L. 100–690, title II, § 2619(c), Nov. 18, 1988, 102 Stat. 4242; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2503 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238b of this title.

AMENDMENTS

1988—Subsec. (a)(3). Pub. L. 100–690 struck out ''and'' after semicolon.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ee–11, 300ee–15, 300ee–17, 300ee–18 of this title.

§ 300ee–14. Restrictions on use of grant

(a) In general

The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees that the payments will not be expended—

(1) to provide inpatient services;

(2) to make cash payments to intended recipients of services;

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

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

(b) Limitation on administrative expenses

The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees that the State will not expend more than 5 percent of the payments for administrative expenses with respect to carrying out the purpose described in section 300ee–11(b) of this title.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2504, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3095; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2504 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238c of this title.

§ 300ee–15. Requirement of reports and audits by States

(a) Reports

The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines to be necessary for—

(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments;

(2) determining whether the payments were expended in accordance with the needs within the State required to be identified pursuant to section 300ee–13(a)(2) of this title;

(3) determining whether the payments were expended in accordance with the purpose described in section 300ee–11(b) of this title; and

(4) determining the percentage of payments received pursuant to such section that were expended by the State for administrative expenses during the preceding fiscal year.

(b) Audits

(1) The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees to establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section.

(2) The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees that—

(A) the State will provide for—

(i) a financial and compliance audit of such payments; or

(ii) a single financial and compliance audit of each entity administering such payments;

(B) the audit will be performed biennially and will cover expenditures in each fiscal year; and

(C) the audit will be conducted in accordance with standards established by the Comptroller General of the United States for the audit of governmental organizations, programs, activities, and functions.

(3) The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees that, not later than 30 days after the completion of an audit under paragraph (2), the State will provide a copy of the audit report to the State legislature.

(4) For purposes of paragraph (2), the term ''financial and compliance audit'' means an audit to determine whether the financial statements of an audited entity present fairly the financial position, and the results of financial operations, of the entity in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

(c) Availability to public

The Secretary may not make payments under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees to make copies of the reports and audits described in this section available for public inspection.

(d) Evaluations by Comptroller General

The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments received under section 300ee–11(a) of this title in order to ensure that expenditures are consistent with the provisions of this part.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2505, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3095; amended Pub. L. 100–690, title II, § 2619(d), Nov. 18, 1988, 102 Stat. 4242; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2505 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238d of this title.

AMENDMENTS

1988—Subsec. (b)(1), (2). Pub. L. 100–690 substituted ''make payments'' for ''payments''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

§ 300ee–16. Additional required agreements

(a) In general

The Secretary may not, except as provided in subsection (b) of this section, make payments

under section 300ee–11(a) of this title for a fiscal year unless the State involved agrees that—

(1) all programs conducted or supported by the State with such payments will establish objectives for the program and will determine the extent to which the objectives are met;

(2) information provided under this part will be scientifically accurate and factually correct;

(3) in carrying out section 300ee–11(b) of this title, the State will give priority to programs described in section 300ee–12(10) of this title for individuals described in such section;

(4) with respect to a State in which there is a substantial number of individuals who are intravenous substance abusers, the State will place priority on activities under this part directed at such substance abusers;

(5) with respect to a State in which there is a significant incidence of reported cases of acquired immune deficiency syndrome, the State will—

(A) for the purpose described in subsection (b) of section 300ee–11 of this title, expend not less than 50 percent of payments received under subsection (a) of such section for a fiscal year—

(i) to make grants to public entities, to migrant health centers (as defined in section 254b(a)[1] of this title), to community health centers (as defined in section 254c(a)[1] of this title), and to nonprofit private entities concerned with acquired immune deficiency syndrome; or

(ii) to enter into contracts with public and private entities; and

(B) of the amounts reserved for a fiscal year by the State for expenditures required in subparagraph (A), expend not less than 50 percent to carry out section 300ee–12(10) of this title through grants to nonprofit private entities, including minority entities, concerned with acquired immune deficiency syndrome located in and representative of communities and subpopulations reflecting the local incidence of such syndrome;

(6) with respect to programs carried out pursuant to section 300ee–12(10) of this title, the State will ensure that any applicant for a grant under such section agrees—

(A) that any educational or informational materials developed with a grant pursuant to such section will contain material, and be presented in a manner, that is specifically directed toward the group for which such materials are intended;

(B) to provide a description of the manner in which the applicant has planned the program in consultation with, and of the manner in which such applicant will consult during the conduct of the program with—

(i) appropriate local officials and community groups for the area to be served by the program;

(ii) organizations comprised of, and representing, the specific population to which the education or prevention effort is to be directed; and

(iii) individuals having expertise in health education and in the needs of the population to be served;

(C) to provide information demonstrating that the applicant has continuing relationships, or will establish continuing relationships, with a portion of the population in the service area that is at risk of infection with the etiologic agent for acquired immune deficiency syndrome and with public and private entities in such area that provide health or other support services to individuals with such infection;

(D) to provide a description of—

(i) the objectives established by the applicant for the conduct of the program; and

(ii) the methods the applicant will use to evaluate the activities conducted under the program to determine if such objectives are met; and

(E) such other information as the Secretary may prescribe;

(7) with respect to programs carried out pursuant to section 300ee–12(10) of this title, the State will give preference to any applicant for a grant pursuant to such section that is located in, has a history of service in, and will serve under the program, any geographic area in which—

(A) there is a significant incidence of acquired immune deficiency syndrome;

(B) there has been a significant increase in the incidence of such syndrome; or

(C) there is a significant risk of becoming infected with the etiologic agent for such syndrome;

(8) the State will establish reasonable criteria to evaluate the effective performance of entities that receive funds from payments made to the State under section 300ee–11(a) of this title and will establish procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity;

(9) the State will permit and cooperate with Federal investigations undertaken in accordance with section 300ee–18(e) of this title;

(10) the State will maintain State expenditures for services provided pursuant to section 300ee–11 of this title at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments.

(b) "Significant percentage" defined

For purposes of subsection (a)(5) of this section, the term ''significant percentage'' means at least a percentage of 1 percent of the number of reported cases of acquired immune deficiency syndrome in the United States.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2506, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3097; amended Pub. L. 100–690, title II, § 2619(d) [(e)], Nov. 18, 1988, 102 Stat. 4243; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

[1] See References in Text note below.

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (a)(5)(A)(i), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

PRIOR PROVISIONS

A prior section 2506 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238e of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–690, § 2619(d)(1) [(e)(1)], designated existing provisions as subsec. (a).

Subsec. (a)(5). Pub. L. 100–690, § 2619(d)(2) [(e)(2)], struck out concluding provisions which read as follows: ''(For purposes of this section, the term 'significant percentage' means at least a percentage of 1 percent of the number of reported cases of such syndrome in the United States);''.

Subsec. (a)(8). Pub. L. 100–690, § 2619(d)(3) [(e)(3)], substituted ''funds from payments'' for ''funds from to payments'' and struck out ''and'' after semicolon.

Subsec. (a)(9). Pub. L. 100–690, § 2619(d)(4) [(e)(4)], substituted ''section 300ee–18(e) of this title'' for ''section 300ee–19(e) of this title''.

Subsec. (b). Pub. L. 100–690, § 2619(d)(5) [(e)(5)], added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

§ 300ee–17. Determination of amount of allotments for States

(a) Minimum allotment

Subject to the extent of amounts made available in appropriation Acts, the allotment for a State under section 300ee–11(a) of this title for a fiscal year shall be the greater of—

(1) the applicable amount specified in subsection (b) of this section; or

(2) the amount determined in accordance with subsection (c) of this section.

(b) Determination of minimum allotment

(1) If the total amount appropriated under section 300ee–24(a) of this title for a fiscal year exceeds $100,000,000, the amount referred to in subsection (a)(1) of this section shall be $300,000 for the fiscal year.

(2) If the total amount appropriated under section 300ee–24(a) of this title for a fiscal year equals or exceeds $50,000,000, but is less than $100,000,000, the amount referred to in subsection (a)(1) of this section shall be $200,000 for the fiscal year.

(3) If the total amount appropriated under section 300ee–24(a) of this title for a fiscal year is less than $50,000,000, the amount referred to in subsection (a)(1) of this section shall be $100,000 for the fiscal year.

(c) Determination under formula

(1) The amount referred to in subsection (a)(2) of this section is the sum of—

(A) the amount determined under paragraph (2); and

(B) the amount determined under paragraph (3).

(2) The amount referred to in paragraph (1)(A) is the product of—

(A) an amount equal to 50 percent of the amounts appropriated pursuant to section 300ee–24(a) of this title; and

(B) a percentage equal to the quotient of—

(i) the population of the State involved; divided by

(ii) the population of the United States.

(3) The amount referred to in paragraph (1)(B) is the product of—

(A) an amount equal to 50 percent of the amounts appropriated pursuant to section 300ee–24(a) of this title; and

(B) a percentage equal to the quotient of—

(i) the number of additional cases of acquired immune deficiency syndrome reported to and confirmed by the Secretary for the State involved for the most recent fiscal year for which such data is available; divided by

(ii) the number of additional cases of such syndrome reported to and confirmed by the Secretary for the United States for such fiscal year.

(d) Disposition of certain funds appropriated for allotments

(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving payments under section 300ee–11(a) of this title for the fiscal year (other than any State referred to in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment under section 300ee–11(a) of this title for the State for the fiscal year involved was determined.

(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 300ee–11(a) of this title as a result of—

(A) the failure of any State to submit an application under section 300ee–13 of this title;

(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2507, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3098; amended Pub. L. 100–690, title II, § 2619(e) [(f)], Nov. 18, 1988, 102 Stat. 4243; renumbered title XXV and amended Pub. L. 101–93, § 5(e)(1), (2), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2507 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238f of this title.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–93, § 5(e)(2), substituted ''Subject to the extent of amounts made available in appropriation Acts, the allotment'' for ''The allotment''.

1988—Subsec. (a)(1). Pub. L. 100–690, § 2619(e)(1) [(f)(1)], substituted ''applicable amount specified'' for ''amount described''.

Subsec. (b)(1). Pub. L. 100–690, § 2619(e)(2)(A)(i) [(f)(2)(A)(i)], made technical amendment to reference to section 300ee–24(a) of this title to correct reference to corresponding provision of original act.

Pub. L. 100–690, § 2619(e)(2)(A)(ii) [(f)(2)(A)(ii)], substituted ''subsection (a)(1) of this section shall be'' for ''subsection (a)(1) of this section is''.

Subsec. (b)(2), (3). Pub. L. 100–690, § 2619(e)(2)(B), (C) [(f)(2)(B), (C)], substituted ''subsection (a)(1) of this section shall be'' for ''subsection (a)(1) of this section is''.

Subsec. (d). Pub. L. 100–690, § 2619(e)(3) [(f)(3)], substituted ''allotment under section 300ee–11(a) of this title'' for ''allotment'' in par. (1) and ''section 300ee–13 of this title'' for ''section 300ee–17 of this title'' in par. (2)(A).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ee–11 of this title.

§ 300ee–18. Failure to comply with agreements

(a) Repayment of payments

(1) The Secretary may, subject to subsection (c) of this section, require a State to repay any payments received by the State under section 300ee–11(a) of this title that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 300ee–13 of this title.

(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 300ee–11(a) of this title.

(b) Withholding of payments

(1) The Secretary may, subject to subsection (c) of this section, withhold payments due under section 300ee–11(a) of this title if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 300ee–13 of this title.

(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 300ee–11(a) of this title in accordance with the agreements referred to in such paragraph.

(3) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the agreements referred to in such paragraph.

(c) Opportunity for hearing

Before requiring repayment of payments under subsection (a)(1) of this section, or withholding payments under subsection (b)(1) of this section, the Secretary shall provide to the State an opportunity for a hearing conducted within the State.

(d) Prompt response to serious allegations

The Secretary shall promptly respond to any complaint of a substantial or serious nature that a State has failed to expend amounts received under section 300ee–11(a) of this title in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 300ee–13 of this title.

(e) Investigations

(1) The Secretary shall conduct in several States in each fiscal year investigations of the expenditure of payments received by the States under section 300ee–11(a) of this title in order to evaluate compliance with the agreements required to be contained in the applications submitted to the Secretary pursuant to section 300ee–13 of this title.

(2) The Comptroller General of the United States may conduct investigations of the expenditure of funds received under section 300ee–11(a) of this title by a State in order to ensure compliance with the agreements referred to in paragraph (1).

(3) Each State, and each entity receiving funds from payments made to a State under section 300ee–11(a) of this title, shall make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(4)(A) In conducting any investigation in a State, the Secretary and the Comptroller General of the United States may not make a request for any information not readily available to the State, or to an entity receiving funds from payments made to the State under section 300ee–11(a) of this title, or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

(B) Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2508, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3099; amended Pub. L. 100–690, title II, § 2619(f) [(g)], Nov. 18, 1988, 102 Stat. 4243; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2508 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238g of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–690, § 2619(f)(1) [(g)(1)], substituted ''300ee–13 of this title'' for ''300ee–17 of this title''.

Subsec. (b). Pub. L. 100–690, § 2619(f)(2) [(g)(2)], inserted ''of payments'' after ''Withholding'' in heading and sub-

stituted ''300ee–13 of this title'' for ''300ee–17 of this title'' in par. (1).

Subsecs. (d), (e)(1). Pub. L. 100–690, § 2619(f)(3), (4) [(g)(3), (4)], substituted ''300ee–13 of this title'' for ''300ee–17 of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ee–16 of this title.

§ 300ee–19. Prohibition against certain false statements

(a) In general

(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 300ee–11(a) of this title.

(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any amounts from payments made to the State under section 300ee–11(a) of this title may not conceal or fail to disclose any such event with the intent of fraudulently securing such amounts.

(b) Criminal penalty for violation of prohibition

Any person who violates a prohibition established in subsection (a) of this section may for each violation be fined in accordance with title 18, or imprisoned for not more than 5 years, or both.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2509, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3101; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2509 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238h of this title.

§ 300ee–20. Technical assistance and provision by Secretary of supplies and services in lieu of grant funds

(a) Technical assistance

The Secretary may provide training and technical assistance to States with respect to the planning, development, and operation of any program or service carried out pursuant to this part. The Secretary may provide such technical assistance directly or through grants or contracts.

(b) Provision by Secretary of supplies and services in lieu of grant funds

(1) Upon the request of a State receiving payments under this part, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such part and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under section 300ee–11(a) of this title to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2510, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3101; amended Pub. L. 100–690, title II, § 2619(g) [(h)], Nov. 18, 1988, 102 Stat. 4243; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2510 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238i of this title.

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100–690 substituted ''section 300ee–11(a) of this title'' for ''the program involved''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

§ 300ee–21. Evaluations

The Secretary shall, directly or through grants or contracts, evaluate the services provided and activities carried out with payments to States under this part.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2511, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3101; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2511 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238j of this title.

§ 300ee–22. Report by Secretary

The Secretary shall annually prepare a report on the activities of the States carried out pursuant to this part. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives. The report shall be submitted to the Congress through inclusion in the comprehensive report required in section 300cc(a) of this title.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2512, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3101; amended Pub. L. 100–690, title II, § 2619(h) [(i)], Nov. 18, 1988, 102 Stat. 4243; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2512 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238k of this title.

AMENDMENTS

1988—Pub. L. 100–690 substituted ''section 300cc(a)'' for ''section 300cc''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

§ 300ee–23. Definition

For purposes of this part, the term ''infection with the etiologic agent for acquired immune deficiency syndrome'' includes any condition arising from such etiologic agent.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2513, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3102; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2513 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238*l* of this title.

§ 300ee–24. Funding

(a) Authorization of appropriations

For the purpose of making allotments under section 300ee–11(a) of this title, there are authorized to be appropriated $165,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Availability to States

Any amounts paid to a State under section 300ee–11(a) of this title shall remain available to the State until the expiration of the 1-year period beginning on the date on which the State receives such amounts.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2514, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3102; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

PRIOR PROVISIONS

A prior section 2514 of act July 1, 1944, was successively renumbered by subsequent acts, see section 238m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ee–17 of this title.

PART B—NATIONAL INFORMATION PROGRAMS

§ 300ee–31. Availability of information to general public

(a) Comprehensive information plan

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall annually prepare a comprehensive plan, including a budget, for a National Acquired Immune Deficiency Syndrome Information Program. The plan shall contain provisions to implement the provisions of this subchapter. The Director shall submit such plan to the Secretary. The authority established in this subsection may not be construed to be the exclusive authority for the Director to carry out information activities with respect to acquired immune deficiency syndrome.

(b) Clearinghouse

(1) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may establish a clearinghouse to make information concerning acquired immune deficiency syndrome available to Federal agencies, States, public and private entities, and the general public.

(2) The clearinghouse may conduct or support programs—

(A) to develop and obtain educational materials, model curricula, and methods directed toward reducing the transmission of the etiologic agent for acquired immune deficiency syndrome;

(B) to provide instruction and support for individuals who provide instruction in methods and techniques of education relating to the prevention of acquired immune deficiency syndrome and instruction in the use of the materials and curricula described in subparagraph (A); and

(C) to conduct, or to provide for the conduct of, the materials, curricula, and methods described in paragraph (1) and the efficacy of such materials, curricula, and methods in preventing infection with the the[1] etiologic agent for acquired immune deficiency syndrome.

(c) Toll-free telephone communications

The Secretary shall provide for the establishment and maintenance of toll-free telephone communications to provide information to, and respond to queries from, the public concerning acquired immune deficiency syndrome. Such communications shall be available on a 24-hour basis.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2521, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3102; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612; amended Pub. L. 102–531, title III, § 312(d)(22), Oct. 27, 1992, 106 Stat. 3505.)

AMENDMENTS

1992—Subsecs. (a), (b)(1). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ee–34 of this title.

§ 300ee–32. Public information campaigns

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to public entities, and to nonprofit private entities concerned with acquired immune deficiency syndrome, and shall enter into contracts with public and private entities, for the development and delivery of public service announcements and paid advertising messages that warn individuals about activities which place them at risk of infection with the etiologic agent for such syndrome.

[1] So in original.

(b) Requirement of application

The Secretary may not provide financial assistance under subsection (a) of this section unless—

(1) an application for such assistance is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2522, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3103; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612; amended Pub. L. 102–531, title III, § 312(d)(23), Oct. 27, 1992, 106 Stat. 3505.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ee–34 of this title.

§ 300ee–33. Provision of information to underserved populations

(a) In general

The Secretary may make grants to public entities, to migrant health centers (as defined in section 254b(a)[1] of this title), to community health centers (as defined in section 254c(a)[1] of this title), and to nonprofit private entities concerned with acquired immune deficiency syndrome, for the purpose of assisting grantees in providing services to populations of individuals that are underserved with respect to programs providing information on the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

(b) Preferences in making grants

In making grants under subsection (a) of this section, the Secretary shall give preference to any applicant for such a grant that has the ability to disseminate rapidly the information described in subsection (a) of this section (including any national organization with such ability).

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2523, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3103; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (a), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ee–34 of this title.

§ 300ee–34. Authorization of appropriations

(a) In general

For the purpose of carrying out sections 300ee–31 through 300ee–33 of this title, there are authorized to be appropriated $105,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) Allocations

(1) Of the amounts appropriated pursuant to subsection (a) of this section, the Secretary shall make available $45,000,000 to carry out section 300ee–32 of this title and $30,000,000 to carry out this part through financial assistance to minority entities for the provision of services to minority populations.

(2) After consultation with the Director of the Office of Minority Health and with the Indian Health Service, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, not later than 90 days after November 4, 1988, publish guidelines to provide procedures for applications for funding pursuant to paragraph (1) and for public comment.

(July 1, 1944, ch. 373, title XXV, formerly title XV, § 2524, as added Pub. L. 100–607, title II, § 221, Nov. 4, 1988, 102 Stat. 3103; amended Pub. L. 100–690, title II, § 2619(i) [(j)], Nov. 18, 1988, 102 Stat. 4244; renumbered title XXV, Pub. L. 101–93, § 5(e)(1), Aug. 16, 1989, 103 Stat. 612; Pub. L. 102–531, title III, § 312(d)(24), Oct. 27, 1992, 106 Stat. 3505.)

AMENDMENTS

1992—Subsec. (b)(2). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1988—Subsec. (b)(2). Pub. L. 100–690 substituted ''the date of the enactment of the AIDS Amendments of 1988'' for ''the date of the enactment of this section'', which for purposes of codification was translated as ''November 4, 1988''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

SUBCHAPTER XXIV—HIV HEALTH CARE SERVICES PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 256b, 256d of this title.

§ 300ff. Purpose

It is the purpose of this Act to provide emergency assistance to localities that are dispropor-

[1] See References in Text note below.

tionately affected by the Human Immunodeficiency Virus epidemic and to make financial assistance available to States and other public or private nonprofit entities to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease.

(Pub. L. 101–381, § 2, Aug. 18, 1990, 104 Stat. 576.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–381, Aug. 18, 1990, 104 Stat. 576, known as the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, which enacted this subchapter, transferred section 300ee–6 of this title to section 300ff–48 of this title, amended sections 284a, 286, 287a, 287c–2, 289f, 290aa–3a, 299c–5, 300ff–48, and 300aaa to 300aaa–13 [now 238 to 238m] of this title, and enacted provisions set out as notes under sections 201, 300x–4, 300ff–11, 300ff–46, and 300ff–80 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, and not as part of the Public Health Service Act which comprises this chapter.

§ 300ff–1. Prohibition on use of funds

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

(Pub. L. 101–381, title IV, § 422, Aug. 18, 1990, 104 Stat. 628.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–381, Aug. 18, 1990, 104 Stat. 576, known as the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, which enacted this subchapter, transferred section 300ee–6 of this title to section 300ff–48 of this title, amended sections 284a, 286, 287a, 287c–2, 289f, 290aa–3a, 299c–5, 300ff–48, and 300aaa to 300aaa–13 [now 238 to 238m] of this title, and enacted provisions set out as notes under sections 201, 300x–4, 300ff–11, 300ff–46, and 300ff–80 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, and not as part of the Public Health Service Act which comprises this chapter.

PART A—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300ff–28, 300ff–41, 300ff–51, 300ff–77, 300ff–101 of this title.

§ 300ff–11. Establishment of program of grants

(a) Eligible areas

The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to subsections (b) through (d) of this section, make grants in accordance with section 300ff–13 of this title for the purpose of assisting in the provision of the services specified in section 300ff–14 of this title in any metropolitan area for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available.

(b) Requirement regarding confirmation of cases

The Secretary may not make a grant under subsection (a) of this section for a metropolitan area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such subsection have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

(c) Requirements regarding population

(1) Number of individuals

(A) In general

Except as provided in subparagraph (B), the Secretary may not make a grant under this section for a metropolitan area unless the area has a population of 500,000 or more individuals.

(B) Limitation

Subparagraph (A) does not apply to any metropolitan area that was an eligible area under this part for fiscal year 1995 or any prior fiscal year.

(2) Geographic boundaries

For purposes of eligibility under this part, the boundaries of each metropolitan area are the boundaries that were in effect for the area for fiscal year 1994.

(d) Continued status as eligible area

Notwithstanding any other provision of this section, a metropolitan area that was an eligible area under this part for fiscal year 1996 is an eligible area for fiscal year 1997 and each subsequent fiscal year.

(July 1, 1944, ch. 373, title XXVI, § 2601, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104 Stat. 576; amended Pub. L. 102–531, title III, § 312(d)(25), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 104–146, §§ 3(a)(1), (2), 12(c)(1), May 20, 1996, 110 Stat. 1346, 1373.)

PRIOR PROVISIONS

A prior section 2601 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–146, § 12(c)(1), inserted ''section'' before ''300ff–14''.

Pub. L. 104–146, § 3(a)(1)(B), substituted ''metropolitan area for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available.'' for ''metropolitan area for which, as of June 30, 1990, in the case of grants for fiscal year 1991, and as of March 31 of the most recent fiscal year for which such data is available in the case of a grant for any subsequent fiscal year—

''(1) there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome; or

''(2) the per capita incidence of cumulative cases of such syndrome (computed on the basis of the most recently available data on the population of the area) is not less than 0.0025.''

Pub. L. 104–146, § 3(a)(1)(A), substituted ''subject to subsections (b) through (d)'' for ''subject to subsection (b)''.

Subsecs. (c), (d). Pub. L. 104–146, § 3(a)(2), added subsecs. (c) and (d).

1992—Subsecs. (a)(1), (b). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 13 of Pub. L. 104–146 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting sections 300ff–27a, 300ff–31, 300ff–33 to 300ff–37, 300ff–77, 300ff–78, and 300ff–101 of this title, amending this section and sections 294n, 300d, 300ff–12 to 300ff–17, 300ff–21 to 300ff–23, 300ff–26 to 300ff–29, 300ff–47 to 300ff–49, 300ff–51, 300ff–52, 300ff–54, 300ff–55, 300ff–64, 300ff–71, 300ff–74, 300ff–76, and 300ff–84 of this title, transferring section 294n of this title to section 300ff–111 of this title, repealing sections 300ff–18 and 300ff–30 of this title, and enacting provisions set out as notes under sections 201, 300cc, and 300ff–33 of this title and section 4103 of Title 5, Government Organization and Employees], and the amendments made by this Act, shall become effective on October 1, 1996.

''(b) EXCEPTION.—The amendments made by sections 3(a), 5, 6, and 7 of this Act to sections 2601(c), 2601(d), 2603(a), 2618(b), 2626, 2677, and 2691 of the Public Health Service Act [sections 300ff–11(c), (d), 300ff–13(a), 300ff–28(b), 300ff–34, 300ff–77, and 300ff–101 of this title], shall become effective on the date of enactment of this Act [May 20, 1996].''

STUDY REGARDING HIV DISEASE IN RURAL AREAS

Section 403 of Pub. L. 101–381 provided that:

''(a) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Director of the Office of Rural Health Policy, shall—

''(1) conduct a study for the purpose of estimating the incidence and prevalence in rural areas of cases of acquired immune deficiency syndrome and cases of infection with the etiologic agent for such syndrome; and

''(2) in carrying out such study, determine the adequacy in rural areas of services for diagnosing such cases and providing treatment for such cases that are in the early stages of infection.

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress a report describing the findings made as a result of such study.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–12, 300ff–13, 300ff–14, 300ff–15, 300ff–16, 300ff–17 of this title.

§ 300ff–12. Administration and planning council

(a) Administration

(1) In general

Assistance made available under grants awarded under this part shall be directed to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control and Prevention, in the eligible area that is awarded such a grant.

(2) Requirements

(A) In general

To receive assistance under section 300ff–11(a) of this title, the chief elected official of the eligible area involved shall—

(i) establish, through intergovernmental agreements with the chief elected officials of the political subdivisions described in subparagraph (B), an administrative mechanism to allocate funds and services based on—

(I) the number of AIDS cases in such subdivisions;

(II) the severity of need for outpatient and ambulatory care services in such subdivisions; and

(III) the health and support services personnel needs of such subdivisions; and

(ii) establish an HIV health services planning council in accordance with subsection (b) of this section.

(B) Local political subdivision

The political subdivisions referred to in subparagraph (A) are those political subdivisions in the eligible area—

(i) that provide HIV-related health services; and

(ii) for which the number of cases reported for purposes of section 300ff–11(a) of this title constitutes not less than 10 percent of the number of such cases reported for the eligible area.

(b) HIV health services planning council

(1) Establishment

To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) of this section shall establish or designate an HIV health services planning council that shall reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard that is in accordance with paragraph (5).

(2) Representation

The HIV health services planning council shall include representatives of—

(A) health care providers, including federally qualified health centers;

(B) community-based organizations serving affected populations and AIDS service organizations;

(C) social service providers;

(D) mental health and substance abuse providers;

(E) local public health agencies;

(F) hospital planning agencies or health care planning agencies;

(G) affected communities, including people with HIV disease or AIDS and historically underserved groups and subpopulations;

(H) nonelected community leaders;

(I) State government (including the State medicaid agency and the agency administering the program under part B) of this subchapter;

(J) grantees under subpart II of part C of this subchapter;

(K) grantees under section 300ff–71 of this title, or, if none are operating in the area, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the area; and

(L) grantees under other Federal HIV programs.

(3) Method of providing for council

(A) In general

In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 300ff–11(a) of this title may establish the council directly or designate an existing entity to serve as the council, subject to subparagraph (B).

(B) Consideration regarding designation of council

In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 300ff–11(a) of this title shall give priority to the designation of an existing entity that has demonstrated experience in planning for the HIV health care service needs within the eligible area and in the implementation of such plans in addressing those needs. Any existing entity so designated shall be expanded to include a broad representation of the full range of entities that provide such services within the geographic area to be served.

(C) Chairperson

A planning council may not be chaired solely by an employee of the grantee.

(4) Duties

The planning council established or designated under paragraph (1) shall—

(A) establish priorities for the allocation of funds within the eligible area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant based on the—

(i) documented needs of the HIV-infected population;

(ii) cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available (either demonstrated or probable);

(iii) priorities of the HIV-infected communities for whom the services are intended; and

(iv) availability of other governmental and nongovernmental resources;

(B) develop a comprehensive plan for the organization and delivery of health services described in section 300ff–14 of this title that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease;

(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area, and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;

(D) participate in the development of the statewide coordinated statement of need initiated by the State public health agency responsible for administering grants under part B of this subchapter; and

(E) establish methods for obtaining input on community needs and priorities which may include public meetings, conducting focus groups, and convening ad-hoc panels.

(5) Conflicts of interest

(A) In general

The planning council under paragraph (1) may not be directly involved in the administration of a grant under section 300ff–11(a) of this title. With respect to compliance with the preceding sentence, the planning council may not designate (or otherwise be involved in the selection of) particular entities as recipients of any of the amounts provided in the grant.

(B) Required agreements

An individual may serve on the planning council under paragraph (1) only if the individual agrees that if the individual has a financial interest in an entity, if the individual is an employee of a public or private entity, or if the individual is a member of a public or private organization, and such entity or organization is seeking amounts from a grant under section 300ff–11(a) of this title, the individual will not, with respect to the purpose for which the entity seeks such amounts, participate (directly or in an advisory capacity) in the process of selecting entities to receive such amounts for such purpose.

(6) Grievance procedures

A planning council under paragraph (1) shall develop procedures for addressing grievances with respect to funding under this part, including procedures for submitting grievances that cannot be resolved to binding arbitration. Such procedures shall be described in the bylaws of the planning council and be consistent with the requirements of subsection (c) of this section.

(c) Grievance procedures

(1) Federal responsibility

(A) Models

The Secretary shall, through a process that includes consultations with grantees under this part and public and private experts in grievance procedures, arbitration,

and mediation, develop model grievance procedures that may be implemented by the planning council under subsection (b)(1) of this section and grantees under this part. Such model procedures shall describe the elements that must be addressed in establishing local grievance procedures and provide grantees with flexibility in the design of such local procedures.

(B) Review

The Secretary shall review grievance procedures established by the planning council and grantees under this part to determine if such procedures are adequate. In making such a determination, the Secretary shall assess whether such procedures permit legitimate grievances to be filed, evaluated, and resolved at the local level.

(2) Grantees

To be eligible to receive funds under this part, a grantee shall develop grievance procedures that are determined by the Secretary to be consistent with the model procedures developed under paragraph (1)(A). Such procedures shall include a process for submitting grievances to binding arbitration.

(July 1, 1944, ch. 373, title XXVI, § 2602, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104 Stat. 577; amended Pub. L. 102–531, title III, § 312(d)(26), Oct. 27, 1992, 106 Stat. 3505; Pub. L. 104–146, § 3(b)(1), May 20, 1996, 110 Stat. 1347.)

PRIOR PROVISIONS

A prior section 2602 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–146, § 3(b)(1)(A)(ii), inserted at end ''Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard that is in accordance with paragraph (5).''

Pub. L. 104–146, § 3(b)(1)(A)(i), substituted ''reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations.'' for ''include representatives of—

''(A) health care providers;

''(B) community-based and AIDS service organizations;

''(C) social service providers;

''(D) mental health care providers;

''(E) local public health agencies;

''(F) hospital planning agencies or health care planning agencies;

''(G) affected communities, including individuals with HIV disease;

''(H) non-elected community leaders;

''(I) State government;

''(J) grantees under subpart II of part C of this subchapter; and

''(K) the lead agency of any Health Resources and Services Administration adult and pediatric HIV-related care demonstration project operating in the area to be served.''

Subsec. (b)(2). Pub. L. 104–146, § 3(b)(1)(E), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(2)(C). Pub. L. 104–146, § 3(b)(1)(B), added subpar. (C).

Subsec. (b)(3). Pub. L. 104–146, § 3(b)(1)(D), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(A). Pub. L. 104–146, § 3(b)(1)(C)(i), substituted ''area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant based on the—'' for ''area;'' and added cls. (i) to (iv).

Subsec. (b)(3)(B). Pub. L. 104–146, § 3(b)(1)(C)(ii), struck out ''and'' at end.

Subsec. (b)(3)(C). Pub. L. 104–146, § 3(b)(1)(C)(iii), substituted '', and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;'' for period at end.

Subsec. (b)(3)(D), (E). Pub. L. 104–146, § 3(b)(1)(C)(iv), added subpars. (D) and (E).

Subsec. (b)(4). Pub. L. 104–146, § 3(b)(1)(D), redesignated par. (3) as (4).

Subsec. (b)(5), (6). Pub. L. 104–146, § 3(b)(1)(F), added pars. (5) and (6).

Subsec. (c). Pub. L. 104–146, § 3(b)(1)(F), added subsec. (c).

1992—Subsec. (a)(1). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–13, 300ff–14, 300ff–15 of this title.

§ 300ff–13. Type and distribution of grants

(a) Grants based on relative need of area

(1) In general

In carrying out section 300ff–11(a) of this title, the Secretary shall make a grant for each eligible area for which an application under section 300ff–15(a) of this title has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

(2) Expedited distribution

Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall, except in the case of waivers granted under section 300ff–15(c)[1] of this title, disburse 50 percent of the amount appropriated under section 300ff–77 of this title for such fiscal year through grants to eligible areas under section 300ff–11(a) of this title, in accordance with paragraph (3). The Secretary shall reserve an additional percentage of the amount appropriated under section 300ff–77 of this title for a fiscal year for grants under this part to make grants to eligible areas under section 300ff–11(a) of this title in accordance with paragraph (4).

(3) Amount of grant

(A) In general

Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

(i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

[1] See References in Text note below.

(ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

(B) Distribution factor

For purposes of subparagraph (A)(ii), the term ''distribution factor'' means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (C).

(C) Estimate of living cases

The amount determined in this subparagraph is an amount equal to the product of—

(i) the number of cases of acquired immune deficiency syndrome in the eligible area during each year in the most recent 120-month period for which data are available with respect to all eligible areas, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

(ii) with respect to—

(I) the first year during such period, .06;

(II) the second year during such period, .06;

(III) the third year during such period, .08;

(IV) the fourth year during such period, .10;

(V) the fifth year during such period, .16;

(VI) the sixth year during such period, .16;

(VII) the seventh year during such period, .24;

(VIII) the eighth year during such period, .40;

(IX) the ninth year during such period, .57; and

(X) the tenth year during such period, .88.

The yearly percentage described in subparagraph (ii) shall be updated biennially by the Secretary, after consultation with the Centers for Disease Control and Prevention. The first such update shall occur prior to the determination of grant awards under this part for fiscal year 1998.

(D) Unexpended funds

The Secretary may, in determining the amount of a grant for a fiscal year under this paragraph, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

(4) Increase in grant

With respect to an eligible area under section 300ff–11(a) of this title, the Secretary shall increase the amount of a grant under paragraph (2) for a fiscal year to ensure that such eligible area receives not less than—

(A) with respect to fiscal year 1996, 100 percent;

(B) with respect to fiscal year 1997, 99 percent;

(C) with respect to fiscal year 1998, 98 percent;

(D) with respect to fiscal year 1999, 96.5 percent; and

(E) with respect to fiscal year 2000, 95 percent;

of the amount allocated for fiscal year 1995 to such entity under this subsection.

(b) Supplemental grants

(1) In general

Not later than 150 days after the date on which appropriations are made under section 300ff–77 of this title for a fiscal year, the Secretary shall disburse the remainder of amounts not disbursed under subsection (a)(2) of this section for such fiscal year for the purpose of making grants under section 300ff–11(a) of this title to eligible areas whose application under section 300ff–15(b) of this title—

(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) of this section and the plan for utilization of such funds;

(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV disease;

(F) demonstrates the inclusiveness of the planning council membership, with particular emphasis on affected communities and individuals with HIV disease; and

(G) demonstrates the manner in which the proposed services are consistent with the local needs assessment and the statewide coordinated statement of need.

(2) Definition

(A) Severe need

In determining severe need in accordance with paragraph (1)(B), the Secretary shall consider the ability of the qualified applicant to expend funds efficiently and the impact of relevant factors on the cost and complexity of delivering health care and support services to individuals with HIV disease in the eligible area, including factors such as—

(i) sexually transmitted diseases, substance abuse, tuberculosis, severe mental illness, or other comorbid factors determined relevant by the Secretary;

(ii) new or growing subpopulations of individuals with HIV disease; and

(iii) homelessness.

(B) Prevalence

In determining the impact of the factors described in subparagraph (A), the Secretary shall, to the extent practicable, use national, quantitative incidence data that are available for each eligible area. Not later than 2 years after May 20, 1996, the Secretary shall develop a mechanism to utilize such data. In the absence of such data, the Secretary may consider a detailed description and qualitative analysis of severe need, as determined under subparagraph (A), including any local prevalence data gathered and analyzed by the eligible area.

(C) Priority

Subsequent to the development of the quantitative mechanism described in subparagraph (B), the Secretary shall phase in, over a 3-year period beginning in fiscal year 1998, the use of such a mechanism to determine the severe need of an eligible area compared to other eligible areas and to determine, in part, the amount of supplemental funds awarded to the eligible area under this part.

(3) Remainder of amounts

In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under subsection (a)(2) of this section as a result of—

(A) the failure of any eligible area to submit an application under section 300ff–15(c)[2] of this title; or

(B) any eligible area informing the Secretary that such eligible area does not intend to expend the full amount of its grant under such section.

(4) Amount of grant

The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on the application submitted by the eligible area under section 300ff–15(b) of this title.

(5) Failure to submit

(A) In general

The failure of an eligible area to submit an application for an expedited grant under subsection (a)(2) of this section shall not result in such area being ineligible for a grant under this subsection.

(B) Application

The application of an eligible area submitted under section 300ff–15(b) of this title shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited grant under subsection (a)(2) of this section.

(c) Compliance with priorities of HIV planning council

Notwithstanding any other provision of this part, the Secretary, in carrying out section 300ff–11(a) of this title, may not make any grant under subsection (a) or (b) of this section to an eligible area unless the application submitted by such area under section 300ff–15 of this title for the grant involved demonstrates that the grants made under subsections (a) and (b) of this section to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section 300ff–12(b)(3)(A)[2] of this title, by the planning council serving the area.

(July 1, 1944, ch. 373, title XXVI, § 2603, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104 Stat. 578; amended Pub. L. 101–502, § 6(a), Nov. 3, 1990, 104 Stat. 1289; Pub. L. 102–531, title III, § 312(d)(27), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104–146, §§ 3(b)(2), (3), 4, 6(c)(1), 12(c)(2), May 20, 1996, 110 Stat. 1349, 1350, 1364, 1367, 1373.)

REFERENCES IN TEXT

Section 300ff–15 of this title, referred to in subsecs. (a)(2) and (b)(3)(A), was amended by Pub. L. 104–146, § 3(b)(5)(C), (D), May 20, 1996, 110 Stat. 1353, to add a new subsec. (c), relating to single application and grant awards, and redesignate former subsec. (c), relating to date for submission of grant applications, as (d).

Section 300ff–12(b) of this title, referred to in subsec. (c), was amended by Pub. L. 104–146, § 3(b)(1)(D), May 20, 1996, 110 Stat. 1348, to redesignate pars. (2) and (3) as (3) and (4), respectively. As so redesignated, par. (3)(A) relates to establishment or designation of councils and par. (4)(A) relates to establishment of priorities by planning councils.

PRIOR PROVISIONS

A prior section 2603 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–146, § 6(c)(1)(A), substituted ''section 300ff–77'' for ''section 300ff–18''.

Pub. L. 104–146, § 3(b)(3)(A), inserted '', in accordance with paragraph (3)'' after ''section 300ff–11(a) of this title'' and ''The Secretary shall reserve an additional percentage of the amount appropriated under section 300ff–77 of this title for a fiscal year for grants under this part to make grants to eligible areas under section 300ff–11(a) of this title in accordance with paragraph (4).'' at end.

Pub. L. 104–146, § 3(b)(2)(A), substituted ''Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall'' for ''Not later than—

''(A) 90 days after an appropriation becomes available to carry out this part for fiscal year 1991; and

''(B) 60 days after an appropriation becomes available to carry out this part for each of fiscal years 1992 through 1995;

the Secretary shall''.

Subsec. (a)(3). Pub. L. 104–146, § 4, amended par. (3) generally, revising and restating provisions of former subpars. (A) to (C) relating to amount of grants under par. (3) as subpars. (A) to (D).

Subsec. (a)(4). Pub. L. 104–146, § 3(b)(3)(B), added par. (4).

Subsec. (b)(1). Pub. L. 104–146, § 6(c)(1)(B), substituted ''section 300ff–77'' for ''section 300ff–18'' in introductory provisions.

Subsec. (b)(1)(F), (G). Pub. L. 104–146, § 3(b)(2)(B)(i), added subpars. (F) and (G).

Subsec. (b)(2) to (4). Pub. L. 104–146, § 3(b)(2)(B)(ii), (iii), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

[2] See References in Text note below.

Subsec. (b)(5). Pub. L. 104–146, § 3(b)(2)(B)(ii), redesignated par. (4) as (5).

Subsec. (b)(5)(B). Pub. L. 104–146, § 12(c)(2), which directed substitution of ''an expedited grant'' for ''an expedited grants'' in par. (4)(B), was executed to par. (5)(B) to reflect the probable intent of Congress and the redesignation of par. (4) as (5) by Pub. L. 104–146, § 3(b)(2)(B)(ii). See above.

Subsec. (c). Pub. L. 104–146, § 3(b)(3)(C), added subsec. (c).

1992—Subsec. (a)(3)(B)(i). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1990—Subsec. (a)(3). Pub. L. 101–502 amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph for an eligible area shall be made in an amount equal to the sum of—

''(i) an amount determined in accordance with subparagraph (B); and

''(ii) an amount determined in accordance with subparagraph (C).

''(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—

''(i) an amount equal to 75 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

''(ii) a percentage equal to the quotient of—

''(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control on the applicable date described in section 300ff–11(a) of this title; divided by

''(II) the sum of the cumulative number of such cases in all eligible areas for which an application for a grant under paragraph (1) has been approved.

''(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—

''(i) an amount equal to 25 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

''(ii) a percentage developed by the Secretary through consideration of the ratio of—

''(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

''(II) the per capita incidence of such cumulative cases in all eligible areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such areas).''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by sections 3(b)(2), (3), 4, 6(c)(1)(B), and 12(c)(2) of Pub. L. 104–146 effective Oct. 1, 1996, and amendment by section 6(c)(1)(A) of Pub. L. 104–146 effective May 20, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–11, 300ff–15, 300ff–28 of this title.

§ 300ff–14. Use of amounts

(a) Requirements

The Secretary may not make a grant under section 300ff–11(a) of this title to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 300ff–12(b)(3)(A)[1] of this title, by the HIV health services planning council that serves such eligible area; and

(2) funds provided under section 300ff–11 of this title will be expended only for the purposes described in subsections (b) and (c) of this section.

(b) Primary purposes

(1) In general

The chief elected official shall use amounts received under a grant under section 300ff–11 of this title to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing HIV-related—

(A) outpatient and ambulatory health and support services, including case management, substance abuse treatment and mental health treatment, and comprehensive treatment services, which shall include treatment education and prophylactic treatment for opportunistic infections, for individuals and families with HIV disease; and

(B) inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities.

(2) Appropriate entities

(A) In general

Subject to subparagraph (B), direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities,,[2] or private for-profit entities if such entities are the only available provider of quality HIV care in the area, including hospitals (which may include Department of Veterans Affairs facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, homeless health centers, substance abuse treatment programs, and mental health programs.

(B) Priority

In providing direct financial assistance under paragraph (1) the chief elected official shall give priority to entities that are currently participating in Health Resources and Services Administration HIV health care demonstration projects.

(3) Priority for women, infants and children

For the purpose of providing health and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall use, from the grants made for the area under section 300ff–11(a) of this title for a fiscal year, not less than the percentage constituted by the ratio of the population in such area of infants, children, and women with acquired immune deficiency syndrome to the general population

[1] See References in Text note below.

[2] So in original.

in such area of individuals with such syndrome.

(c) Limited expenditures for personnel needs

(1) In general

A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 300ff–11 of this title to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals (which may include Veterans Administration facilities), nursing homes, subacute and transitional care facilities, and hospices that—

(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease;

(B) incur uncompensated costs in the provision of such care or services to such individuals and families;

(C) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

(D) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

(2) Use

A chief elected official may use amounts referred to in paragraph (1) to—

(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and entities in recruiting or training and paying compensation to qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV disease; or

(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

(3) Requirement of determination by council

A chief elected official shall not use any of the amounts received under a grant under section 300ff–11(a) of this title to provide assistance or services under paragraph (2) unless the HIV health services planning council of the eligible area has made a determination that, with respect to the care of individuals with HIV disease—

(A) a shortage of specific health, mental health or support service personnel exists within specific institutions or entities in the eligible area;

(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the existing resources devoted by such institution or entity to the uses described in such paragraph.

(d) Requirement of status as medicaid provider

(1) Provision of service

Subject to paragraph (2), the Secretary may not make a grant under section 300ff–11(a) of this title for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State—

(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver

(A) In general

In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) Determination

A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(e) Administration

(1) In general

The chief executive officer of an eligible area shall not use in excess of 5 percent of amounts received under a grant awarded under this part for administration,.[3] In the case of entities and subcontractors to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

(2) Administrative activities

For the purposes of paragraph (1), amounts may be used for administrative activities that include—

(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the preparation of

[3] So in original. The comma probably should not appear.

routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

(B) all activities associated with the grantee's contract award procedures, including the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

(3) Subcontractor administrative costs

For the purposes of this subsection, subcontractor administrative activities include—

(A) usual and recognized overhead, including established indirect rates for agencies;

(B) management oversight of specific programs funded under this subchapter; and

(C) other types of program support such as quality assurance, quality control, and related activities.

(f) Construction

A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(July 1, 1944, ch. 373, title XXVI, § 2604, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104 Stat. 580; amended Pub. L. 103–446, title XII, § 1203(a)(3), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 104–146, § 3(b)(4), May 20, 1996, 110 Stat. 1351.)

REFERENCES IN TEXT

Section 300ff–12(b) of this title, referred to in subsec. (a)(1), was amended by Pub. L. 104–146, § 3(b)(1)(D), May 20, 1996, 110 Stat. 1348, to redesignate pars. (2) and (3) as (3) and (4), respectively. As so redesignated, par. (3)(A) relates to establishment or designation of councils and par. (4)(A) relates to establishment of priorities by planning councils.

The Social Security Act, referred to in subsec. (d)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 2604 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

AMENDMENTS

1996—Subsec. (b)(1)(A). Pub. L. 104–146, § 3(b)(4)(A), inserted ", substance abuse treatment and mental health treatment," after "case management" and "which shall include treatment education and prophylactic treatment for opportunistic infections," after "treatment services,".

Subsec. (b)(2)(A). Pub. L. 104–146, § 3(b)(4)(B), inserted ", or private for-profit entities if such entities are the only available provider of quality HIV care in the area," after "nonprofit private entities," and substituted "homeless health centers, substance abuse treatment programs, and mental health programs" for "and homeless health centers".

Subsec. (b)(3). Pub. L. 104–146, § 3(b)(4)(C), added par. (3).

Subsec. (e). Pub. L. 104–146, § 3(b)(4)(C), struck out "and planning" after "Administration" in heading, designated existing provisions as par. (1), inserted par. heading, struck out "accounting, reporting, and program oversight functions" after "for administration,", inserted at end "In the case of entities and subcontractors to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).", and added pars. (2) and (3).

1994—Subsec. (b)(2)(A). Pub. L. 103–446 substituted "Department of Veterans Affairs facilities" for "Veterans Administration facilities".

CHANGE OF NAME

Reference to Veterans Administration deemed to refer to Department of Veterans Affairs pursuant to section 10 of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–11, 300ff–12, 300ff–15, 300ff–22 of this title.

§ 300ff–15. Application

(a) In general

To be eligible to receive a grant under section 300ff–11 of this title, an eligible area shall prepare and submit to the Secretary an application, in accordance with subsection (c) of this section regarding a single application and grant award, at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

(1)(A) that funds received under a grant awarded under this part will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services to individuals with HIV disease;

(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services for individuals with HIV disease at a level that is equal to the level of such expenditures by such political subdivisions for the preceding fiscal year; and

(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 300ff–12 of this title, and has developed or will develop the comprehensive plan in ac-

cordance with section 300ff–12(b)(3)(B)[1] of this title;

(3) that entities within the eligible area that will receive funds under a grant provided under section 300ff–11(a) of this title shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

(4) that funds received under a grant awarded under this part will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis;

(5) to the maximum extent practicable, that—

(A) HIV health care and support services provided with assistance made available under this part will be provided without regard—

(i) to the ability of the individual to pay for such services; and

(ii) to the current or past health condition of the individual to be served;

(B) such services will be provided in a setting that is accessible to low-income individuals with HIV-disease; and

(C) a program of outreach will be provided to low-income individuals with HIV-disease to inform such individuals of such services; and

(6) that the applicant has participated, or will agree to participate, in the statewide coordinated statement of need process where it has been initiated by the State public health agency responsible for administering grants under part B of this subchapter, and ensure that the services provided under the comprehensive plan are consistent with the statewide coordinated statement of need.

(b) Application

An eligible area that desires to receive a grant under section 300ff–13(b) of this title shall prepare and submit to the Secretary an application, in accordance with subsection (c) of this section regarding a single application and grant award, at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning—

(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

(2) demographic data on the population of such individuals;

(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(4) the aggregate amounts expended for each such category of services.

(c) Single application and grant award

(1) Application

The Secretary may phase in the use of a single application that meets the requirements of subsections (a) and (b) of section 300ff–13 of this title with respect to an eligible area that desires to receive grants under section 300ff–13 of this title for a fiscal year.

(2) Grant award

The Secretary may phase in the awarding of a single grant to an eligible area that submits an approved application under paragraph (1) for a fiscal year.

(d) Date certain for submission

(1) Requirement

Except as provided in paragraph (2), to be eligible to receive a grant under section 300ff–11(a) of this title for a fiscal year, an application under subsection (a) of this section shall be submitted not later than 45 days after the date on which appropriations are made under section 300ff–77 of this title for the fiscal year.

(2) Exception

The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

(3) Distribution by Secretary

Not later than 45 days after receiving an application that meets the requirements of subsection (a) of this section from an eligible area, the Secretary shall distribute to such eligible area the amounts awarded under the grant for which the application was submitted.

(4) Redistribution

Any amounts appropriated in any fiscal year under this part and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under[2] 300ff–11(a) of this title.

(e) Requirements regarding imposition of charges for services

(1) In general

The Secretary may not make a grant under section 300ff–11 of this title to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

[1] See References in Text note below.

[2] So in original. Probably should be followed by ''section''.

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) Assessment of charge

With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) Applicability of limitation on amount of charge

The Secretary may not make a grant under section 300ff–11 of this title to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) Waiver regarding secondary agreements

The requirements established in paragraphs (1) through (3) shall be waived in accordance with section 300ff–14(d)(2) of this title.

(July 1, 1944, ch. 373, title XXVI, § 2605, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104 Stat. 582; amended Pub. L. 104–146, §§ 3(b)(5), 6(c)(2), May 20, 1996, 110 Stat. 1352, 1368.)

REFERENCES IN TEXT

Section 300ff–12(b) of this title, referred to in subsec. (a)(2), was amended by Pub. L. 104–146, § 3(b)(1)(D), May 20, 1996, 110 Stat. 1348, to redesignate pars. (2) and (3) as (3) and (4), respectively. As so redesignated, par. (3)(B) relates to consideration regarding designation of councils and par. (4)(B) relates to development of a comprehensive plan.

PRIOR PROVISIONS

A prior section 2605 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–146, § 3(b)(5)(A)(i), inserted ‘‘, in accordance with subsection (c) of this section regarding a single application and grant award,’’ after ‘‘application’’ in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 104–146, § 3(b)(5)(A)(ii), substituted ‘‘preceding fiscal year’’ for ‘‘1-year period preceding the first fiscal year for which a grant is received by the eligible area’’.

Subsec. (a)(6). Pub. L. 104–146, § 3(b)(5)(A)(iii)–(v), added par. (6).

Subsec. (b). Pub. L. 104–146, § 3(b)(5)(B), substituted ‘‘Application’’ for ‘‘Additional application’’ in heading and substituted ‘‘application, in accordance with subsection (c) of this section regarding a single application and grant award,’’ for ‘‘additional application’’ in introductory provisions.

Subsec. (c). Pub. L. 104–146, § 3(b)(5)(D), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–146, § 3(b)(5)(C), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 104–146, § 6(c)(2), which directed substitution of ‘‘section 300ff–77 of this title’’ for ‘‘section 300ff–18 of this title’’ in subsec. (c)(1), was executed by making the substitution in subsec. (d)(1) to reflect the probable intent of Congress and the redesignation of subsec. (c) as (d) by Pub. L. 104–146, § 3(b)(5)(C). See above.

Subsec. (e). Pub. L. 104–146, § 3(b)(5)(C), redesignated subsec. (d) as (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–13 of this title.

§ 300ff–16. Technical assistance

The Administrator of the Health Resources and Services Administration shall, beginning on August 18, 1990, provide technical assistance, including assistance from other grantees, contractors or subcontractors under this subchapter to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and, to assist entities in complying with the requirements of this part in order to make such entities eligible to receive a grant under this part. The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed $75,000 for any metropolitan area, projected to be eligible for funding under section 300ff–11 of this title in the following fiscal year. Such grant amounts shall be deducted from the first year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 300ff–77 of this title for grants under this part may be used to carry out this section.

(July 1, 1944, ch. 373, title XXVI, § 2606, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104

Stat. 585; amended Pub. L. 104–146, § 3(b)(6), May 20, 1996, 110 Stat. 1353.)

PRIOR PROVISIONS

A prior section 2606 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238e of this title.

AMENDMENTS

1996—Pub. L. 104–146 substituted ''Administration shall'' for ''Administration may'', inserted '', including assistance from other grantees, contractors or subcontractors under this subchapter to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and,'' after ''technical assistance'', and inserted at end ''The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed $75,000 for any metropolitan area, projected to be eligible for funding under section 300ff–11 of this title in the following fiscal year. Such grant amounts shall be deducted from the first year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 300ff–77 of this title for grants under this part may be used to carry out this section.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–17. Definitions

For purposes of this part:

(1) Eligible area

The term ''eligible area'' means a metropolitan area meeting the requirements of section 300ff–11 of this title that are applicable to the area.

(2) Metropolitan area

The term ''metropolitan area'' means an area referred to in the HIV/AIDS Surveillance Report of the Centers for Disease Control and Prevention as a metropolitan area.

(July 1, 1944, ch. 373, title XXVI, § 2607, as added Pub. L. 101–381, title I, § 101(3), Aug. 18, 1990, 104 Stat. 585; amended Pub. L. 101–557, title IV, § 401(b)(1), Nov. 15, 1990, 104 Stat. 2771; Pub. L. 102–531, title III, § 312(d)(28), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104–146, § 3(a)(3), May 20, 1996, 110 Stat. 1347.)

PRIOR PROVISIONS

A prior section 2607 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238f of this title.

AMENDMENTS

1996—Par. (1). Pub. L. 104–146 substituted ''The term 'eligible area' means a metropolitan area meeting the requirements of section 300ff–11 of this title that are applicable to the area.'' for ''The term 'eligible area' means a metropolitan area described in section 300ff–11(a) of this title.''

1992—Par. (2). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

1990—Par. (1). Pub. L. 101–557 substituted ''300ff–11(a)'' for ''300ff–11(a)(1)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–18. Repealed. Pub. L. 104–146, § 6(b), May 20, 1996, 110 Stat. 1367

Section, act July 1, 1944, ch. 373, title XXVI, § 2608, as added Aug. 18, 1990, Pub. L. 101–381, title I, § 101(3), 104 Stat. 585, authorized appropriations for fiscal years 1991 through 1995.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

PART B—CARE GRANT PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300ff–12, 300ff–15, 300ff–27a, 300ff–41, 300ff–51, 300ff–71, 300ff–77, 300ff–101 of this title.

SUBPART I—GENERAL GRANT PROVISIONS

AMENDMENTS

1996—Pub. L. 104–146, § 7(b)(1), May 20, 1996, 110 Stat. 1368, added heading ''SUBPART I—GENERAL GRANT PROVISIONS''.

§ 300ff–21. Grants

(a) In general

The Secretary shall, subject to the availability of appropriations, make grants to States to enable such States to improve the quality, availability and organization of health care and support services for individuals and families with HIV disease. The authority of the Secretary to provide grants under this part is subject to section 300ff–34(e)(2) of this title (relating to the decrease in perinatal transmission of HIV disease).

(b) Priority for women, infants, and children

For the purpose of providing health and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, a State shall use, of the funds allocated under this part to the State for a fiscal year, not less than the percentage constituted by the ratio of the population in the State of infants, children, and women with acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome.

(July 1, 1944, ch. 373, title XXVI, § 2611, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 586; amended Pub. L. 104–146, §§ 3(c)(1), 7(b)(2), May 20, 1996, 110 Stat. 1353, 1368.)

PRIOR PROVISIONS

A prior section 2611 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

AMENDMENTS

1996—Pub. L. 104–146, § 3(c)(1), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (a). Pub. L. 104–146, § 7(b)(2), inserted at end ''The authority of the Secretary to provide grants under this part is subject to section 300ff–34(e)(2) of this title (relating to the decrease in perinatal transmission of HIV disease).''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–27 of this title.

§ 300ff–22. General use of grants

A State may use amounts provided under grants made under this part—

(1) to provide the services described in section 300ff–14(b)(1) of this title for individuals with HIV disease;

(2) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive continuum of care to individuals and families with HIV disease in accordance with section 300ff–23 of this title;

(3) to provide home- and community-based care services for individuals with HIV disease in accordance with section 300ff–24 of this title;

(4) to provide assistance to assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 300ff–25 of this title; and

(5) to provide therapeutics to treat HIV disease to individuals with HIV disease in accordance with section 300ff–26 of this title.

Services described in paragraph (1) shall be delivered through consortia designed as described in paragraph (2), where such consortia exist, unless the State demonstrates to the Secretary that delivery of such services would be more effective when other delivery mechanisms are used. In making a determination regarding the delivery of services, the State shall consult with appropriate representatives of service providers and recipients of services who would be affected by such determination, and shall include in its demonstration to the Secretary the findings of the State regarding such consultation.

(July 1, 1944, ch. 373, title XXVI, § 2612, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 586; amended Pub. L. 104–146, § 3(c)(2), May 20, 1996, 110 Stat. 1354.)

CODIFICATION

Another section 3(c)(2) of Pub. L. 104–146 amended section 300ff–23 of this title.

PRIOR PROVISIONS

A prior section 2612 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

AMENDMENTS

1996—Pub. L. 104–146, § 3(c)(2)(A), struck out ''(a) In general'' before ''A State may use amounts'', added par. (1), redesignated former pars. (1) to (4) as (2) to (5), respectively, substituted ''therapeutics to treat HIV disease'' for ''treatments, that have been determined to prolong life or prevent serious deterioration of health,'' in par. (5), and inserted after par. (5) ''Services described in paragraph (1) shall be delivered through consortia designed as described in paragraph (2), where such consortia exist, unless the State demonstrates to the Secretary that delivery of such services would be more effective when other delivery mechanisms are used. In making a determination regarding the delivery of services, the State shall consult with appropriate representatives of service providers and recipients of services who would be affected by such determination, and shall include in its demonstration to the Secretary the findings of the State regarding such consultation.''

Subsec. (b). Pub. L. 104–146, § 3(c)(2)(B), struck out heading and text of subsec. (b). Text read as follows: ''A State shall use not less than 15 percent of funds allocated under this part to provide health and support services to infants, children, women, and families with HIV disease.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–23, 300ff–24, 300ff–25, 300ff–26, 300ff–29, 300ff–51 of this title.

§ 300ff–23. Grants to establish HIV care consortia

(a) Consortia

A State may use amounts provided under a grant awarded under this part to provide assistance under section 300ff–22(a)(1)[1] of this title to an entity that—

(1) is an association of one or more public, and one or more nonprofit private,[2] (or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)[2] health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease, that may include—

(A) essential health services such as case management services, medical, nursing, substance abuse treatment, mental health treatment, and dental care, diagnostics, monitoring, prophylactic treatment for opportunistic infections, treatment education to take place in the context of health care delivery, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for individuals with HIV disease including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this subchapter as a ''consortium'' or ''consortia''.

(b) Assurances

(1) Requirement

To receive assistance from a State under subsection (a) of this section, an applicant

[1] See References in Text note below.

[2] So in original. The comma probably should follow parenthetical phrase.

consortium shall provide the State with assurances that—

(A) within any locality in which such consortium is to operate, the populations and subpopulations of individuals and families with HIV disease have been identified by the consortium;

(B) the service plan established under subsection (c)(2) of this section by such consortium addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A).

(2) Exception

Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that—

(A) subpopulations exist within the community to be served that have unique service requirements; and

(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

(c) Application

(1) In general

To receive assistance from the State under subsection (a) of this section, a consortium shall prepare and submit to the State, an application that—

(A) demonstrates that the consortium includes agencies and community-based organizations—

(i) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

(ii) that are representative of populations and subpopulations reflecting the local incidence of HIV and that are located in areas in which such populations reside;

(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include—

(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

(ii) assurances that, in metropolitan areas, the geographic area to be served by the consortium corresponds to the geographic boundaries of local health and support services delivery systems to the extent practicable;

(iii) assurances that, in the case of services for individuals residing in rural areas, the applicant consortium shall deliver case management services that link available community support services to appropriate specialized medical services; and

(iv) assurances that the assessment of service needs and the planning of the delivery of services will include participation by individuals with HIV disease;

(C) demonstrates that adequate planning has occurred to meet the special needs of families with HIV disease, including family centered and youth centered care;

(D) demonstrates that the consortium has created a mechanism to evaluate periodically—

(i) the success of the consortium in responding to identified needs; and

(ii) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care; and

(E) demonstrates that the consortium will report to the State the results of the evaluations described in subparagraph (D) and shall make available to the State or the Secretary, on request, such data and information on the program methodology that may be required to perform an independent evaluation.

(2) Consultation

In establishing the plan required under paragraph (1)(B), the consortium shall consult with—

(A)(i) the public health agency that provides or supports ambulatory and outpatient HIV-related health care services within the geographic area to be served; or

(ii) in the case of a public health agency that does not directly provide such HIV-related health care services such agency shall consult with an entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic area to be served;

(B) not less than one community-based organization that is organized solely for the purpose of providing HIV-related support services to individuals with HIV disease; and

(C) grantees under section 300ff–71 of this title, or, if none are operating in the area, representatives in the area of organizations with a history of serving children, youth, women, and families living with HIV.

The organization to be consulted under subparagraph (B) shall be at the discretion of the applicant consortium.

(d) "Family centered care" defined

As used in this part, the term ''family centered care'' means the system of services described in this section that is targeted specifically to the special needs of infants, children, women, and families. Family centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV disease.

(e) Priority

In providing assistance under subsection (a) of this section, the State shall, among applicants

that meet the requirements of this section, give priority—

(1) first to consortia that are receiving assistance from the Health Resources and Services Administration for adult and pediatric HIV-related care demonstration projects; and then

(2) to any other existing HIV care consortia.

(July 1, 1944, ch. 373, title XXVI, § 2613, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 586; amended Pub. L. 104–146, § 3(c)(2), May 20, 1996, 110 Stat. 1354.)

REFERENCES IN TEXT

Section 300ff–22 of this title, referred to in subsec. (a), was amended by Pub. L. 104–146, § 3(c)(2)(A)(i), May 20, 1996, 110 Stat. 1354, and, as so amended, no longer contains a subsec. (a).

CODIFICATION

Another section 3(c)(2) of Pub. L. 104–146 amended section 300ff–22 of this title.

PRIOR PROVISIONS

A prior section 2613 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–146, § 3(c)(2)(A)(i), inserted ''(or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)'' after ''nonprofit private,''.

Subsec. (a)(2)(A). Pub. L. 104–146, § 3(c)(2)(A)(ii), inserted ''substance abuse treatment, mental health treatment,'' after ''nursing,'' and ''prophylactic treatment for opportunistic infections, treatment education to take place in the context of health care delivery,'' after ''monitoring,''.

Subsec. (c)(1)(C). Pub. L. 104–146, § 3(c)(2)(B)(i), inserted ''and youth centered'' after ''family centered''.

Subsec. (c)(2)(C). Pub. L. 104–146, § 3(c)(2)(B)(ii), added subpar. (C).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–22, 300ff–28 of this title.

§ 300ff–24. Grants for home- and community-based care

(a) Uses

A State may use amounts provided under a grant awarded under this part to make grants under section 300ff–22(a)(2)[1] of this title to entities to—

(1) provide home- and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by a case management team, that shall include appropriate health care professionals, in such State for providing such services to such individuals;

(2) provide outreach services to individuals with HIV disease, including those individuals in rural areas; and

(3) provide for the coordination of the provision of services under this section with the provision of HIV-related health services provided by public and private entities.

(b) Priority

In awarding grants under subsection (a) of this section, a State shall give priority to entities that provide assurances to the State that—

(1) such entities will participate in HIV care consortia if such consortia exist within the State; and

(2) such entities will utilize amounts provided under such grants for the provision of home- and community-based services to low-income individuals with HIV disease.

(c) "Home- and community-based health services" defined

As used in this part, the term ''home- and community-based health services''—

(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a case management team, that shall include appropriate health care professionals, for the provision of such services and items described in paragraph (2);

(2) includes—

(A) durable medical equipment;

(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

(C) day treatment or other partial hospitalization services;

(D) home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy);

(E) routine diagnostic testing administered in the home of the individual; and

(F) appropriate mental health, developmental, and rehabilitation services; and

(3) does not include—

(A) inpatient hospital services; and

(B) nursing home and other long term care facilities.

(July 1, 1944, ch. 373, title XXVI, § 2614, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 589.)

REFERENCES IN TEXT

Section 300ff–22 of this title, referred to in subsec. (a), was amended by Pub. L. 104–146, § 3(c)(2)(A)(i), May 20, 1996, 110 Stat. 1354, and, as so amended, no longer contains a subsec. (a).

PRIOR PROVISIONS

A prior section 2614 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238m of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–22 of this title.

§ 300ff–25. Continuum of health insurance coverage

(a) In general

A State may use amounts received under a grant awarded under this part to establish a program of financial assistance under section 300ff–22(a)(3)[1] of this title to assist eligible low-income individuals with HIV disease in—

[1] See References in Text note below.

[1] See References in Text note below.

(1) maintaining a continuity of health insurance; or

(2) receiving medical benefits under a health insurance program, including risk-pools.

(b) Limitations

Assistance shall not be utilized under subsection (a) of this section—

(1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and

(2) to pay any amount expended by a State under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(July 1, 1944, ch. 373, title XXVI, § 2615, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 590.)

REFERENCES IN TEXT

Section 300ff–22 of this title, referred to in subsec. (a), was amended by Pub. L. 104–146, § 3(c)(2)(A)(i), May 20, 1996, 110 Stat. 1354, and, as so amended, no longer contains a subsec. (a).

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–22, 300ff–27 of this title.

§ 300ff–26. Provision of treatments

(a) In general

A State shall use a portion of the amounts provided under a grant awarded under this part to establish a program under section 300ff–22(a)(5)[1] of this title to provide therapeutics to treat HIV disease or prevent the serious deterioration of health arising from HIV disease in eligible individuals, including measures for the prevention and treatment of opportunistic infections.

(b) Eligible individual

To be eligible to receive assistance from a State under this section an individual shall—

(1) have a medical diagnosis of HIV disease; and

(2) be a low-income individual, as defined by the State.

(c) State duties

In carrying out this section the State shall—

(1) determine, in accordance with guidelines issued by the Secretary, which treatments are eligible to be included under the program established under this section;

(2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;

(3) provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals;

(4) facilitate access to treatments for such individuals; and

(5) document the progress made in making therapeutics described in subsection (a) of this section available to individuals eligible for assistance under this section.

(d) Duties of Secretary

In carrying out this section, the Secretary shall review the current status of State drug reimbursement programs established under section 300ff–22(2) of this title and assess barriers to the expanded availability of the treatments described in subsection (a) of this section. The Secretary shall also examine the extent to which States coordinate with other grantees under this subchapter to reduce barriers to the expanded availability of the treatments described in subsection (a) of this section.

(July 1, 1944, ch. 373, title XXVI, § 2616, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 590; amended Pub. L. 104–146, § 3(c)(3), May 20, 1996, 110 Stat. 1355.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–146, § 3(c)(3)(A), substituted "shall use a portion of the amounts" for "may use amounts" and "section 300ff–22(a)(5) of this title to provide therapeutics to treat HIV disease" for "section 300ff–22(a)(4) of this title to provide treatments that have been determined to prolong life" and inserted before period ", including measures for the prevention and treatment of opportunistic infections".

Subsec. (c)(5). Pub. L. 104–146, § 3(c)(3)(B), added par. (5).

Subsec. (d). Pub. L. 104–146, § 3(c)(3)(C), added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–22, 300ff–28 of this title.

§ 300ff–27. State application

(a) In general

The Secretary shall not make a grant to a State under this part for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) Description of intended uses and agreements

The application submitted under subsection (a) of this section shall contain—

(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include—

(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

[1] So in original. Probably should be a reference to section 300ff–22(5) of this title.

(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

(C) information concerning—

(i) the number of individuals to be served with assistance provided under the grant;

(ii) demographic data on the population of the individuals to be served;

(iii) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(iv) the aggregate amounts expended for each such category of services;

(2) a comprehensive plan for the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, including—

(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State;

(B) a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease; and

(C) a description of how the allocation and utilization of resources are consistent with the statewide coordinated statement of need (including traditionally underserved populations and subpopulations) developed in partnership with other grantees in the State that receive funding under this subchapter; and[1]

(3) an assurance that the public health agency administering the grant for the State will periodically convene a meeting of individuals with HIV, representatives of grantees under each part under this subchapter, providers, and public agency representatives for the purpose of developing a statewide coordinated statement of need; and

(4) an assurance by the State that—

(A) the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part;

(B) the State will—

(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

(iii) provide outreach to low-income individuals with HIV disease to inform such individuals of the services available under this part; and

(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in section 300ff–25 of this title, submit a plan to the Secretary that demonstrates that the State has established a program that assures that—

(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this part;

(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part; and

(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(ii) by an entity that provides health services on a prepaid basis.

(c) Requirements regarding imposition of charges for services

(1) In general

The Secretary may not make a grant under section 300ff–21 of this title to a State unless the State provides assurances that in the provision of services with assistance provided under the grant—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

(i) will impose charges on each such individual for the provision of such services; and

(ii) will impose charges according to a schedule of charges that is made available to the public;

[1] So in original. The word ''and'' probably should not appear.

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) Assessment of charge

With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules regarding limitation on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) Applicability of limitation on amount of charge

The Secretary may not make a grant under section 300ff–21 of this title unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D), and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) Waiver

(A) In general

The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) Determination

A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(d) Requirement of matching funds regarding State allotments

(1) In general

In the case of any State to which the criterion described in paragraph (3) applies, the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2) of this section, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

(B) for any second fiscal year of such payments, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

(C) for any third fiscal year of such payments, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant);

(D) for any fourth fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant); and

(E) for any subsequent fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

(2) Determination of amount of non-Federal contribution

(A) In general

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

(B) Inclusion of certain amounts

(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this subchapter;

(ii) In making a determination for purposes of clause (i), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this subchapter (except for the program established in this part) or under other provisions of law.

(3) Applicability of requirement

(A) Number of cases

A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome re-

ported to and confirmed by the Director of the Centers for Disease Control and Prevention for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

(B) Period of time

The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a) of this section.

(C) Puerto Rico

For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

(4) Diminished State contribution

With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

(July 1, 1944, ch. 373, title XXVI, § 2617, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 590; amended Pub. L. 102–531, title III, § 312(d)(29), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104–146, §§ 3(c)(4), 12(c)(3), May 20, 1996, 110 Stat. 1355, 1373.)

AMENDMENTS

1996—Subsec. (b)(2)(C). Pub. L. 104–146, § 3(c)(4)(A), added subpar. (C).

Subsec. (b)(3). Pub. L. 104–146, § 3(c)(4)(C), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 104–146, § 3(c)(4)(B), redesignated par. (3) as (4).

Subsec. (b)(4)(B)(iv). Pub. L. 104–146, § 12(c)(3), which directed amendment of par. (3)(B)(iv) by inserting ''section'' before ''300ff–25'', was executed by making the amendment in par. (4)(B)(iv) to reflect the probable intent of Congress and the redesignation of par. (3) as (4) by Pub. L. 104–146, § 3(c)(4)(B). See above.

1992—Subsec. (d)(3)(A). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–27a. Spousal notification

(a) In general

The Secretary of Health and Human Services shall not make a grant under part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) to any State unless such State takes administrative or legislative action to require that a good faith effort be made to notify a spouse of a known HIV-infected patient that such spouse may have been exposed to the human immunodeficiency virus and should seek testing.

(b) Definitions

For purposes of this section:

(1) Spouse

The term ''spouse'' means any individual who is the marriage partner of an HIV-infected patient, or who has been the marriage partner of that patient at any time within the 10-year period prior to the diagnosis of HIV infection.

(2) HIV-infected patient

The term ''HIV-infected patient'' means any individual who has been diagnosed to be infected with the human immunodeficiency virus.

(3) State

The term ''State'' means any of the 50 States, the District of Columbia, or any territory of the United States.

(Pub. L. 104–146, § 8, May 20, 1996, 110 Stat. 1372.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part B of title XXVI of the Act is classified generally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Ryan White CARE Act Amendments of 1996, and not as part of the Public Health Service Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

§ 300ff–28. Distribution of funds

(a) Repealed. Pub. L. 104–146, § 3(g)(2), May 20, 1996, 110 Stat. 1363

(b) Amount of grant to State

(1) Minimum allotment

Subject to the extent of amounts made available under section 300ff–77 of this title, the amount of a grant to be made under this part for—

(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

(i)(I) with respect to a State or District that has less than 90 living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), $100,000; or

(II) with respect to a State or District that has 90 or more living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), $250,000;

(ii) an amount determined under paragraph (2); and

(B) each territory of the United States, as defined in paragraph (3), shall be an amount determined under paragraph (2).

(2) Determination

(A) Formula

The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of—

(i) an amount equal to the amount appropriated under section 300ff–77 of this title for the fiscal year involved for grants under this part, subject to subparagraph (H); and

(ii) the percentage constituted by the sum of—

(I) the product of .80 and the ratio of the State distribution factor for the State or territory (as determined under subsection (B)) to the sum of the respective State distribution factors for all States or territories; and

(II) the product of .20 and the ratio of the non-EMA distribution factor for the State or territory (as determined under subparagraph (C)) to the sum of the respective distribution factors for all States or territories.

(B) State distribution factor

For purposes of subparagraph (A)(ii)(I), the term ''State distribution factor'' means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (D).

(C) Non-EMA distribution factor

For purposes of subparagraph (A)(ii)(II), the term ''non-ema[1] distribution factor'' means an amount equal to the sum of—

(i) the estimated number of living cases of acquired immune deficiency syndrome in the State or territory involved, as determined under subparagraph (D); less

(ii) the estimated number of living cases of acquired immune deficiency syndrome in such State or territory that are within an eligible area (as determined under part A of this subchapter).

(D) Estimate of living cases

The amount determined in this subparagraph is an amount equal to the product of—

(i) the number of cases of acquired immune deficiency syndrome in the State or territory during each year in the most recent 120-month period for which data are available with respect to all States and territories, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

(ii) with respect to each of the first through the tenth year during such period, the amount referred to in section 300ff–13(a)(3)(C)(ii) of this title.

(E) Puerto Rico, Virgin Islands, Guam

For purposes of subparagraph (D), the cost index for Puerto Rico, the Virgin Islands, and Guam shall be 1.0.

[1] So in original. Probably should be ''non-EMA''.

(F) Unexpended funds

The Secretary may, in determining the amount of a grant for a fiscal year under this subsection, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

(G) Limitation

(i) In general

The Secretary shall ensure that the amount of a grant awarded to a State or territory for a fiscal year under this part is equal to not less than—

(I) with respect to fiscal year 1996, 100 percent;

(II) with respect to fiscal year 1997, 99 percent;

(III) with respect to fiscal year 1998, 98 percent;

(IV) with respect to fiscal year 1999, 96.5 percent; and

(V) with respect to fiscal year 2000, 95 percent;

of the amount such State or territory received for fiscal year 1995 under this part. In administering this subparagraph, the Secretary shall, with respect to States that will receive grants in amounts that exceed the amounts that such States received under this part in fiscal year 1995, proportionally reduce such amounts to ensure compliance with this subparagraph. In making such reductions, the Secretary shall ensure that no such State receives less than that State received for fiscal year 1995.

(ii) Ratable reduction

If the amount appropriated under section 300ff–77 of this title and available for allocation under this part is less than the amount appropriated and available under this part for fiscal year 1995, the limitation contained in clause (i) shall be reduced by a percentage equal to the percentage of the reduction in such amounts appropriated and available.

(H) Appropriations for treatment drug program

With respect to the fiscal year involved, if under section 300ff–77 of this title an appropriations Act provides an amount exclusively for carrying out section 300ff–26 of this title, the portion of such amount allocated to a State shall be the product of—

(i) 100 percent of such amount; and

(ii) the percentage constituted by the ratio of the State distribution factor for the State (as determined under subparagraph (B)) to the sum of the State distribution factors for all States.

(3) Definitions

As used in this subsection—

(A) the term ''State'' means each of the 50 States, the District of Columbia, the Com-

monwealth of Puerto Rico, the Virgin Islands, and Guam; and

(B) the term ''territory of the United States'' means,[2] American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

(c) Allocation of assistance by States

(1) Repealed. Pub. L. 104–146, § 3(c)(5)(A), May 20, 1996, 110 Stat. 1355

(2) Allowances

Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A of this subchapter.

(3) Planning and evaluations

Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

(4) Administration

(A) In general

Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for administration. In the case of entities and subcontractors to which the State allocates amounts received by the State under the grant (including consortia under section 300ff–23 of this title), the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

(B) Administrative activities

For the purposes of subparagraph (A), amounts may be used for administrative activities that include routine grant administration and monitoring activities.

(C) Subcontractor administrative costs

For the purposes of this paragraph, subcontractor administrative activities include—

(i) usual and recognized overhead, including established indirect rates for agencies;

(ii) management oversight of specific programs funded under this subchapter; and

(iii) other types of program support such as quality assurance, quality control, and related activities.

(5) Limitation on use of funds

Except as provided in paragraph (6), a State may not use more than a total of 15 percent of amounts received under a grant awarded under this part for the purposes described in paragraphs (3) and (4).

(6) Exception

With respect to a State that receives the minimum allotment under subsection (a)(1) of this section for a fiscal year, such State, from the amounts received under a grant awarded under this part for such fiscal year for the activities described in paragraphs (3) and (4), may, notwithstanding paragraphs (3), (4), and (5), use not more than that amount required to support one full-time-equivalent employee.

(7) Construction

A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(d) Expedited distribution

(1) In general

Not less than 75 percent of the amounts received under a grant awarded to a State under this part shall be obligated to specific programs and projects and made available for expenditure not later than—

(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and

(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

(2) Public comment

Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

(e) Reallocation

Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) of this section shall be repaid to the Secretary and reallotted to other States in proportion to the original grants made to such States.

(July 1, 1944, ch. 373, title XXVI, § 2618, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 595; amended Pub. L. 102–531, title III, § 312(d)(30), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104–146, §§ 3(c)(5), (g)(2), 5, 6(c)(3), May 20, 1996, 110 Stat. 1355, 1363, 1365, 1368; Pub. L. 105–392, title IV, § 417, Nov. 13, 1998, 112 Stat. 3591.)

AMENDMENTS

1998—Subsec. (b)(3)(A). Pub. L. 105–392, § 417(1), substituted '', the Commonwealth of Puerto Rico, the Virgin Islands, and Guam'' for ''and the Commonwealth of Puerto Rico''.

Subsec. (b)(3)(B). Pub. L. 105–392, § 417(2), struck out ''the Virgin Islands, Guam'' after ''means''.

1996—Subsec. (a). Pub. L. 104–146, § 3(g)(2), struck out subsec. (a) which related to special projects of national significance.

Subsec. (a)(1). Pub. L. 104–146, § 6(c)(3)(A), which directed amendment of subsec. (a)(1) by substituting ''section 300ff–77'' for ''section 300ff–30'', could not be executed because of the repeal of subsec. (a) by Pub. L. 104–146, § 3(g)(2). See above.

Subsec. (b)(1). Pub. L. 104–146, § 6(c)(3)(B), which directed amendment of subsec. (b)(1) by substituting ''section 300ff–77 of this title'' for ''section 300ff–30 of this title'', could not be executed because the words ''section 300ff–30 of this title'' did not appear subse-

[2] So in original. The comma probably should not appear.

quent to the general amendment of subsec. (b)(1) by Pub. L. 104–146, § 5. See below.

Pub. L. 104–146, § 5, amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''Subject to the extent of amounts made available under section 300ff–30 of this title, the amount of a grant to be made under this part for—

''(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

''(i) $100,000, and

''(ii) an amount determined under paragraph (2); and

''(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).''

Subsec. (b)(2). Pub. L. 104–146, § 5, amended par. (2) generally, substituting subpars. (A) to (H) for former subpars. (A) and (B) relating to determination of amount of allotments.

Subsec. (c)(1). Pub. L. 104–146, § 3(c)(5)(A), struck out heading and text of par. (1). Text read as follows: ''In a State that has reported 1 percent or more of all AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention in all States, not less than 50 percent of the amount received by the State under a grant awarded under this part shall be utilized for the creation and operation of community-based comprehensive care consortia under section 300ff–23 of this title, in those areas within the State in which the largest number of individuals with HIV disease reside.''

Subsec. (c)(3), (4). Pub. L. 104–146, § 3(c)(5)(B), amended pars. (3) and (4) generally. Prior to amendment, pars. (3) and (4) read as follows:

''(3) PLANNING AND EVALUATIONS.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

''(4) ADMINISTRATION.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.''

Subsec. (c)(5) to (7). Pub. L. 104–146, § 3(c)(5)(C), (D), added pars. (5) and (6) and redesignated former par. (5) as (7).

1992—Subsec. (c)(1). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by sections 3(c)(5), (g)(2) and 6(c)(3)(A) of Pub. L. 104–146 effective Oct. 1, 1996, and amendment by sections 5 and 6(c)(3)(B) of Pub. L. 104–146 effective May 20, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–29. Technical assistance

The Secretary shall provide technical assistance in administering and coordinating the activities authorized under section 300ff–22 of this title, including technical assistance for the development and implementation of statewide coordinated statements of need.

(July 1, 1944, ch. 373, title XXVI, § 2619, as added Pub. L. 101–381, title II, § 201, Aug. 18, 1990, 104 Stat. 597; amended Pub. L. 104–146, § 3(c)(6), May 20, 1996, 110 Stat. 1356.)

AMENDMENTS

1996—Pub. L. 104–146 substituted ''shall'' for ''may'' and inserted '', including technical assistance for the development and implementation of statewide coordinated statements of need'' before period at end.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, and amendment by section 6(c)(1)(A) of Pub. L. 104–146 effective May 20, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–30. Repealed. Pub. L. 104–146, § 6(b), May 20, 1996, 110 Stat. 1367

Section, act July 1, 1944, ch. 373, title XXVI, § 2620, as added Aug. 18, 1990, Pub. L. 101–381, title II, § 201, 104 Stat. 597, authorized appropriations for fiscal years 1991 through 1995.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

§ 300ff–31. Coordination

The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, and the Substance Abuse and Mental Health Services Administration coordinate the planning and implementation of Federal HIV programs in order to facilitate the local development of a complete continuum of HIV-related services for individuals with HIV disease and those at risk of such disease. Not later than October 1, 1996, and biennially thereafter, the Secretary shall submit to the appropriate committees of the Congress a report concerning coordination efforts under this subchapter at the Federal, State, and local levels, including a statement of whether and to what extent there exist Federal barriers to integrating HIV-related programs.

(July 1, 1944, ch. 373, title XXVI, § 2621, as added Pub. L. 104–146, § 3(c)(7), May 20, 1996, 110 Stat. 1356.)

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

SUBPART II—PROVISIONS CONCERNING PREGNANCY AND PERINATAL TRANSMISSION OF HIV

§ 300ff–33. CDC guidelines for pregnant women

(a) Requirement

Notwithstanding any other provision of law, a State shall, not later than 120 days after May 20, 1996, certify to the Secretary that such State has in effect regulations or measures to adopt the guidelines issued by the Centers for Disease Control and Prevention concerning recommendations for human immunodeficiency virus counseling and voluntary testing for pregnant women.

(b) Noncompliance

If a State does not provide the certification required under subsection (a) of this section within the 120-day period described in such subsection, such State shall not be eligible to receive assistance for HIV counseling and testing under this section until such certification is provided.

(c) Additional funds regarding women and infants

(1) In general

If a State provides the certification required in subsection (a) of this section and is receiving funds under this part for a fiscal year, the Secretary may (from the amounts available pursuant to paragraph (2)) make a grant to the

State for the fiscal year for the following purposes:

(A) Making available to pregnant women appropriate counseling on HIV disease.

(B) Making available outreach efforts to pregnant women at high risk of HIV who are not currently receiving prenatal care.

(C) Making available to such women voluntary HIV testing for such disease.

(D) Offsetting other State costs associated with the implementation of this section and subsections (a) and (b) of section 300ff–34 of this title.

(E) Offsetting State costs associated with the implementation of mandatory newborn testing in accordance with this subchapter or at an earlier date than is required by this subchapter.

(2) Funding

For purposes of carrying out this subsection, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000. Amounts made available under section 300ff–77 of this title for carrying out this part are not available for carrying out this section unless otherwise authorized.

(3) Priority

In awarding grants under this subsection the Secretary shall give priority to States that have the greatest proportion of HIV seroprevalance among child bearing women using the most recent data available as determined by the Centers for Disease Control and Prevention.

(July 1, 1944, ch. 373, title XXVI, § 2625, as added Pub. L. 104–146, § 7(b)(3), May 20, 1996, 110 Stat. 1369.)

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

PERINATAL TRANSMISSION OF HIV DISEASE; CONGRESSIONAL FINDINGS

Section 7(a) of Pub. L. 104–146 provided that: ''The Congress finds as follows:

''(1) Research studies and statewide clinical experiences have demonstrated that administration of antiretroviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus (commonly known as HIV) from an infected mother to her baby.

''(2) The Centers for Disease Control and Prevention have recommended that all pregnant women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including antiretroviral therapy) and support services.

''(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

''(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults, and from mother to child.

''(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

''(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

''(7) For the reasons specified in paragraphs (1) through (6)—

''(A) routine HIV counseling and voluntary testing of pregnant women should become the standard of care; and

''(B) the relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–34 of this title.

§ 300ff–34. Perinatal transmission of HIV disease; contingent requirement regarding State grants under this part

(a) Annual determination of reported cases

A State shall annually determine the rate of reported cases of AIDS as a result of perinatal transmission among residents of the State.

(b) Causes of perinatal transmission

In determining the rate under subsection (a) of this section, a State shall also determine the possible causes of perinatal transmission. Such causes may include—

(1) the inadequate provision within the State of prenatal counseling and testing in accordance with the guidelines issued by the Centers for Disease Control and Prevention;

(2) the inadequate provision or utilization within the State of appropriate therapy or failure of such therapy to reduce perinatal transmission of HIV, including—

(A) that therapy is not available, accessible or offered to mothers; or

(B) that available therapy is offered but not accepted by mothers; or

(3) other factors (which may include the lack of prenatal care) determined relevant by the State.

(c) CDC reporting system

Not later than 4 months after May 20, 1996, the Director of the Centers for Disease Control and Prevention shall develop and implement a system to be used by States to comply with the requirements of subsections (a) and (b) of this section. The Director shall issue guidelines to ensure that the data collected is statistically valid.

(d) Determination by Secretary

Not later than 180 days after the expiration of the 18-month period beginning on the date on which the system is implemented under subsection (c) of this section, the Secretary shall publish in the Federal Register a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (4) of section 300ff–35 of this title. In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination.

(e) Contingent applicability

(1) In general

If the determination published in the Federal Register under subsection (d) of this section is that (for purposes of such subsection) the activities involved have become routine practices, paragraph (2) shall apply on and after the expiration of the 18-month period beginning on the date on which the determination is so published.

(2) Requirement

Subject to subsection (f) of this section, the Secretary shall not make a grant under this part to a State unless the State meets not less than one of the following requirements:

(A) A 50 percent reduction (or a comparable measure for States with less than 10 cases) in the rate of new cases of AIDS (recognizing that AIDS is a suboptimal proxy for tracking HIV in infants and was selected because such data is universally available) as a result of perinatal transmission as compared to the rate of such cases reported in 1993 (a State may use HIV data if such data is available).

(B) At least 95 percent of women in the State who have received at least two prenatal visits (consultations) prior to 34 weeks gestation with a health care provider or provider group have been tested for the human immunodeficiency virus.

(C) The State has in effect, in statute or through regulations, the requirements specified in paragraphs (1) through (5) of section 300ff–35 of this title.

(f) Limitation regarding availability of funds

With respect to an activity described in any of paragraphs (1) through (4) of section 300ff–35 of this title, the requirements established by a State under this section apply for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

(1) Federal funds provided to the State in grants under this part or under section 300ff–33 of this title, or through other Federal sources under which payments for routine HIV testing, counseling or treatment are an eligible use.

(2) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.

(July 1, 1944, ch. 373, title XXVI, § 2626, as added Pub. L. 104–146, § 7(b)(3), May 20, 1996, 110 Stat. 1369; amended Pub. L. 104–166, § 5(1), July 29, 1996, 110 Stat. 1449.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–166, § 5(1)(A), substituted ''(1) through (4)'' for ''(1) through (5)''.

Subsec. (f). Pub. L. 104–166, § 5(1)(B), substituted ''(1) through (4)'' for ''(1) through (5)'' in introductory provisions.

EFFECTIVE DATE

Section effective May 20, 1996, see section 13(b) of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–21, 300ff–33 of this title.

§ 300ff–35. Testing of pregnant women and newborn infants

An activity or requirement described in this section is any of the following:

(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease.

(2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved:

(A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant).

(B) If the State is the legal guardian of the infant:

(i) To the appropriate official of the State agency with responsibility for the care of the infant.

(ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant.

(iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent.

(iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent.

(C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant.

(D) To the child's health care provider.

(3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved.

(4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency).

(5) With respect to State insurance laws, that such laws require—

(A) that, if health insurance is in effect for an individual, the insurer involved may not (without the consent of the individual) discontinue the insurance, or alter the terms of the insurance (except as provided in subparagraph (C)), solely on the basis that the individual is infected with HIV disease or solely on the basis that the individual has been tested for the disease or its manifestation;

(B) that subparagraph (A) does not apply to an individual who, in applying for the health insurance involved, knowingly misrepresented the HIV status of the individual; and

(C) that subparagraph (A) does not apply to any reasonable alteration in the terms of health insurance for an individual with HIV

disease that would have been made if the individual had a serious disease other than HIV disease.

For purposes of this subparagraph, a statute or regulation shall be deemed to regulate insurance for purposes of this paragraph only to the extent that such statute or regulation is treated as regulating insurance for purposes of section 1144(b)(2) of title 29.

(July 1, 1944, ch. 373, title XXVI, § 2627, as added Pub. L. 104–146, § 7(b)(3), May 20, 1996, 110 Stat. 1371.)

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–34 of this title.

§ 300ff–36. Report by Institute of Medicine

(a) In general

The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct an evaluation of the extent to which State efforts have been effective in reducing the perinatal transmission of the human immunodeficiency virus, and an analysis of the existing barriers to the further reduction in such transmission.

(b) Report to Congress

The Secretary shall ensure that, not later than 2 years after May 20, 1996, the evaluation and analysis described in subsection (a) of this section is completed and a report summarizing the results of such evaluation and analysis is prepared by the Institute of Medicine and submitted to the appropriate committees of Congress together with the recommendations of the Institute.

(July 1, 1944, ch. 373, title XXVI, § 2628, as added Pub. L. 104–146, § 7(b)(3), May 20, 1996, 110 Stat. 1372.)

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

§ 300ff–37. State HIV testing programs established prior to or after May 20, 1996

Nothing in this subpart shall be construed to disqualify a State from receiving grants under this subchapter if such State has established at any time prior to or after May 20, 1996, a program of mandatory HIV testing.

(July 1, 1944, ch. 373, title XXVI, § 2629, as added Pub. L. 104–146, § 7(b)(3), May 20, 1996, 110 Stat. 1372.)

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

PART C—EARLY INTERVENTION SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300ff–101 of this title.

SUBPART I—FORMULA GRANTS FOR STATES

§ 300ff–41. Establishment of program

(a) Allotments for States

For the purposes described in subsection (b) of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Health Resources and Services Administration, shall for each of the fiscal years 1991 through 1995 make an allotment for each State in an amount determined in accordance with section 300ff–49 of this title. The Secretary shall make payments, as grants, to each State from the allotment for the State for the fiscal year involved if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 300ff–65 of this title.

(b) Purposes of grants

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

(2) Specification of early intervention services

The early intervention services referred to in paragraph (1) are—

(A) counseling individuals with respect to HIV disease in accordance with section 300ff–62 of this title;

(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(C) referrals described in paragraph (3);

(D) other clinical and diagnostic services with respect to HIV disease, and periodic medical evaluations of individuals with the disease; and

(E) providing the therapeutic measures described in subparagraph (B).

(3) Referrals

The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

(A) to entities receiving amounts under part A or B of this subchapter for the provision of such services;

(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 300ff–71 of this title, in the case of pregnant women.

(4) Requirement of availability of all early intervention services through each grantee

The Secretary may not make a grant under subsection (a) of this section unless the State

involved agrees that each of the early intervention services specified in paragraph (2) will be available through the State. With respect to compliance with such agreement, a State may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities under which the entities provide the services.

(5) Optional services

A State receiving a grant under subsection (a) of this section—

(A) may expend not more than 5 percent of the grant to provide early intervention services through making grants to hospitals that—

(i) for the most recent fiscal year for which the data is available, have admitted—

(I) not fewer than 250 individuals with acquired immune deficiency syndrome; or

(II) a number of such individuals constituting 20 percent of the number of inpatients of the hospital admitted during such period;

(ii) agree to offer and encourage such services with respect to inpatients of the hospitals; and

(iii) agree that subsections (c) and (d) of section 300ff–44 of this title will apply to the hospitals to the same extent and in the same manner as such subsections apply to entities described in such section;

(B) may expend the grant to provide outreach services to individuals who may have HIV disease, or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

(C) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

(6) Allocations

(A) Subject to subparagraphs (B) and (C), the Secretary may not make a grant under subsection (a) of this section unless the State involved agrees—

(i) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2); and

(ii) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (D) and (E) of such paragraph.

(B) With respect to compliance with the agreement under subparagraph (A), amounts reserved by a State for fiscal year 1991 for purposes of clauses (i) and (ii) of such subparagraph may be expended to provide the services specified in paragraph (5).

(C) The Secretary shall ensure that, of the amounts appropriated under section 300ff–50 of this title for fiscal year 1991, an amount equal to $130,000,000 is expended to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2).

(July 1, 1944, ch. 373, title XXVI, § 2641, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 597; amended Pub. L. 102–531, title III, § 312(d)(31), Oct. 27, 1992, 106 Stat. 3506.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–42, 300ff–43, 300ff–44, 300ff–45, 300ff–46, 300ff–47, 300ff–48, 300ff–49, 300ff–49a, 300ff–50, 300ff–61, 300ff–64 of this title.

§ 300ff–42. Provision of services through medicaid providers

(a) In general

Subject to subsection (b) of this section, the Secretary may not make a grant under section 300ff–41 of this title to a State unless, in the case of any service described in subsection (b) of such section that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State—

(1) the State will provide the service through a State entity, and the State entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(2) the State will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(b) Waiver regarding certain secondary agreements

(1) In general

In the case of an entity making an agreement pursuant to subsection (a)(2) of this section regarding the provision of services, the requirement established in such subsection regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(2) Acceptance of voluntary donations

A determination by the Secretary of whether an entity referred to in paragraph (1) meets

the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(July 1, 1944, ch. 373, title XXVI, § 2642, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 599.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–64 of this title.

§ 300ff–43. Requirement of matching funds

(a) In general

In the case of any State to which the criterion described in subsection (c) of this section applies, the Secretary may not make a grant under section 300ff–41 of this title unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the purpose referred to in such subsection, the State will, subject to subsection (b)(2) of this section, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(1) for the first fiscal year for which such criterion applies to the State, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

(2) for any second such fiscal year, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

(3) for any third such fiscal year, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant); and

(4) for any subsequent fiscal year, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

(b) Determination of amount of non-Federal contribution

(1) In general

Non-Federal contributions required in subsection (a) of this section may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) Inclusion of certain amounts

(A) In making a determination of the amount of non-Federal contributions made by a State for purposes of subsection (a) of this section, the Secretary shall, subject to subparagraph (B), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this subchapter.

(B) In making a determination for purposes of subparagraph (A), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this subchapter (except for the program established in section 300ff–41 of this title) or under other provisions of law.

(c) Applicability of matching requirement

(1) Percentage of national number of cases

(A) The criterion referred to in subsection (a) of this section is, with respect to a State, that the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the State for the period described in subparagraph (B) constitutes more than 1 percent of the number of such cases reported to and confirmed by the Director for the United States for such period.

(B) The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under section 300ff–41 of this title.

(2) Exemption

For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

(d) Diminished State contribution

With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in subsection (a) of this section, the State shall continue to be eligible to receive Federal funds under a grant under section 300ff–41 of this title, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

(July 1, 1944, ch. 373, title XXVI, § 2643, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 600; amended Pub. L. 102–531, title III, § 312(d)(32), Oct. 27, 1992, 106 Stat. 3506.)

AMENDMENTS

1992—Subsec. (c)(1)(A). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control''.

§ 300ff–44. Offering and encouraging early intervention services

(a) In general

The Secretary may not make a grant under section 300ff–41 of this title unless, in the case of entities to which the State provides amounts from the grant for the provision of early intervention services, the State involved agrees that—

(1) if the entity is a health care provider that regularly provides treatment for sexually transmitted diseases, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

(2) if the entity is a health care provider that regularly provides treatment for intra-

venous substance abuse, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

(3) if the entity is a family planning clinic, the entity will offer and encourage such services with respect to individuals to whom the entity provides family planning services and whom the entity has reason to believe has HIV disease; and

(4) if the entity is a health care provider that provides treatment for tuberculosis, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment.

(b) Sufficiency of amount of grant

With respect to compliance with the agreement made under subsection (a) of this section, an entity to which subsection (a) of this section applies may be required to offer, encourage, and provide early intervention services only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

(c) Criteria for offering and encouraging

Subject to section 300ff–41(b)(4) of this title, an entity to which subsection (a) of this section applies is, for purposes of such subsection, offering and encouraging early intervention services with respect to the individuals involved if the entity—

(1) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing the health care involved; and

(2) provides the early intervention services only with the consent of the individuals.

(July 1, 1944, ch. 373, title XXVI, § 2644, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 601.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–41 of this title.

§ 300ff–45. Notification of certain individuals receiving blood transfusions

(a) In general

The Secretary may not make a grant under section 300ff–41 of this title unless the State involved provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1, 1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will provide public education and information for the purpose of—

(1) encouraging the population of such individuals to receive early intervention services; and

(2) informing such population of any health facilities in the geographic area involved that provide such services.

(b) Rule of construction

An agreement made under subsection (a) of this section may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 300ff–41 of this title provide individual notifications to the individuals described in such subsection.

(July 1, 1944, ch. 373, title XXVI, § 2645, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 602.)

§ 300ff–46. Reporting and partner notification

(a) Reporting

The Secretary may not make a grant under section 300ff–41 of this title unless, with respect to testing for HIV disease, the State involved provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such disease;

(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease; and

(3) to assess the adequacy of early intervention services in the State.

(b) Partner notification

The Secretary may not make a grant under section 300ff–41 of this title unless the State involved provides assurances satisfactory to the Secretary that the State will require that the public health officer of the State, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding cases of HIV disease.

(c) Rules of construction

An agreement made under this section may not be construed—

(1) to require or prohibit any State from providing that identifying information concerning individuals with HIV disease is required to be submitted to the State; or

(2) to require any State to establish a requirement that entities other than the public health officer of the State are required to make the notifications referred to in subsection (b) of this section.

(July 1, 1944, ch. 373, title XXVI, § 2646, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 602.)

STUDY REGARDING PARTNER NOTIFICATION

Section 402 of Pub. L. 101–381 provided that:

''(a) IN GENERAL.—The Secretary shall conduct a study of programs of HIV partner notification for the purpose of determining—

''(1) in the case of individuals who have been notified under such programs, the percentage of such individuals who undergo counseling and testing regarding HIV disease;

''(2) in the case of such individuals who have undergone HIV testing, the number of such individuals determined through such tests to have HIV disease;

''(3) the extent to which such programs have, in the case of such individuals, resulted in behavioral changes that are effective regarding the prevention of exposure to, and the transmission of, HIV disease; and

''(4) the extent to which such programs represent a cost effective use of available HIV-related resources.

''(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Aug. 18, 1990], the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress, a report describing the findings made as a result of such study.''

§ 300ff–47. Requirement of State law protection against intentional transmission

(a) In general

The Secretary may not make a grant under section 300ff–41 of this title to a State unless the chief executive officer determines that the criminal laws of the State are adequate to prosecute any HIV infected individual, subject to the condition described in subsection (b) of this section, who—

(1) makes a donation of blood, semen, or breast milk, if the individual knows that he or she is infected with HIV and intends, through such donation, to expose another to HIV in the event that the donation is utilized;

(2) engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV; and

(3) injects himself or herself with a hypodermic needle and subsequently provides the needle to another person for purposes of hypodermic injection, if the individual knows that he or she is infected and intends, through the provision of the needle, to expose another to such etiologic agent in the event that the needle is utilized.

(b) Consent to risk of transmission

The State laws described in subsection (a) of this section need not apply to circumstances under which the conduct described in paragraphs (1) through (3) of subsection (a) of this section if the individual who is subjected to the behavior involved knows that the other individual is infected and provides prior informed consent to the activity.

(c) State certification with respect to required laws

With respect to complying with subsection (a) of this section as a condition of receiving a grant under section 300ff–41 of this title, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the laws of the State are adequate. The existence of a criminal law of general application, which can be applied to the conduct described in paragraphs (1) through (3) of subsection (a) of this section, is sufficient for compliance with this section.

(d) Time limitations with respect to required laws

With respect to receiving a grant under section 300ff–41 of this title, if a State is unable to certify compliance with subsection (a) of this section, the Secretary may make a grant to a State under such section if—

(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State will have in place or will establish the prohibitions described in subsection (a) of this section; and

(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions.

(July 1, 1944, ch. 373, title XXVI, § 2647, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 603; amended Pub. L. 101–502, § 6(c), Nov. 3, 1990, 104 Stat. 1291; Pub. L. 104–146, § 12(c)(4), May 20, 1996, 110 Stat. 1373.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–146, § 12(c)(4)(A), which directed insertion of ''to'' before ''HIV'', was executed by making the insertion before ''HIV'' the second time appearing to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 104–146, § 12(c)(4)(B), substituted ''section 300ff–41'' for ''section 300ff–11''.

Subsec. (d). Pub. L. 104–146, § 12(c)(4)(C)(i), substituted ''section 300ff–41'' for ''section 300ff–11'' in introductory provisions.

Subsec. (d)(1). Pub. L. 104–146, § 12(c)(4)(C)(ii), substituted ''will have in place'' for ''has in place''.

1990—Subsec. (c). Pub. L. 101–502 inserted ''certifies to the Secretary that the laws of the State'' before ''are adequate'' in first sentence and substituted ''subsection (a) of this section,'' for ''subsection (a) of this section'' in second sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–48. Testing and other early intervention services for State prisoners

(a) In general

In addition to grants under section 300ff–41 of this title, the Secretary may make grants to States for the purpose of assisting the States in providing early intervention services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d) of this section, that—

(1) the services be provided to such individuals; and

(2) each such individual be informed of the requirements of subsection (c) of this section regarding testing and be informed of the results of such testing of the individual.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than $1 for each $2 of Federal funds provided in the grant; and

(B) for any subsequent fiscal year of such payments, not less than $1 for each $1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly

evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and services (or portions of services) subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(c) Testing

The Secretary may not make a grant under subsection (a) of this section unless—

(1) the State involved requires that, subject to subsection (d) of this section, any individual sentenced by the State to a term of imprisonment be tested for HIV disease—

(A) upon entering the State penal system; and

(B) during the 30-day period preceding the date on which the individual is released from such system;

(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State—

(A) upon the request of any such employee, provides the results to the employee in any case in which the medical officer of the prison determines that there is a reasonable basis for believing that the employee has been exposed by the individual to such disease; and

(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State—

(A) upon the request of the spouse, provides such results to the spouse prior to any conjugal visit and provides such results to the spouse during the period described in paragraph (1)(B); and

(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A);

(4) with respect to such testing upon entering the State penal system of such an individual who has been convicted of rape or aggravated sexual assault, the State—

(A) upon the request of the victim of the rape or assault, provides such results to the victim; and

(B) informs the victim of the availability to the victim of such results; and

(5) the State, except as provided in any of paragraphs (2) through (4), maintains the confidentiality of the results of testing for HIV disease in each prison operated by the State or with amounts provided by the State, and makes disclosures of such results only as medically necessary.

(d) Determination of prisons subject to requirement

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the requirement established in such subsection regarding the provision of early intervention services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

(2) Description of criteria

The criteria to be considered for purposes of paragraph (1) are—

(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison—

(i) the severity of the epidemic of HIV disease in the areas during the period in which the inmates resided in the areas; and

(ii) the incidence, in the areas during such period, of behavior that places individuals at significant risk of developing HIV disease; and

(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

(e) Applicability of provisions regarding informed consent, counseling, and other matters

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that sections 300ff–41(b)(4), 300ff–62, and 300ff–64(c) of this title will apply to the provision of early intervention services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 300ff–41 of this title.

(f) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(g) Rule of construction

With respect to testing inmates of State prisons for HIV disease without the consent of the inmates, the agreements made under this section may not be construed to authorize, prohibit, or require any State to conduct such testing, except as provided in subparagraphs (A) and (B) of subsection (c)(1) of this section.

(h) Authorization of appropriations

To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1988 through 1995.

(July 1, 1944, ch. 373, title XXVI, § 2648, formerly Pub. L. 100–607, title IX, § 902, Nov. 4, 1988, 102 Stat. 3171; amended Pub. L. 100–690, title II, § 2605(a), Nov. 18, 1988, 102 Stat. 4234; renumbered § 2648 and amended Pub. L. 101–381, title III, § 301(b), Aug. 18, 1990, 104 Stat. 614; Pub. L. 104–146, § 12(c)(5), May 20, 1996, 110 Stat. 1374.)

CODIFICATION

Section was formerly classified to section 300ee–6 of this title prior to renumbering by Pub. L. 101–381.

AMENDMENTS

1996—Pub. L. 104–146, § 12(c)(5)(A), made technical amendment to section catchline.

Subsecs. (g), (h). Pub. L. 104–146, § 12(c)(5)(B), redesignated subsec. (g) relating to authorization of appropriations as (h).

1990—Pub. L. 101–381, § 301(b)(1), renumbered section 300ee–6 of this title as this section.

Pub. L. 101–381, § 301(b)(4), substituted ''and other early intervention services for'' for ''of'' in section catchline.

Subsecs. (a) to (f). Pub. L. 101–381, § 301(b)(3), substituted subsecs. (a) to (f) relating to grants for early intervention services for State prisoners, requirement of matching funds, testing of State prisoners, determination of prisons subject to requirement, applicability of provisions regarding informed consent, counseling, and other matters, and requirement of application for grants, for former subsecs. (a) to (f) relating to testing of State prisoners, requirement of confidentiality of testing, education and counseling through prison medical facilities of individuals tested, funding, and promulgation of regulations.

Subsec. (g). Pub. L. 101–381, § 301(b)(2), (3), added subsec. (g) relating to rule of construction and substituted ''1995'' for ''1990'' in subsec. (g) relating to authorization of appropriations.

1988—Subsecs. (c), (d)(3)(B)(i). Pub. L. 100–690 substituted ''the etiologic agent for acquired immune deficiency syndrome'' for ''the human immunodeficiency virus''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective immediately after enactment of Pub. L. 100–607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100–690, set out as a note under section 242m of this title.

EFFECTIVE DATE

Section 904 of title IX of Pub. L. 100–607 provided that: ''This title [enacting this section and provisions set out as notes under this section] shall become effective 180 days after the date of enactment of this Act [Nov. 4, 1988].''

SHORT TITLE

Section 901 of title IX of Pub. L. 100–607 provided that: ''This title [enacting this section and provisions set out as notes below] may be cited as the 'Prison Testing Act of 1988'.''

STUDY BY ATTORNEY GENERAL; REPORT TO CONGRESS

Section 903 of title IX of Pub. L. 100–607, as amended by Pub. L. 100–690, title II, § 2605(b), Nov. 18, 1988, 102 Stat. 4234, directed Attorney General of the United States to complete, not later than Nov. 5, 1989, a study and submit a report to appropriate committees of Congress concerning appropriateness or inappropriateness of mandated prison sentences for any individual convicted of an intravenous drug or sex offense who thereafter knowingly places others at risk of becoming infected with the etiologic agent for acquired immune deficiency syndrome.

§ 300ff–49. Determination of amount of allotments

(a) Minimum allotment

Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 300ff–41(a) of this title for a State for a fiscal year shall be the greater of—

(1) $100,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

(2) an amount determined under subsection (b) of this section.

(b) Determination under formula

The amount referred to in subsection (a)(2) of this section is the product of—

(1) an amount equal to the amount appropriated under section 300ff–50 of this title for the fiscal year involved; and

(2) a percentage equal to the quotient of—

(A) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the State involved for the most recent fiscal year for which such data is available; divided by

(B) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the United States for the most recent fiscal year for which such data is available.

(c) Certain allocations by Secretary

(1) Discretionary grants to certain States

After determining the amount of an allotment under subsection (a) of this section for a fiscal year, the Secretary shall reduce the amount of the allotment of each State by 10 percent. From the amounts available as a result of such reductions, the Secretary shall, on a discretionary basis, make grants to States receiving allotments for the fiscal year involved. Such grants shall be made subject to each of the agreements and assurances required as a condition of receiving grants under section 300ff–41 of this title.

(2) Grants to certain political subdivisions

(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) of this section for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control and Prevention, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant

each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 300ff–51(a) of this title.

(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).

(d) Disposition of certain funds appropriated for allotments

(1) In general

Any amounts available pursuant to paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary each fiscal year to States receiving payments under section 300ff–41(a) of this title for the fiscal year (other than any State referred to in paragraph (2)(C)). The Secretary shall make payments, as grants, to each such State from any such allotment for the State for the fiscal year involved.

(2) Specification of amounts

The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 300ff–41(a) of this title as a result of—

(A) the failure of any State to submit an application under section 300ff–51 of this title;

(B) the failure, in the determination of the Secretary, of any State to prepare the application in compliance with such section or to submit the application within a reasonable period of time; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

(3) Amount of allotment

The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

(A) an amount equal to the amount available pursuant to paragraph (2) for the fiscal year involved; and

(B) the percentage determined under subsection (b)(2) of this section for the State.

(e) Transition rules

(1) For the fiscal years 1991 through 1993, the amount of an allotment under section 300ff–41 of this title shall be the greater of the amount determined under subsection (a) of this section and an amount equal to the amount applicable under paragraph (2) for the fiscal year involved.

(2) For purposes of paragraph (1)—

(A) the amount applicable for fiscal year 1991 is an amount equal to the amount received by the State involved from the Secretary, acting through the Director of the Centers for Disease Control and Prevention, for fiscal year 1990 for the provision of counseling and testing services with respect to HIV;

(B) the amount applicable for fiscal year 1992 is 85 percent of the amount specified in subparagraph (A); and

(C) the amount applicable for fiscal year 1993 is 70 percent of the amount specified in subparagraph (A).

(July 1, 1944, ch. 373, title XXVI, § 2649, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 604; amended Pub. L. 101–502, § 6(b), Nov. 3, 1990, 104 Stat. 1290; Pub. L. 102–531, title III, § 312(d)(33), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104–146, § 12(c)(6), May 20, 1996, 110 Stat. 1374.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–146, § 12(c)(6)(A), substituted ''under section 300ff–50'' for ''under subsection (a) of section 300ff–50''.

Subsec. (c)(1). Pub. L. 104–146, § 12(c)(6)(B), substituted ''under subsection (a)'' for ''under this subsection (a)''.

1992—Subsecs. (b)(2), (c)(2)(A)(ii), (e)(2)(A). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'' wherever appearing.

1990—Subsec. (c). Pub. L. 101–502 designated existing provisions as par. (1), inserted heading, and added par. (2).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–41 of this title.

§ 300ff–49a. Miscellaneous provisions

The Secretary may not make a grant under section 300ff–41 of this title unless—

(1) the State involved submits to the Secretary a comprehensive plan for the organization and delivery of the early intervention services to be funded with the grant that includes a description of the purposes for which the State intends to use such assistance, including—

(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with the grant will maximize the quality of early intervention services available to individuals with HIV disease throughout the State; and

(B) a description of the manner in which services funded with the grant will be coordinated with other available related services for individuals with HIV disease; and

(2) the State agrees that—

(A) the public health agency administering the grant will conduct public hearings regarding the proposed use and distribution of the grant;

(B) to the maximum extent practicable, early intervention services delivered pursuant to the grant will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

(C) early intervention services under the grant will be provided in settings accessible to low-income individuals with HIV disease; and

(D) outreach to low-income individuals with HIV disease will be provided to inform

such individuals of the services available pursuant to the grant.

(July 1, 1944, ch. 373, title XXVI, § 2649A, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 605.)

§ 300ff–50. Authorization of appropriations

For the purpose of making grants under section 300ff–41 of this title, there are authorized to be appropriated $230,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

(July 1, 1944, ch. 373, title XXVI, § 2650, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 606.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–41, 300ff–49 of this title.

SUBPART II—CATEGORICAL GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 256b, 300ff–12, 300ff–49 of this title.

§ 300ff–51. Establishment of program

(a) In general

For the purposes described in subsection (b) of this section, the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 300ff–52(a) of this title.

(b) Purposes of grants

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease, and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph for individuals with HIV disease.

(2) Specification of early intervention services

The early intervention services referred to in paragraph (1) are—

(A) counseling individuals with respect to HIV disease in accordance with section 300ff–62 of this title;

(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(C) referrals described in paragraph (3);

(D) other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with the disease;

(E) providing the therapeutic measures described in subparagraph (B).

(3) Referrals

The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

(A) to entities receiving amounts under part A or B of this subchapter for the provision of such services;

(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 300ff–71 of this title, in the case of a pregnant woman.

(4) Requirement of availability of all early intervention services through each grantee

(A) In general

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

(B) Other requirements

Grantees described in—

(i) paragraphs (1), (2), (5), and (6) of section 300ff–52(a) of this title shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (2) directly and on-site or at sites where other primary care services are rendered; and

(ii) paragraphs (3) and (4) of section 300ff–52(a) of this title shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (2)(C), and for follow-up concerning such referrals.

(5) Optional services

A grantee under subsection (a) of this section—

(A) may expend the grant to provide outreach services to individuals who may have HIV disease or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

(B) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

(i) for case management to provide coordination in the provision of health care

services to the individuals and to review the extent of utilization of the services by the individuals; and

(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

(c) Participation in certain consortium

The Secretary may not make a grant under subsection (a) of this section unless the applicant for the grant agrees to make reasonable efforts to participate in a consortium established with a grant under section 300ff–22(a)(1)[1] of this title regarding comprehensive services to individuals with HIV disease, if such a consortium exists in the geographic area with respect to which the applicant is applying to receive such a grant.

(July 1, 1944, ch. 373, title XXVI, § 2651, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 606; amended Pub. L. 101–557, title IV, § 401(b)(2), Nov. 15, 1990, 104 Stat. 2771; Pub. L. 104–146, §§ 3(d)(1), 12(c)(7), May 20, 1996, 110 Stat. 1357, 1374.)

REFERENCES IN TEXT

Section 300ff–22 of this title, referred to in subsec. (c), was amended by Pub. L. 104–146, § 3(c)(2)(A)(i), May 20, 1996, 110 Stat. 1354, and, as so amended, no longer contains a subsec. (a).

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–146, § 3(d)(1)(A), inserted before period ", and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph for individuals with HIV disease".

Subsec. (b)(3)(B). Pub. L. 104–146, § 12(c)(7)(A), substituted "facilities" for "facility".

Subsec. (b)(4). Pub. L. 104–146, § 3(d)(1)(B), designated existing provisions as subpar. (A) and inserted heading, inserted ", or private for-profit entities if such entities are the only available provider of quality HIV care in the area," after "nonprofit private entities", realigned margin, and added subpar. (B).

Subsec. (c). Pub. L. 104–146, § 12(c)(7)(B), substituted "exists" for "exist".

1990—Subsec. (a). Pub. L. 101–557 substituted "section 300ff–52(a)" for "section 300ff–52(a)(1)".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–49, 300ff–52, 300ff–53, 300ff–54, 300ff–55, 300ff–61 of this title.

§ 300ff–52. Minimum qualifications of grantees

(a) In general

The entities referred to in section 300ff–51(a) of this title are public entities and nonprofit private entities that are—

(1) migrant health centers under section 254b[1] of this title or community health centers under section 254c[1] of this title;

(2) grantees under section 256[1] of this title (regarding health services for the homeless);

(3) grantees under section 300 of this title (regarding family planning) other than States;

(4) comprehensive hemophilia diagnostic and treatment centers;

(5) Federally-qualified health centers under section 1905(*l*)(2)(B) of the Social Security Act [42 U.S.C. 1396d(*l*)(2)(B)]; or

(6) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV disease.

(b) Status as medicaid provider

(1) In general

Subject to paragraph (2), the Secretary may not make a grant under section 300ff–51 of this title for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State—

(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity, or a private for-profit entity if such entity is the only available provider of quality HIV care in the area, under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver regarding certain secondary agreements

(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(July 1, 1944, ch. 373, title XXVI, § 2652, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 607; amended Pub. L. 101–557, title IV, § 401(b)(3), Nov. 15, 1990, 104 Stat. 2771; Pub. L. 104–146, § 3(d)(2), May 20, 1996, 110 Stat. 1357.)

REFERENCES IN TEXT

Sections 254b and 254c of this title, referred to in subsec. (a)(1), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were 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. Sections 2 and 3(a) of Pub. L. 104–299 enacted

[1] See References in Text note below.

[1] See References in Text note below.

new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Section 256 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 104–299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

The Social Security Act, referred to in subsec. (b)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(1)(B). Pub. L. 104–146 inserted ", or a private for-profit entity if such entity is the only available provider of quality HIV care in the area," after "nonprofit private entity".

1990—Subsec. (a). Pub. L. 101–557 substituted "referred to in section 300ff–51(a) of this title" for "referred to in subsection (b) of this section", redesignated pars. (A) to (F) as (1) to (6), respectively, and substituted "nonprofit private entities that provide" for "a nonprofit private entity that provides" in par. (6).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

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 health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–51, 300ff–64 of this title.

§ 300ff–53. Preferences in making grants

(a) In general

In making grants under section 300ff–51 of this title, the Secretary shall give preference to any qualified applicant experiencing an increase in the burden of providing services regarding HIV disease, as indicated by the factors specified in subsection (b) of this section.

(b) Specification of factors

(1) In general

In the case of the geographic area with respect to which the entity involved is applying for a grant under section 300ff–51 of this title, the factors referred to in subsection (a) of this section, as determined for the period specified in paragraph (2), are—

(A) the number of cases of acquired immune deficiency syndrome;

(B) the rate of increase in such cases;

(C) the lack of availability of early intervention services;

(D) the number of other cases of sexually transmitted diseases, and the number of cases of tuberculosis and of drug abuse;

(E) the rate of increase in each of the cases specified in subparagraph (D);

(F) the lack of availability of primary health services from providers other than such applicant; and

(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

(2) Relevant period of time

The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 300ff–51 of this title.

(c) Equitable allocations

In providing preferences for purposes of subsection (b) of this section, the Secretary shall equitably allocate the preferences among urban and rural areas.

(July 1, 1944, ch. 373, title XXVI, § 2653, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 608.)

§ 300ff–54. Miscellaneous provisions

(a) Services for individuals with hemophilia

In making grants under section 300ff–51 of this title, the Secretary shall ensure that any such grants made regarding the provision of early intervention services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

(b) Technical assistance

The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under section 300ff–51 of this title, and may provide technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to such section.

(c) Planning and development grants

(1) In general

The Secretary may provide planning grants, in an amount not to exceed $50,000 for each such grant, to public and nonprofit private entities for the purpose of enabling such entities to provide HIV early intervention services.

(2) Requirement

The Secretary may only award a grant to an entity under paragraph (1) if the Secretary determines that the entity will use such grant to assist the entity in qualifying for a grant under section 300ff–51 of this title.

(3) Preference

In awarding grants under paragraph (1), the Secretary shall give preference to entities that provide primary care services in rural or underserved communities.

(4) Limitation

Not to exceed 1 percent of the amount appropriated for a fiscal year under section 300ff–55 of this title may be used to carry out this section.

(July 1, 1944, ch. 373, title XXVI, § 2654, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 608; amended Pub. L. 104–146, § 3(d)(3), May 20, 1996, 110 Stat. 1357.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–146 added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–55. Authorization of appropriations

For the purpose of making grants under section 300ff–51 of this title, there are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(July 1, 1944, ch. 373, title XXVI, § 2655, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 609; amended Pub. L. 104–146, § 3(d)(4), May 20, 1996, 110 Stat. 1358.)

AMENDMENTS

1996—Pub. L. 104–146 substituted ''such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.'' for ''$75,000,000 for fiscal years 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–54 of this title.

SUBPART III—GENERAL PROVISIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 300ff–49 of this title.

§ 300ff–61. Confidentiality and informed consent

(a) Confidentiality

The Secretary may not make a grant under this part unless—

(1) in the case of any State applying for a grant under section 300ff–41 of this title, the State agrees to ensure that information regarding the receipt of early intervention services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

(2) in the case of any entity applying for a grant under section 300ff–51 of this title, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

(b) Informed consent

(1) In general

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV disease, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 300ff–62(a) of this title and that the decision of the individual with respect to undergoing such testing is voluntarily made.

(2) Provisions regarding anonymous testing

(A) If, pursuant to section 300ff–64(b) of this title, an individual will undergo testing pursuant to this part through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

(B) If, pursuant to section 300ff–64(b) of this title, an individual will undergo testing pursuant to this part without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

(July 1, 1944, ch. 373, title XXVI, § 2661, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 609.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–63 of this title.

§ 300ff–62. Provision of certain counseling services

(a) Counseling before testing

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, before testing an individual for HIV disease, the applicant will provide to the individual appropriate counseling regarding the disease (based on the most recently available scientific data), including counseling on—

(1) measures for the prevention of exposure to, and the transmission of, HIV;

(2) the accuracy and reliability of the results of testing for HIV disease;

(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

(4) encouraging the individual, as appropriate, to undergo such testing;

(5) the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;

(6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 300ff–64(b) of this title; and

(7) provisions of applicable law relating to discrimination against individuals with HIV disease.

(b) Counseling of individuals with negative test results

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV disease indicate that an individual does not have the disease, the applicant will review

for the individual the information provided pursuant to subsection (a) of this section, including—

(1) the information described in paragraphs (1) through (3) of such subsection; and

(2) the appropriateness of further counseling, testing, and education of the individual regarding such disease.

(c) Counseling of individuals with positive test results

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV disease indicate that the individual has the disease, the applicant will provide to the individual appropriate counseling regarding such disease, including—

(1) reviewing the information described in paragraphs (1) through (3) of subsection (a) of this section;

(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such disease; and

(3) providing counseling on—

(A) the availability, through the applicant, of early intervention services;

(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

(C) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV and any individual whom the infected individual may have exposed to HIV; and

(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

(d) Additional requirements regarding appropriate counseling

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV disease, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

(e) Counseling of emergency response employees

The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV disease, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

(f) Rule of construction regarding counseling without testing

Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV disease as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

(July 1, 1944, ch. 373, title XXVI, § 2662, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 610.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–41, 300ff–48, 300ff–51, 300ff–61, 300ff–63 of this title.

§ 300ff–63. Applicability of requirements regarding confidentiality, informed consent, and counseling

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV disease, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 300ff–61 and 300ff–62 of this title.

(July 1, 1944, ch. 373, title XXVI, § 2663, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 611.)

§ 300ff–64. Additional required agreements

(a) Reports to Secretary

The Secretary may not make a grant under this part unless—

(1) the applicant submits to the Secretary—

(A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

(2) the applicant agrees to submit to the Secretary a report providing—

(A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

(B) epidemiological and demographic data on the population of such individuals;

(C) the extent to which the costs of HIV-related health care for such individuals are paid by third-party payors;

(D) the average costs of providing each category of early intervention service; and

(E) the aggregate amounts expended for each such category.

(b) Provision of opportunities for anonymous counseling and testing

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual—

(1) to undergo counseling and testing regarding HIV disease without being required to provide any information relating to the identity of the individual; and

(2) to undergo such counseling and testing through the use of a pseudonym.

(c) Prohibition against requiring testing as condition of receiving other health services

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seek-

ing health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

(d) Maintenance of support

The Secretary may not make a grant under this part unless the applicant for the grant agrees to maintain the expenditures of the applicant for early intervention services at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant.

(e) Requirements regarding imposition of charges for services

(1) In general

The Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the applicant will not impose a charge on any such individual for the provision of early intervention services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the applicant—

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public.

(2) Limitation on charges regarding individuals subject to charges

With respect to the imposition of a charge for purposes of paragraph (1)(B)(ii), the Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

(A) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(B) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(C) in the case of individuals with an income greater than 300 percent of the official poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(3) Assessment of charge

With respect to compliance with the agreement made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and of paragraph (2) regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(4) Applicability of limitation on amount of charge

The Secretary may not make a grant under this part unless the applicant for the grant agrees that the limitations established in paragraph (2) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or similar charges.

(5) Waiver regarding certain secondary agreements

The requirement established in paragraph (1)(B)(i) shall be waived by the Secretary in the case of any entity for whom the Secretary has granted a waiver under section 300ff–42(b) or 300ff–52(b)(2) of this title.

(f) Relationship to items and services under other programs

(1) In general

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended by the applicant, or by any entity receiving amounts from the applicant for the provision of early intervention services, to make payment for any such service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(2) Applicability to certain secondary agreements for provision of services

An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under this part provides early intervention services if the Secretary has provided a waiver under section 300ff–42(b) or 300ff–52(b)(2) of this title regarding the entity.

(g) Administration of grant

The Secretary may not make a grant under this part unless the applicant for the grant agrees that—

(1) the applicant will not expend amounts received pursuant to this part for any purpose other than the purposes described in the subpart under which the grant involved is made;

(2) the applicant will establish such procedures for fiscal control and fund accounting as

may be necessary to ensure proper disbursement and accounting with respect to the grant;

(3) the applicant will not expend more than 7.5 percent including planning and evaluation of the grant for administrative expenses with respect to the grant; and

(4) the applicant will submit evidence that the proposed program is consistent with the statewide coordinated statement of need and agree to participate in the ongoing revision of such statement of need.

(h) Construction

A State may not use amounts received under a grant awarded under section 300ff–41 of this title to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(July 1, 1944, ch. 373, title XXVI, § 2664, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 611; amended Pub. L. 104–146, § 3(d)(5), May 20, 1996, 110 Stat. 1358.)

AMENDMENTS

1996—Subsec. (g)(3). Pub. L. 104–146, § 3(d)(5)(B)(i), substituted ''7.5 percent including planning and evaluation'' for ''5 percent''.

Subsec. (g)(4). Pub. L. 104–146, § 3(d)(5)(A), (B)(ii), (C), added par. (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–48, 300ff–61, 300ff–62, 300ff–65 of this title.

§ 300ff–65. Requirement of submission of application containing certain agreements and assurances

The Secretary may not make a grant under this part unless—

(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 300ff–64(a)(1) of this title;

(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(July 1, 1944, ch. 373, title XXVI, § 2665, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–41 of this title.

§ 300ff–66. Provision by Secretary of supplies and services in lieu of grant funds

(a) In general

Upon the request of a grantee under this part, the Secretary may, subject to subsection (b) of this section, provide supplies, equipment, and services for the purpose of aiding the grantee in providing early intervention services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(b) Limitation

With respect to a request described in subsection (a) of this section, the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch. 373, title XXVI, § 2666, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 614.)

§ 300ff–67. Use of funds

Counseling programs carried out under this part—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

(2) shall be designed to reduce exposure to and transmission of HIV disease by providing accurate information; and

(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

(July 1, 1944, ch. 373, title XXVI, § 2667, as added Pub. L. 101–381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 614.)

PART D—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300ff–101 of this title.

§ 300ff–71. Grants for coordinated services and access to research for women, infants, children, and youth

(a) In general

The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the following purposes:

(1) Providing through such entities, in accordance with this section, opportunities for women, infants, children, and youth to be voluntary participants in research of potential clinical benefit to individuals with HIV disease.

(2) In the case of women, infants, children, and youth with HIV disease, and the families of such individuals, providing to such individuals—

(A) health care on an outpatient basis; and

(B) additional services in accordance with subsection (d) of this section.

(b) Provisions regarding participation in research

(1) In general

With respect to the projects of research with which an applicant under subsection (a) of this

section is concerned, the Secretary may make a grant under such subsection to the applicant only if the following conditions are met:

(A) The applicant agrees to make reasonable efforts—

(i) to identify which of the patients of the applicant are women, infants, children, and youth who would be appropriate participants in the projects;

(ii) to carry out clause (i) through the use of criteria provided for such purpose by the entities that will be conducting the projects of research; and

(iii) to offer women, infants, children, and youth the opportunity to participate in the projects (as appropriate), including the provision of services under subsection (d)(3) of this section.

(B) The applicant agrees that, in the case of the research-related functions to be carried out by the applicant pursuant to subsection (a)(1) of this section, the applicant will comply with accepted standards that are applicable to such functions (including accepted standards regarding informed consent and other protections for human subjects).

(C) For the first and second fiscal years for which grants under subsection (a) of this section are to be made to the applicant, the applicant agrees that, not later than the end of the second fiscal year of receiving such a grant, a significant number of women, infants, children, and youth who are patients of the applicant will be participating in the projects of research.

(D) Except as provided in paragraph (3) (and paragraph (4), as applicable), for the third and subsequent fiscal years for which such grants are to be made to the applicant, the Secretary has determined that a significant number of such individuals are participating in the projects.

(2) Prohibition

Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

(3) Significant participation; consideration by Secretary of certain circumstances

In administering the requirement of paragraph (1)(D), the Secretary shall take into account circumstances in which a grantee under subsection (a) of this section is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.

(4) Significant participation; temporary waiver for original grantees

(A) In general

In the case of an applicant under subsection (a) of this section who received a grant under such subsection for fiscal year 1995, the Secretary may, subject to subparagraph (B), provide to the applicant a waiver of the requirement of paragraph (1)(D) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

(B) Termination of authority for waivers

The Secretary may not provide any waiver under subparagraph (A) on or after October 1, 1998. Any such waiver provided prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

(c) Provisions regarding conduct of research

(1) In general

With respect to eligibility for a grant under subsection (a) of this section:

(A) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research, except for such research-related functions as are appropriate for providing opportunities under subsection (a)(1) of this section (including the functions specified in subsection (b)(1) of this section).

(B) The grant may be made only if the Secretary makes the following determinations:

(i) The applicant or other entity (as the case may be under subparagraph (A)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this chapter pursuant to technical and scientific peer review through the National Institutes of Health.

(ii) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention or treatment of HIV disease in women, infants, children, or youth, subject to paragraph (2).

(2) List of research protocols

(A) In general

From among the research protocols described in paragraph (1)(B)(ii), the Secretary shall establish a list of research protocols that are appropriate for purposes of subsection (a)(1) of this section. Such list shall be established only after consultation with public and private entities that conduct such research, and with providers of services under subsection (a) of this section and recipients of such services.

(B) Discretion of Secretary

The Secretary may authorize the use, for purposes of subsection (a)(1) of this section, of a research protocol that is not included on the list under subparagraph (A). The Secretary may waive the requirement specified in paragraph (1)(B)(ii) in such circumstances as the Secretary determines to be appropriate.

(d) Additional services for patients and families

A grant under subsection (a) of this section may be made only if the applicant for the grant agrees as follows:

(1) The applicant will provide for the case management of the patient involved and the family of the patient.

(2) The applicant will provide for the patient and the family of the patient—

(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

(B) referrals for other social and support services, as appropriate.

(3) The applicant will provide the patient and the family of the patient with such transportation, child care, and other incidental services as may be necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection.

(e) Coordination with other entities

A grant under subsection (a) of this section may be made only if the applicant for the grant agrees as follows:

(1) The applicant will coordinate activities under the grant with other providers of health care services under this chapter, and under title V of the Social Security Act [42 U.S.C. 701 et seq.].

(2) The applicant will participate in the statewide coordinated statement of need under part B of this subchapter (where it has been initiated by the public health agency responsible for administering grants under part B of this subchapter) and in revisions of such statement.

(f) Application

A grant under subsection (a) of this section may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(g) Coordination with National Institutes of Health

The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under subsection (a) of this section, shall require that the projects, as appropriate, enter into arrangements for purposes of such subsection, and shall require that each project entering into such an arrangement inform the applicant or grantee under such subsection of the needs of the project for the participation of women, infants, children, and youth.

(h) Annual review of programs; evaluations

(1) Review regarding access to and participation in programs

With respect to a grant under subsection (a) of this section for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

(A) Procedures used by the entity to allocate opportunities and services under subsection (a) of this section among patients of the entity who are women, infants, children, or youth.

(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

(2) Evaluations

The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a) of this section.

(i) Training and technical assistance

Of the amounts appropriated under subsection (j) of this section for a fiscal year, the Secretary may use not more than five percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a) of this section), training and technical assistance to assist applicants and grantees under subsection (a) of this section in complying with the requirements of this section.

(j) 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 1996 through 2000.

(July 1, 1944, ch. 373, title XXVI, § 2671, as added Pub. L. 101–381, title IV, § 401, Aug. 18, 1990, 104 Stat. 617; amended Pub. L. 104–146, § 3(e), May 20, 1996, 110 Stat. 1358.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title V of the Act is classified generally to subchapter V (§ 701 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–146 amended section generally, substituting provisions authorizing grants for coordinated services and access to research for women, infants, children, and youth living with the HIV virus for provisions authorizing demonstration grants for research and services for pediatric patients regarding AIDS.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–12, 300ff–23, 300ff–41, 300ff–51 of this title.

§ 300ff–72. Provisions relating to blood banks

(a) Informational and training programs

The Secretary shall—

(1) develop and make available to technical and supervisory personnel employed at blood banks and facilities that produce blood products, materials and information concerning

measures that may be implemented to protect the safety of the blood supply with respect to the activities of such personnel, including—

(A) state-of-the-art diagnostic and testing procedures relating to pathogens in the blood supply; and

(B) quality assurance procedures relating to the safety of the blood supply and of blood products; and

(2) develop and implement a training program that is designed to increase the number of employees of the Department of Health and Human Services who are qualified to conduct inspections of blood banks and facilities that produce blood products.

(b) Updates

The Secretary shall periodically review and update the materials and information made available under informational or training programs conducted under subsection (a) of this section.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section, $1,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

(July 1, 1944, ch. 373, title XXVI, § 2672, as added Pub. L. 101–381, title IV, § 401, Aug. 18, 1990, 104 Stat. 618.)

§ 300ff–73. Research, evaluation, and assessment program

(a) Establishment

The Secretary, acting through the Agency for Health Care Policy and Research, shall establish a program to enable independent research to be conducted by individuals and organizations with appropriate expertise in the fields of health, health policy, and economics (particularly health care economics) to develop—

(1) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering HIV-related health care, mental health care, early intervention, and support services, that shall include a report concerning patient outcomes, satisfaction, perceived quality of care, and total cumulative cost, and a review of the appropriateness of such models for the delivery of health and support services to infants, children, women, and families with HIV disease;

(2) through a review of private sector financing mechanisms for the delivery of HIV-related health and support services, an assessment of strategies for maintaining private health benefits for individuals with HIV disease and an assessment of specific business practices or regulatory barriers that could serve to reduce access to private sector benefit programs;

(3) an assessment of the manner in which different points-of-entry to the health care system affect the cost, quality, and outcome of the care and treatment of individuals and families with HIV disease; and

(4) a summary report concerning the major and continuing unmet needs in health care, mental health care, early intervention, and support services for individuals and families with HIV disease in urban and rural areas.

(b) Report

Not later than 2 years after August 18, 1990, and periodically thereafter, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a progress report that contains the findings and assessments developed under subsection (a) of this section.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

(July 1, 1944, ch. 373, title XXVI, § 2673, as added Pub. L. 101–381, title IV, § 401, Aug. 18, 1990, 104 Stat. 619.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring 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 2, The Congress.

§ 300ff–74. Evaluations and reports

(a) Evaluations

The Secretary shall, directly or through grants and contracts, evaluate programs carried out under this subchapter.

(b) Report to Congress

The Secretary shall, not later than October 1, 1996, and annually thereafter, prepare and submit to the appropriate Committees of Congress a report—

(1) evaluating the programs carried out under this subchapter; and

(2) making such recommendations for administrative and legislative initiatives with respect to this subchapter as the Secretary determines to be appropriate.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

(d) Allocation of funds

The Secretary shall carry out this section with amounts available under section 238j of this title. Such amounts are in addition to any other amounts that are available to the Secretary for such purpose.

(July 1, 1944, ch. 373, title XXVI, § 2674, as added Pub. L. 101–381, title IV, § 401, Aug. 18, 1990, 104 Stat. 620; amended Pub. L. 104–146, § 3(f), May 20, 1996, 110 Stat. 1362.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–146, § 3(f)(1)(A), substituted ''not later than October 1, 1996,'' for ''not later than 1 year after the date on which amounts are first appropriated under this subchapter,'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–146, § 3(f)(1)(B), added par. (1) and struck out former par. (1) which read as follows: ''summarizing all of the reports that are required to be submitted to the Secretary under this subchapter;''.

Subsec. (b)(2) to (4). Pub. L. 104–146, § 3(f)(1)(B), (C), redesignated par. (4) as (2) and struck out former pars. (2) and (3) which read as follows:

''(2) recommending criteria to be used in determining the geographic areas with the most substantial need for HIV-related health services;

''(3) summarizing all of the evaluations carried out pursuant to subsection (a) of this section during the period for which the report under this subsection is prepared; and''.

Subsec. (d). Pub. L. 104–146, § 3(f)(2), added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–75. Coordination

(a) Requirement

The Secretary shall assure that the Health Resources and Services Administration and the Centers for Disease Control and Prevention will coordinate the planning of the funding of programs authorized under this subchapter to assure that health support services for individuals with HIV disease are integrated with each other and that the continuity of care of individuals with HIV disease is enhanced. In coordinating the allocation of funds made available under this subchapter the Health Resources and Services Administration and the Centers for Disease Control and Prevention shall utilize planning information submitted to such agencies by the States and entities eligible for support.

(b) Integration by State

As a condition of receipt of funds under this subchapter, a State shall assure the Secretary that health support services funded under this subchapter will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV disease is enhanced.

(c) Integration by local or private entities

As a condition of receipt of funds under this subchapter, a local government or private nonprofit entity shall assure the Secretary that services funded under this subchapter will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV is enhanced.

(July 1, 1944, ch. 373, title XXVI, § 2675, as added Pub. L. 101–381, title IV, § 401, Aug. 18, 1990, 104 Stat. 620; amended Pub. L. 102–531, title III, § 312(d)(34), Oct. 27, 1992, 106 Stat. 3506.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–531 substituted ''Centers for Disease Control and Prevention'' for ''Centers for Disease Control'' in two places.

§ 300ff–76. Definitions

For purposes of this subchapter:

(1) Counseling

The term ''counseling'' means such counseling provided by an individual trained to provide such counseling.

(2) Designated officer of emergency response employees

The term ''designated officer of emergency response employees'' means an individual designated under section 300ff–86 of this title by the public health officer of the State involved.

(3) Emergency

The term ''emergency'' means an emergency involving injury or illness.

(4) Emergency response employees

The term ''emergency response employees'' means firefighters, law enforcement officers, paramedics, emergency medical technicians, funeral-service practitioners, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

(5) Employer of emergency response employees

The term ''employer of emergency response employees'' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

(6) Exposed

The term ''exposed'', with respect to HIV disease or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

(7) Families with HIV disease

The term ''families with HIV disease'' means families in which one or more members have HIV disease.

(8) HIV

The term ''HIV'' means infection with the etiologic agent for acquired immune deficiency syndrome.

(9) HIV disease

The term ''HIV disease'' means infection with the etiologic agent for acquired immune deficiency syndrome, and includes any condition arising from such syndrome.

(10) Official poverty line

The term ''official poverty line'' means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(11) Person

The term ''person'' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11.

(12) State

The term ''State'', except as otherwise specifically provided, means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Republic of the Marshall Islands.

(July 1, 1944, ch. 373, title XXVI, § 2676, as added Pub. L. 101–381, title IV, § 401, Aug. 18, 1990, 104

Stat. 620; amended Pub. L. 104–146, § 12(a), (c)(8), May 20, 1996, 110 Stat. 1373, 1374.)

AMENDMENTS

1996—Par. (2). Pub. L. 104–146, § 12(c)(8)(A), substituted ''section 300ff–86 of this title by the'' for ''section'' and all that followed through ''by the''.

Par. (4). Pub. L. 104–146, § 12(a), inserted ''funeral-service practitioners,'' after ''emergency medical technicians,''.

Par. (10). Pub. L. 104–146, § 12(c)(8)(B), substituted ''section 9902(2)'' for ''section 9902(a)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–77. Authorization of appropriations

(a) In general

Subject to subsection (b) of this section, there are authorized to be appropriated to make grants under parts A and B of this subchapter, such sums as may be necessary for each of the fiscal years 1996 through 2000.

(b) Development of methodology

(1) In general

With respect to each of the fiscal years 1997 through 2000, the Secretary shall develop and implement a methodology for adjusting the percentages allocated to part A of this subchapter and part B of this subchapter to account for grants to new eligible areas under part A of this subchapter and other relevant factors. Not later than July 1, 1996, the Secretary shall prepare and submit to the appropriate committees of Congress a report regarding the findings with respect to the methodology developed under this paragraph.

(2) Failure to implement

If the Secretary determines that such a methodology under paragraph (1) cannot be developed, there are authorized to be appropriated—

(A) such sums as may be necessary to carry out part A of this subchapter for each of the fiscal years 1997 through 2000; and

(B) such sums as may be necessary to carry out part B of this subchapter for each of the fiscal years 1997 through 2000.

(July 1, 1944, ch. 373, title XXVI, § 2677, as added Pub. L. 104–146, § 6(a), May 20, 1996, 110 Stat. 1367.)

EFFECTIVE DATE

Section effective May 20, 1996, see section 13(b) of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–13, 300ff–15, 300ff–16, 300ff–28, 300ff–33 of this title.

§ 300ff–78. Prohibition on promotion of certain activities

None of the funds authorized under this subchapter shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this subchapter may be used to provide medical treatment and support services for individuals with HIV.

(July 1, 1944, ch. 373, title XXVI, § 2678, as added Pub. L. 104–146, § 10, May 20, 1996, 110 Stat. 1373.)

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

PART E—EMERGENCY RESPONSE EMPLOYEES

SUBPART I—GUIDELINES AND MODEL CURRICULUM

AMENDMENTS

1996—Pub. L. 104–146, § 12(c)(9), May 20, 1996, 110 Stat. 1374, made technical amendment to subpart heading.

§ 300ff–80. Grants for implementation

(a) In general

With respect to the recommendations contained in the guidelines and the model curriculum developed under section 300ee–2 of this title, the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

(b) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(c) Authorization of appropriations

For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995.

(July 1, 1944, ch. 373, title XXVI, § 2680, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 622.)

EFFECTIVE DATE

Section 411(b) of Pub. L. 101–381 provided that: ''Sections 2680 and 2681 of part E of title XXVI of the Public Health Service Act [sections 300ff–80 and 300ff–81 of this title], as added by subsection (a) of this section, shall take effect upon the date of the enactment of this Act [Aug. 18, 1990]. Such part shall otherwise take effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under section 2681(a).''

SUBPART II—NOTIFICATIONS OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES

AMENDMENTS

1996—Pub. L. 104–146, § 12(c)(9), May 20, 1996, 110 Stat. 1374, made technical amendment to heading.

§ 300ff–81. Infectious diseases and circumstances relevant to notification requirements

(a) In general

Not later than 180 days after August 18, 1990, the Secretary shall complete the development of—

(1) a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed in responding to emergencies;

(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 300ff–83(d) of this title.

(b) Specification of airborne infectious diseases

The list developed by the Secretary under subsection (a)(1) of this section shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

(c) Dissemination

The Secretary shall—

(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) of this section with the request that the officers disseminate such copies as appropriate throughout the States; and

(2) make such copies available to the public.

(July 1, 1944, ch. 373, title XXVI, § 2681, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 623.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–83 of this title.

§ 300ff–82. Routine notifications with respect to airborne infectious diseases in victims assisted

(a) Routine notification of designated officer

(1) Determination by treating facility

If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

(2) Determination by facility ascertaining cause of death

If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

(b) Requirement of prompt notification

With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

(July 1, 1944, ch. 373, title XXVI, § 2682, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 623.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–84, 300ff–85 of this title.

§ 300ff–83. Request for notifications with respect to victims assisted

(a) Initiation of process by employee

If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) of this section regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

(b) Initial determination by designated officer

The duties referred to in subsection (a) of this section are that—

(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a) of this section, the employee involved may have been exposed to an infectious disease; and

(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 300ff–81(a) of this title, the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

(c) Submission of request to medical facility

(1) In general

If a designated officer makes a determination under subsection (b)(2) of this section that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) of this section regarding the victim of the emergency involved.

(2) Form of request

A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1) of this section.

(d) Evaluation and response regarding request to medical facility

(1) In general

If a medical facility receives a request under subsection (c) of this section, the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was

exposed to an infectious disease included on the list issued under paragraph (1) of section 300ff–81(a) of this title, as indicated by the guidelines issued under paragraph (2) of such section.

(2) Notification of exposure

If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of this section of the determination.

(3) Finding of no exposure

If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of this section of the determination.

(4) Insufficient information

(A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of this section of the insufficiency of the facts.

(B)(i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 300ff–81(a) of this title, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of this section of the insufficiency of such medical information.

(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

(e) Time for making response

After receiving a request under subsection (c) of this section (including any such request resubmitted under subsection (g)(2) of this section), a medical facility shall make the applicable response specified in subsection (d) of this section as soon as is practicable, but not later than 48 hours after receiving the request.

(f) Death of victim of emergency

(1) Facility ascertaining cause of death

If a victim described in subsection (a) of this section dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c) of this section, the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

(2) Responsibility of facility

Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this subpart regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

(g) Assistance of public health officer

(1) Evaluation of response of medical facility regarding insufficient facts

(A) In the case of a request under subsection (c) of this section to which a medical facility has made the response specified in subsection (d)(4)(A) of this section regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

(B) As soon as is practicable after a public health officer receives a request under paragraph (1), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

(2) Findings of evaluation

(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) of this section were sufficient for purposes of determinations under subsection (d)(1) of this section—

(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d) of this section.

(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c) of this section—

(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

(ii) if sufficient facts are obtained by the designated officer—

(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c) of this section.

(July 1, 1944, ch. 373, title XXVI, § 2683, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 624.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300ff–81, 300ff–84, 300ff–85, 300ff–87 of this title.

§ 300ff–84. Procedures for notification of exposure

(a) Contents of notification to officer

In making a notification required under section 300ff–82 of this title or section 300ff–83(d)(2) of this title, a medical facility shall provide—

(1) the name of the infectious disease involved; and

(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

(b) Manner of notification

If a notification under section 300ff–82 of this title or section 300ff–83(d)(2) of this title is mailed or otherwise indirectly made—

(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

(July 1, 1944, ch. 373, title XXVI, § 2684, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 626; amended Pub. L. 104–146, § 12(c)(10), May 20, 1996, 110 Stat. 1374.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–146 substituted ''section 300ff–83(d)(2)'' for ''section 300ff–82(d)(2)'' in introductory provisions.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

§ 300ff–85. Notification of employee

(a) In general

After receiving a notification for purposes of section 300ff–82 or 300ff–83(d)(2) of this title, a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

(1) responded to the emergency involved; and

(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

(b) Certain contents of notification to employee

A notification under this subsection to an emergency response employee shall inform the employee of—

(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

(3) if medically appropriate under such criteria, the date of such emergency.

(c) Responses other than notification of exposure

After receiving a response under paragraph (3) or (4) of subsection (d) of section 300ff–83 of this title, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

(July 1, 1944, ch. 373, title XXVI, § 2685, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 626.)

§ 300ff–86. Selection of designated officers

(a) In general

For the purposes of receiving notifications and responses and making requests under this subpart on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

(b) Preference in making designations

In making the designations required in subsection (a) of this section, a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

(July 1, 1944, ch. 373, title XXVI, § 2686, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 627.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff–76 of this title.

§ 300ff–87. Limitations with respect to duties of medical facilities

The duties established in this subpart for a medical facility—

(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 300ff–83(c) of this title received by a medical facility before the expiration of such 30-day period.

(July 1, 1944, ch. 373, title XXVI, § 2687, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 627.)

§ 300ff–88. Rules of construction

(a) Liability of medical facilities and designated officers

This subpart may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, or any designated officer, for failure to comply with the duties established in this subpart.

(b) Testing

This subpart may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

(c) Confidentiality

This subpart may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

(d) Failure to provide emergency services

This subpart may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

(July 1, 1944, ch. 373, title XXVI, § 2688, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 627.)

§ 300ff–89. Injunctions regarding violation of prohibition

(a) In general

The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this subpart.

(b) Facilitation of information on violations

The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this subpart. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

(July 1, 1944, ch. 373, title XXVI, § 2689, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 628.)

§ 300ff–90. Applicability of subpart

This subpart shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this subpart.

(July 1, 1944, ch. 373, title XXVI, § 2690, as added Pub. L. 101–381, title IV, § 411(a), Aug. 18, 1990, 104 Stat. 628.)

PART F—DEMONSTRATION AND TRAINING

SUBPART I—SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE

§ 300ff–101. Special projects of national significance

(a) In general

Of the amount appropriated under each of parts A, B, C, and D of this subchapter for each fiscal year, the Secretary shall use the greater of $20,000,000 or 3 percent of such amount appropriated under each such part, but not to exceed $25,000,000, to administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

(b) Grants

The Secretary shall award grants under subsection (a) of this section based on—

(1) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

(2) the innovative nature of the proposed activity; and

(3) the potential replicability of the proposed activity in other similar localities or nationally.

(c) Special projects

Special projects of national significance shall include the development and assessment of innovative service delivery models that are designed to—

(1) address the needs of special populations;

(2) assist in the development of essential community-based service delivery infrastructure; and

(3) ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

(d) Special populations

Special projects of national significance may include the delivery of HIV health care and support services to traditionally underserved populations including—

(1) individuals and families with HIV disease living in rural communities;

(2) adolescents with HIV disease;

(3) Indian individuals and families with HIV disease;

(4) homeless individuals and families with HIV disease;

(5) hemophiliacs with HIV disease; and

(6) incarcerated individuals with HIV disease.

(e) Service development grants

Special projects of national significance may include the development of model approaches to delivering HIV care and support services including—

(1) programs that support family-based care networks and programs that build organizational capacity critical to the delivery of care in minority communities;

(2) programs designed to prepare AIDS service organizations and grantees under this subchapter for operation within the changing health care environment; and

(3) programs designed to integrate the delivery of mental health and substance abuse treatment with HIV services.

(f) Coordination

The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

(g) Replication

The Secretary shall make information concerning successful models developed under this part available to grantees under this subchapter for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance from grantees funded under this part.

(July 1, 1944, ch. 373, title XXVI, § 2691, as added Pub. L. 104–146, § 3(g)(1), May 20, 1996, 110 Stat. 1362.)

EFFECTIVE DATE

For effective date, see section 13 of Pub. L. 104–146, set out as an Effective Date of 1996 Amendment note under section 300ff–11 of this title.

SUBPART II—AIDS EDUCATION AND TRAINING CENTERS

§ 300ff–111. HIV/AIDS communities, schools, and centers

(a) Schools; centers

(1) In general

The Secretary may make grants and enter into contracts to assist public and nonprofit private entities and schools and academic health science centers in meeting the costs of projects—

(A) training health personnel, including practitioners in programs under this subchapter and other community providers, in the diagnosis, treatment, and prevention of HIV disease, including the prevention of the perinatal transmission of the disease and including measures for the prevention and treatment of opportunistic infections;

(B) to train the faculty of schools of, and graduate departments or programs of, medicine, nursing, osteopathic medicine, dentistry, public health, allied health, and mental health practice to teach health professions students to provide for the health care needs of individuals with HIV disease; and

(C) to develop and disseminate curricula and resource materials relating to the care and treatment of individuals with such disease and the prevention of the disease among individuals who are at risk of contracting the disease.

(2) Preference in making grants

In making grants under paragraph (1), the Secretary shall give preference to qualified projects which will—

(A) train, or result in the training of, health professionals who will provide treatment for minority individuals with HIV disease and other individuals who are at high risk of contracting such disease; and

(B) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with such disease.

(3) Application

No grant or contract may be made under paragraph (1) unless an application is submitted to the Secretary in such form, at such time, and containing such information, as the Secretary may prescribe.

(b) Dental schools

(1) In general

The Secretary may make grants to assist dental schools and programs described in section 294*o*(b)(4)(B)[1] of this title with respect to oral health care to patients with HIV disease.

(2) Application

Each dental school or program described in section 294*o*(b)(4)(B)[1] of this title may annually submit an application documenting the unreimbursed costs of oral health care provided to patients with HIV disease by that school or hospital during the prior year.

(3) Distribution

The Secretary shall distribute the available funds among all eligible applicants, taking into account the number of patients with HIV disease served and the unreimbursed oral health care costs incurred by each institution as compared with the total number of patients served and costs incurred by all eligible applicants.

(4) Maintenance of effort

The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allotted for such purposes.

(c) Authorization of appropriations

(1) Schools; centers

For the purpose of grants under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.

(2) Dental schools

For the purpose of grants under subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.

(July 1, 1944, ch. 373, title XXVI, § 2692, formerly title VII, § 776, as added Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 2050; amended Pub. L. 102–531, title III, § 313(a)(4), Oct. 27, 1992, 106 Stat. 3507; renumbered title XXVI, § 2692, and amended Pub. L. 104–146, § 3(h), May 20, 1996, 110 Stat. 1363; Pub. L. 104–166, § 5(2), July 29, 1996, 110 Stat. 1449.)

REFERENCES IN TEXT

Section 294*o* of this title, referred to in subsec. (b)(1), (2), was omitted and a new section 294*o* enacted by Pub. L. 105–392, title I, § 104(a), (b)(4)–(6), Nov. 13, 1998, 112 Stat. 3552, 3553. As so enacted, such section no longer contains a subsec. (b)(4)(B).

CODIFICATION

Section was formerly classified to section 294n of this title prior to renumbering by Pub. L. 104–146.

AMENDMENTS

1996—Pub. L. 104–146, § 3(h)(1), (2)(A), substituted ''HIV/AIDS communities, schools, and centers'' for ''Acquired immune deficiency syndrome'' as section catchline.

Subsec. (a)(1)(A). Pub. L. 104–166, § 5(2)(A), substituted ''in programs under this subchapter'' for ''in subchapter XXIV programs'' and struck out ''infection and'' after ''prevention of HIV''.

Pub. L. 104–146, § 3(h)(2)(B)(iii), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (a)(1)(B). Pub. L. 104–146, § 3(h)(2)(B)(iv), inserted ''and'' after semicolon.

Pub. L. 104–146, § 3(h)(2)(B)(i), (ii), redesignated subpar. (A) as (B) and struck out former subpar. (B) which read as follows: ''to train practitioners to provide for the health care needs of such individuals;''.

Subsec. (a)(1)(C), (D). Pub. L. 104–146, § 3(h)(2)(B)(i), (ii), redesignated subpar. (D) as (C) and struck out

[1] See References in Text note below.

former subpar. (C) which read as follows: ''with respect to improving clinical skills in the diagnosis, treatment, and prevention of such disease, to educate and train the health professionals and clinical staff of schools of medicine, osteopathic medicine, and dentistry; and''.

Subsec. (c). Pub. L. 104–166, § 5(2)(B), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''For purposes of this section:

''(1) The term 'HIV disease' means infection with the human immunodeficiency virus, and includes any condition arising from such infection.

''(2) The term 'human immunodeficiency virus' means the etiologic agent for acquired immune deficiency syndrome.''

Subsec. (d). Pub. L. 104–166, § 5(2)(B), struck out heading and text of subsec. (d) relating to authorization of appropriations for fiscal years 1996 through 2000. Text read as follows: ''There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1996 through 2000.''

Pub. L. 104–166, § 5(2)(B), struck out heading and text of subsec. (d) relating to authorization of appropriations for fiscal years 1993 through 1995. Text read as follows:

''(1) SCHOOLS; CENTERS.—For the purpose of grants under subsection (a) of this section, there is authorized to be appropriated $23,000,000 for each of the fiscal years 1993 through 1995.

''(2) DENTAL SCHOOLS.—For the purpose of grants under subsection (b) of this section, there is authorized to be appropriated $7,000,000 for each of the fiscal years 1993 through 1995.''

Pub. L. 104–146, § 3(h)(4), added subsec. (d) relating to authorization of appropriations for fiscal years 1996 through 2000.

1992—Subsec. (a)(3). Pub. L. 102–531, which directed the substitution of ''No grant'' for ''no grant'' in par. (3), could not be executed because the words ''no grant'' did not appear in par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–146 effective Oct. 1, 1996, see section 13 of Pub. L. 104–146, set out as a note under section 300ff–11 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–531 effective immediately after enactment of Pub. L. 102–408, see section 313(c) of Pub. L. 102–531, set out as a note under section 292y of this title.

SUBCHAPTER XXV—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

AMENDMENTS

1996—Pub. L. 104–204, title VI, § 604(a)(1), Sept. 26, 1996, 110 Stat. 2938, substituted ''REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE'' for ''ASSURING PORTABILITY, AVAILABILITY, AND RENEWABILITY OF HEALTH INSURANCE COVERAGE'' as subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 300bb–2, 1397cc, 1397ii of this title; title 26 sections 4980B, 9805; title 29 section 1162.

PART A—GROUP MARKET REFORMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 29 section 1181; title 42 section 300gg–61.

SUBPART 1—PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 300gg–21 of this title.

§ 300gg. Increased portability through limitation on preexisting condition exclusions

(a) Limitation on preexisting condition exclusion period; crediting for periods of previous coverage

Subject to subsection (d) of this section, a group health plan, and a health insurance issuer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

(3) the period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any, as defined in subsection (c)(1) of this section) applicable to the participant or beneficiary as of the enrollment date.

(b) Definitions

For purposes of this part—

(1) Preexisting condition exclusion

(A) In general

The term ''preexisting condition exclusion'' means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

(B) Treatment of genetic information

Genetic information shall not be treated as a condition described in subsection (a)(1) of this section in the absence of a diagnosis of the condition related to such information.

(2) Enrollment date

The term ''enrollment date'' means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

(3) Late enrollee

The term ''late enrollee'' means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

(A) the first period in which the individual is eligible to enroll under the plan, or

(B) a special enrollment period under subsection (f) of this section.

(4) Waiting period

The term ''waiting period'' means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is

eligible to be covered for benefits under the terms of the plan.

(c) Rules relating to crediting previous coverage

(1) "Creditable coverage" defined

For purposes of this subchapter, the term ''creditable coverage'' means, with respect to an individual, coverage of the individual under any of the following:

(A) A group health plan.

(B) Health insurance coverage.

(C) Part A or part B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq., 1395j et seq.].

(D) Title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], other than coverage consisting solely of benefits under section 1928 [42 U.S.C. 1396s].

(E) Chapter 55 of title 10.

(F) A medical care program of the Indian Health Service or of a tribal organization.

(G) A State health benefits risk pool.

(H) A health plan offered under chapter 89 of title 5.

(I) A public health plan (as defined in regulations).

(J) A health benefit plan under section 2504(e) of title 22.

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 300gg–91(c) of this title).

(2) Not counting periods before significant breaks in coverage

(A) In general

A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

(B) Waiting period not treated as a break in coverage

For purposes of subparagraph (A) and subsection (d)(4) of this section, any period that an individual is in a waiting period for any coverage under a group health plan (or for group health insurance coverage) or is in an affiliation period (as defined in subsection (g)(2) of this section) shall not be taken into account in determining the continuous period under subparagraph (A).

(3) Method of crediting coverage

(A) Standard method

Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3) of this section, a group health plan, and a health insurance issuer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

(B) Election of alternative method

A group health plan, or a health insurance issuer offering group health insurance, may elect to apply subsection (a)(3) of this section based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan or issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

(C) Plan notice

In the case of an election with respect to a group health plan under subparagraph (B) (whether or not health insurance coverage is provided in connection with such plan), the plan shall—

(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

(ii) include in such statements a description of the effect of this election.

(D) Issuer notice

In the case of an election under subparagraph (B) with respect to health insurance coverage offered by an issuer in the small or large group market, the issuer—

(i) shall prominently state in any disclosure statements concerning the coverage, and to each employer at the time of the offer or sale of the coverage, that the issuer has made such election, and

(ii) shall include in such statements a description of the effect of such election.

(4) Establishment of period

Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (e) of this section or in such other manner as may be specified in regulations.

(d) Exceptions

(1) Exclusion not applicable to certain newborns

Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

(2) Exclusion not applicable to certain adopted children

Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

(3) Exclusion not applicable to pregnancy

A group health plan, and health insurance issuer offering group health insurance cov-

erage, may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

(4) Loss if break in coverage

Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

(e) Certifications and disclosure of coverage

(1) Requirement for certification of period of creditable coverage

(A) In general

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide the certification described in subparagraph (B)—

(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

(B) Certification

The certification described in this subparagraph is a written certification of—

(i) the period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and

(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

(C) Issuer compliance

To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance issuer offering the coverage provides for such certification in accordance with this paragraph.

(2) Disclosure of information on previous benefits

In the case of an election described in subsection (c)(3)(B) of this section by a group health plan or health insurance issuer, if the plan or issuer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

(A) upon request of such plan or issuer, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan or issuer information on coverage of classes and categories of health benefits available under such entity's plan or coverage, and

(B) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

(3) Regulations

The Secretary shall establish rules to prevent an entity's failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

(f) Special enrollment periods

(1) Individuals losing other coverage

A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer (if applicable) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

(C) The employee's or dependent's coverage described in subparagraph (A)—

(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or employer contributions toward such coverage were terminated.

(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

(2) For dependent beneficiaries

(A) In general

If—

(i) a group health plan makes coverage available with respect to a dependent of an individual,

(ii) the individual is a participant under the plan (or has met any waiting period

applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and

(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

(B) Dependent special enrollment period

A dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

(i) the date dependent coverage is made available, or

(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

(C) No waiting period

If an individual seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(ii) in the case of a dependent's birth, as of the date of such birth; or

(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(g) Use of affiliation period by HMOs as alternative to preexisting condition exclusion

(1) In general

A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not impose any preexisting condition exclusion allowed under subsection (a) of this section with respect to any particular coverage option may impose an affiliation period for such coverage option, but only if—

(A) such period is applied uniformly without regard to any health status-related factors; and

(B) such period does not exceed 2 months (or 3 months in the case of a late enrollee).

(2) Affiliation period

(A) "Affiliation period" defined

For purposes of this subchapter, the term ''affiliation period'' means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

(B) Beginning

Such period shall begin on the enrollment date.

(C) Runs concurrently with waiting periods

An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(3) Alternative methods

A health maintenance organization described in paragraph (1) may use alternative methods, from those described in such paragraph, to address adverse selection as approved by the State insurance commissioner or official or officials designated by the State to enforce the requirements of this part for the State involved with respect to such issuer.

(July 1, 1944, ch. 373, title XXVII, § 2701, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1955.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(1)(C), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts A and B of title XVIII of the Act are classified generally to parts A (§ 1395c et seq.) and B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of this title. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 2701 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

EFFECTIVE DATE

Section 102(c) of Pub. L. 104–191 provided that:

''(1) IN GENERAL.—Except as provided in this subsection, part A of title XXVII of the Public Health Service Act [this part] (as added by subsection (a)) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997.

''(2) DETERMINATION OF CREDITABLE COVERAGE.—

''(A) PERIOD OF COVERAGE.—

''(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under part A of title XXVII of the Public Health Service Act [this part] (as added by this section) in determining creditable coverage.

''(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of Health and Human Services, consistent with section 104 [set out as a note under section 300gg–92 of this title], shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

''(B) CERTIFICATIONS, ETC.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 2701 of the Public Health Service Act [subsec. (e) of this section] (as added by this section) shall apply to events occurring after June 30, 1996.

''(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification re-

quired to be provided under such subsection before June 1, 1997.

''(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

''(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

''(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

''(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section [enacting this section and sections 300gg–1, 300gg–11 to 300gg–13, 300gg–21 to 300gg–23, 300gg–91, and 300gg–92 of this title and amending sections 300e and 300bb–8 of this title].

''(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2)(B), in the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act [Aug. 21, 1996], part A of title XXVII of the Public Health Service Act [this part] (other than section 2701(e) thereof [subsec. (e) of this section]) shall not apply to plan years beginning before the later of—

''(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

''(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of such part shall not be treated as a termination of such collective bargaining agreement.

''(4) TIMELY REGULATIONS.—The Secretary of Health and Human Services, consistent with section 104 [set out as a note under section 300gg–92 of this title], shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section [enacting this section and sections 300gg–1, 300gg–11 to 300gg–13, 300gg–21 to 300gg–23, 300gg–91, and 300gg–92 of this title and amending sections 300e and 300bb–8 of this title] and section 111 [enacting sections 300gg–41 to 300gg–44 and 300gg–61 to 300gg–63 of this title].

''(5) LIMITATION ON ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.''

CONGRESSIONAL FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY; SEVERABILITY

Section 195 of title I of Pub. L. 104–191 provided that:

''(a) FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.—Congress finds the following in relation to the provisions of this title [enacting this subchapter and sections 1181 to 1183 and 1191 to 1191c of Title 29, Labor, amending sections 233, 300e, and 300bb–8 of this title and sections 1003, 1021, 1022, 1024, 1132, 1136, and 1144 of Title 29, and enacting provisions set out as notes under this section, section 300gg–92 of this title, and section 1181 of Title 29]:

''(1) Provisions in group health plans and health insurance coverage that impose certain preexisting condition exclusions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

''(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

''(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

''(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.].

''(b) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.''

HEALTH COVERAGE AVAILABILITY STUDIES

Section 191 of title I of Pub. L. 104–191 provided that:

''(a) STUDIES.—

''(1) STUDY ON EFFECTIVENESS OF REFORMS.—The Secretary of Health and Human Services shall provide for a study on the effectiveness of the provisions of this title [enacting this subchapter and sections 1181 to 1183 and 1191 to 1191c of Title 29, Labor, amending sections 233, 300e, and 300bb–8 of this title and sections 1003, 1021, 1022, 1024, 1132, 1136, and 1144 of Title 29, and enacting provisions set out as notes under this section, section 300gg–92 of this title, and section 1181 of Title 29] and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

''(2) STUDY ON ACCESS AND CHOICE.—The Secretary also shall provide for a study on—

''(A) the extent to which patients have direct access to, and choice of, health care providers, including specialty providers, within a network plan, as well as the opportunity to utilize providers outside of the network plan, under the various types of coverage offered under the provisions of this title; and

''(B) the cost and cost-effectiveness to health insurance issuers of providing access to out-of-network providers, and the potential impact of providing such access on the cost and quality of health insurance coverage offered under provisions of this title.

''(3) CONSULTATION.—The studies under this subsection shall be conducted in consultation with the Secretary of Labor, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits.

''(b) REPORTS.—Not later than January 1, 2000, the Secretary shall submit to the appropriate committees of Congress a report on each of the studies under subsection (a).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e, 300gg–1, 300gg–21, 300gg–23, 300gg–41, 300gg–43, 300gg–91, 1395ss, 1397jj of this title.

§ 300gg–1. Prohibiting discrimination against individual participants and beneficiaries based on health status

(a) In eligibility to enroll

(1) In general

Subject to paragraph (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

(A) Health status.

(B) Medical condition (including both physical and mental illnesses).

(C) Claims experience.

(D) Receipt of health care.

(E) Medical history.

(F) Genetic information.

(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

(H) Disability.

(2) No application to benefits or exclusions

To the extent consistent with section 300gg[1] of this title, paragraph (1) shall not be construed—

(A) to require a group health plan, or group health insurance coverage, to provide particular benefits other than those provided under the terms of such plan or coverage, or

(B) to prevent such a plan or coverage from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

(3) Construction

For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

(b) In premium contributions

(1) In general

A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

(2) Construction

Nothing in paragraph (1) shall be construed—

(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

(B) to prevent a group health plan, and a health insurance issuer offering group health insurance coverage, from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(July 1, 1944, ch. 373, title XXVII, § 2702, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1961.)

REFERENCES IN TEXT

Section 300gg of this title, referred to in subsec. (a)(2), was in the original ''section 701'' and was translated as reading ''section 2701'' meaning section 2701 of act July 1, 1944, as added by Pub. L. 104–191, § 102(a), to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 2702 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300gg–11, 300gg–91, 1395w–22 of this title.

SUBPART 2—OTHER REQUIREMENTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 300gg–21, 1396u–2, 1397cc of this title.

§ 300gg–4. Standards relating to benefits for mothers and newborns

(a) Requirements for minimum hospital stay following birth

(1) In general

A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

(A) except as provided in paragraph (2)—

(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a cesarean section, to less than 96 hours, or

(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

(2) Exception

Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum

[1] See References in Text note below.

length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

(b) Prohibitions

A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3) of this section, restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) of this section in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) Rules of construction

(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

(A) to give birth in a hospital; or

(B) to stay in the hospital for a fixed period of time following the birth of her child.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) of this section may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) Notice

A group health plan under this part shall comply with the notice requirement under section 1185(d) of title 29 with respect to the requirements of this section as if such section applied to such plan.

(e) Level and type of reimbursements

Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) Preemption; exception for health insurance coverage in certain States

(1) In general

The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 300gg–23(d)(1) of this title) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

(2) Construction

Section 300gg–23(a)(1) of this title shall not be construed as superseding a State law described in paragraph (1).

(July 1, 1944, ch. 373, title XXVII, § 2704, as added Pub. L. 104–204, title VI, § 604(a)(3), Sept. 26, 1996, 110 Stat. 2939.)

PRIOR PROVISIONS

A prior section 2704 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

EFFECTIVE DATE

Section 604(c) of Pub. L. 104–204 provided that: ''The amendments made by this section [enacting this section and amending sections 300gg–21 and 300gg–23 of this title] shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.''

CONGRESSIONAL FINDINGS

Section 602 of title VI of Pub. L. 104–204 provided that: ''Congress finds that—

''(1) the length of post-delivery hospital stay should be based on the unique characteristics of each mother and her newborn child, taking into consideration the health of the mother, the health and stability of the newborn, the ability and confidence of the mother and the father to care for their newborn, the adequacy of support systems at home, and the access of the mother and her newborn to appropriate follow-up health care; and

''(2) the timing of the discharge of a mother and her newborn child from the hospital should be made by the attending provider in consultation with the mother.''

REPORTS TO CONGRESS CONCERNING CHILDBIRTH

Section 606 of title VI of Pub. L. 104–204 provided that:

''(a) FINDINGS.—Congress finds that—

''(1) childbirth is one part of a continuum of experience that includes prepregnancy, pregnancy and prenatal care, labor and delivery, the immediate postpartum period, and a longer period of adjustment for the newborn, the mother, and the family;

''(2) health care practices across this continuum are changing in response to health care financing and delivery system changes, science and clinical research, and patient preferences; and

''(3) there is a need—

''(A) to examine the issues and consequences associated with the length of hospital stays following childbirth;

''(B) to examine the follow-up practices for mothers and newborns used in conjunction with shorter hospital stays;

''(C) to identify appropriate health care practices and procedures with regard to the hospital discharge of newborns and mothers;

''(D) to examine the extent to which such care is affected by family and environmental factors; and

''(E) to examine the content of care during hospital stays following childbirth.

''(b) ADVISORY PANEL.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Sept. 26, 1996], the Secretary of Health and Human Services (in this section referred to as the 'Secretary') shall establish an advisory panel (referred to in this section as the 'advisory panel')—

''(A) to guide and review methods, procedures, and data collection necessary to conduct the study described in subsection (c) in a manner that is intended to enhance the quality, safety, and effectiveness of health care services provided to mothers and newborns;

''(B) to develop a consensus among the members of the advisory panel regarding the appropriateness of the specific requirements of this title [see section 601 of Pub. L. 104–204, set out as a Short Title of 1996 Amendment note under section 201 of this title]; and

''(C) to prepare and submit to the Secretary, as part of the report of the Secretary submitted under subsection (d), a report summarizing the consensus (if any) developed under subparagraph (B) or the reasons for not reaching such a consensus.

''(2) PARTICIPATION.—

''(A) DEPARTMENT REPRESENTATIVES.—The Secretary shall ensure that representatives from within the Department of Health and Human Services that have expertise in the area of maternal and child health or in outcomes research are appointed to the advisory panel.

''(B) REPRESENTATIVES OF PUBLIC AND PRIVATE SECTOR ENTITIES.—

''(i) IN GENERAL.—The Secretary shall ensure that members of the advisory panel include representatives of public and private sector entities having knowledge or experience in one or more of the following areas:

''(I) Patient care.

''(II) Patient education.

''(III) Quality assurance.

''(IV) Outcomes research.

''(V) Consumer issues.

''(ii) REQUIREMENT.—The panel shall include representatives of each of the following categories:

''(I) Health care practitioners.

''(II) Health plans.

''(III) Hospitals.

''(IV) Employers.

''(V) States.

''(VI) Consumers.

''(c) STUDIES.—

''(1) IN GENERAL.—The Secretary shall conduct a study of—

''(A) the factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth;

''(B) the factors determining the length of hospital stay following childbirth;

''(C) the diversity of negative or positive outcomes affecting mothers, infants, and families;

''(D) the manner in which post natal care has changed over time and the manner in which that care has adapted or related to changes in the length of hospital stay, taking into account—

''(i) the types of post natal care available and the extent to which such care is accessed; and

''(ii) the challenges associated with providing post natal care to all populations, including vulnerable populations, and solutions for overcoming these challenges; and

''(E) the financial incentives that may—

''(i) impact the health of newborns and mothers; and

''(ii) influence the clinical decisionmaking of health care providers.

''(2) RESOURCES.—The Secretary shall provide to the advisory panel the resources necessary to carry out the duties of the advisory panel.

''(d) REPORTS.—

''(1) IN GENERAL.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains—

''(A) a summary of the study conducted under subsection (c);

''(B) a summary of the best practices used in the public and private sectors for the care of newborns and mothers;

''(C) recommendations for improvements in prenatal care, post natal care, delivery and follow-up care, and whether the implementation of such improvements should be accomplished by the private health care sector, Federal or State governments, or any combination thereof; and

''(D) limitations on the databases in existence on the date of the enactment of this Act [Sept. 26, 1996].

''(2) DEADLINES.—The Secretary shall prepare and submit to the Committees referred to in paragraph (1)—

''(A) an initial report concerning the study conducted under subsection (c) and elements described in paragraph (1), not later than 18 months after the date of the enactment of this Act;

''(B) an interim report concerning such study and elements not later than 3 years after the date of the enactment of this Act; and

''(C) a final report concerning such study and elements not later than 5 years after the date of the enactment of this Act.

''(e) TERMINATION OF PANEL.—The advisory panel shall terminate on the date that occurs 60 days after the date on which the last report is submitted under subsection (d).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300gg–23, 300gg–51 of this title.

§ 300gg–5. Parity in application of certain limits to mental health benefits

(a) In general

(1) Aggregate lifetime limits

In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

(A) No lifetime limit

If the plan or coverage does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan or

coverage may not impose any aggregate lifetime limit on mental health benefits.

(B) Lifetime limit

If the plan or coverage includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the ''applicable lifetime limit''), the plan or coverage shall either—

(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

(C) Rule in case of different limits

In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

(2) Annual limits

In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

(A) No annual limit

If the plan or coverage does not include an annual limit on substantially all medical and surgical benefits, the plan or coverage may not impose any annual limit on mental health benefits.

(B) Annual limit

If the plan or coverage includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the ''applicable annual limit''), the plan or coverage shall either—

(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

(C) Rule in case of different limits

In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

(b) Construction

Nothing in this section shall be construed—

(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits; or

(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a) of this section (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

(c) Exemptions

(1) Small employer exemption

This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

(2) Increased cost exemption

This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

(d) Separate application to each option offered

In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

(e) Definitions

For purposes of this section—

(1) Aggregate lifetime limit

The term ''aggregate lifetime limit'' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit.

(2) Annual limit

The term ''annual limit'' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan or health insurance coverage with respect to an individual or other coverage unit.

(3) Medical or surgical benefits

The term ''medical or surgical benefits'' means benefits with respect to medical or sur-

gical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

(4) Mental health benefits

The term ''mental health benefits'' means benefits with respect to mental health services, as defined under the terms of the plan or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency.

(f) Sunset

This section shall not apply to benefits for services furnished on or after September 30, 2001.

(July 1, 1944, ch. 373, title XXVII, § 2705, as added Pub. L. 104–204, title VII, § 703(a), Sept. 26, 1996, 110 Stat. 2947.)

PRIOR PROVISIONS

A prior section 2705 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

EFFECTIVE DATE

Section 703(b) of Pub. L. 104–204 provided that: ''The amendments made by this section [enacting this section] shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.''

§ 300gg–6. Required coverage for reconstructive surgery following mastectomies

The provisions of section 1185b of title 29 shall apply to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans, as if included in this subpart.

(July 1, 1944, ch. 373, title XXVII, § 2706, as added Pub. L. 105–277, div. A, § 101(f) [title IX, § 903(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–438.)

EFFECTIVE DATE

Pub. L. 105–277, div. A, § 101(f) [title IX, § 903(c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–438, provided that:

''(A) IN GENERAL.—The amendment made by subsection (a) [enacting this section] shall apply to group health plans for plan years beginning on or after the date of enactment of this Act [Oct. 21, 1998].

''(B) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by the amendment made by subsection (a) shall not be treated as a termination of such collective bargaining agreement.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–52 of this title.

SUBPART 3—PROVISIONS APPLICABLE ONLY TO HEALTH INSURANCE ISSUERS

AMENDMENTS

1996—Pub. L. 104–204, title VI, § 604(a)(2), Sept. 26, 1996, 110 Stat. 2939, redesignated subpart 2 as 3.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 300gg–21 of this title.

§ 300gg–11. Guaranteed availability of coverage for employers in group market

(a) Issuance of coverage in small group market

(1) In general

Subject to subsections (c) through (f) of this section, each health insurance issuer that offers health insurance coverage in the small group market in a State—

(A) must accept every small employer (as defined in section 300gg–91(e)(4) of this title) in the State that applies for such coverage; and

(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and may not place any restriction which is inconsistent with section 300gg–1 of this title on an eligible individual being a participant or beneficiary.

(2) "Eligible individual" defined

For purposes of this section, the term ''eligible individual'' means, with respect to a health insurance issuer that offers health insurance coverage to a small employer in connection with a group health plan in the small group market, such an individual in relation to the employer as shall be determined—

(A) in accordance with the terms of such plan,

(B) as provided by the issuer under rules of the issuer which are uniformly applicable in a State to small employers in the small group market, and

(C) in accordance with all applicable State laws governing such issuer and such market.

(b) Assuring access in large group market

(1) Reports to HHS

The Secretary shall request that the chief executive officer of each State submit to the Secretary, by not later December 31, 2000, and every 3 years thereafter a report on—

(A) the access of large employers to health insurance coverage in the State, and

(B) the circumstances for lack of access (if any) of large employers (or one or more classes of such employers) in the State to such coverage.

(2) Triennial reports to Congress

The Secretary, based on the reports submitted under paragraph (1) and such other information as the Secretary may use, shall prepare and submit to Congress, every 3 years, a report describing the extent to which large employers (and classes of such employers) that seek health insurance coverage in the different States are able to obtain access to such coverage. Such report shall include such recommendations as the Secretary determines to be appropriate.

(3) GAO report on large employer access to health insurance coverage

The Comptroller General shall provide for a study of the extent to which classes of large employers in the different States are able to

obtain access to health insurance coverage and the circumstances for lack of access (if any) to such coverage. The Comptroller General shall submit to Congress a report on such study not later than 18 months after August 21, 1996.

(c) Special rules for network plans

(1) In general

In the case of a health insurance issuer that offers health insurance coverage in the small group market through a network plan, the issuer may—

(A) limit the employers that may apply for such coverage to those with eligible individuals who live, work, or reside in the service area for such network plan; and

(B) within the service area of such plan, deny such coverage to such employers if the issuer has demonstrated, if required, to the applicable State authority that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their dependents) or any health status-related factor relating to such employees and dependents.

(2) 180-day suspension upon denial of coverage

An issuer, upon denying health insurance coverage in any service area in accordance with paragraph (1)(B), may not offer coverage in the small group market within such service area for a period of 180 days after the date such coverage is denied.

(d) Application of financial capacity limits

(1) In general

A health insurance issuer may deny health insurance coverage in the small group market if the issuer has demonstrated, if required, to the applicable State authority that—

(A) it does not have the financial reserves necessary to underwrite additional coverage; and

(B) it is applying this paragraph uniformly to all employers in the small group market in the State consistent with applicable State law and without regard to the claims experience of those employers and their employees (and their dependents) or any health status-related factor relating to such employees and dependents.

(2) 180-day suspension upon denial of coverage

A health insurance issuer upon denying health insurance coverage in connection with group health plans in accordance with paragraph (1) in a State may not offer coverage in connection with group health plans in the small group market in the State for a period of 180 days after the date such coverage is denied or until the issuer has demonstrated to the applicable State authority, if required under applicable State law, that the issuer has sufficient financial reserves to underwrite additional coverage, whichever is later. An applicable State authority may provide for the application of this subsection on a service-area-specific basis.

(e) Exception to requirement for failure to meet certain minimum participation or contribution rules

(1) In general

Subsection (a) of this section shall not be construed to preclude a health insurance issuer from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in connection with a group health plan in the small group market, as allowed under applicable State law.

(2) Rules defined

For purposes of paragraph (1)—

(A) the term ''employer contribution rule'' means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries; and

(B) the term ''group participation rule'' means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer.

(f) Exception for coverage offered only to bona fide association members

Subsection (a) of this section shall not apply to health insurance coverage offered by a health insurance issuer if such coverage is made available in the small group market only through one or more bona fide associations (as defined in section 300gg–91(d)(3) of this title).

(July 1, 1944, ch. 373, title XXVII, § 2711, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1962.)

PRIOR PROVISIONS

A prior section 2711 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–12 of this title.

§ 300gg–12. Guaranteed renewability of coverage for employers in group market

(a) In general

Except as provided in this section, if a health insurance issuer offers health insurance coverage in the small or large group market in connection with a group health plan, the issuer must renew or continue in force such coverage at the option of the plan sponsor of the plan.

(b) General exceptions

A health insurance issuer may nonrenew or discontinue health insurance coverage offered in

connection with a group health plan in the small or large group market based only on one or more of the following:

(1) Nonpayment of premiums

The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(2) Fraud

The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) Violation of participation or contribution rules

The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules, as permitted under section 300gg–11(e) of this title in the case of the small group market or pursuant to applicable State law in the case of the large group market.

(4) Termination of coverage

The issuer is ceasing to offer coverage in such market in accordance with subsection (c) of this section and applicable State law.

(5) Movement outside service area

In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with such plan who lives, resides, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business) and, in the case of the small group market, the issuer would deny enrollment with respect to such plan under section 300gg–11(c)(1)(A) of this title.

(6) Association membership ceases

In the case of health insurance coverage that is made available in the small or large group market (as the case may be) only through one or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any covered individual.

(c) Requirements for uniform termination of coverage

(1) Particular type of coverage not offered

In any case in which an issuer decides to discontinue offering a particular type of group health insurance coverage offered in the small or large group market, coverage of such type may be discontinued by the issuer in accordance with applicable State law in such market only if—

(A) the issuer provides notice to each plan sponsor provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the issuer offers to each plan sponsor provided coverage of this type in such market, the option to purchase all (or, in the case of the large group market, any) other health insurance coverage currently being offered by the issuer to a group health plan in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(2) Discontinuance of all coverage

(A) In general

In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the issuer only in accordance with applicable State law and if—

(i) the issuer provides notice to the applicable State authority and to each plan sponsor (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the discontinuation of such coverage; and

(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insurance coverage in such market (or markets) is not renewed.

(B) Prohibition on market reentry

In the case of a discontinuation under subparagraph (A) in a market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) Exception for uniform modification of coverage

At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan—

(1) in the large group market; or

(2) in the small group market if, for coverage that is available in such market other than only through one or more bona fide associations, such modification is consistent with State law and effective on a uniform basis among group health plans with that product.

(e) Application to coverage offered only through associations

In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the small or large group market to employers only through one or more associations, a reference to ''plan sponsor'' is deemed, with respect to coverage provided to an employer member of the association, to include a reference to such employer.

(July 1, 1944, ch. 373, title XXVII, § 2712, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1964.)

PRIOR PROVISIONS

A prior section 2712 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–41 of this title.

§ 300gg–13. Disclosure of information

(a) Disclosure of information by health plan issuers

In connection with the offering of any health insurance coverage to a small employer, a health insurance issuer—

(1) shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of the availability of information described in subsection (b) of this section, and

(2) upon request of such a small employer, provide such information.

(b) Information described

(1) In general

Subject to paragraph (3), with respect to a health insurance issuer offering health insurance coverage to a small employer, information described in this subsection is information concerning—

(A) the provisions of such coverage concerning issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such coverage relating to renewability of coverage;

(C) the provisions of such coverage relating to any preexisting condition exclusion; and

(D) the benefits and premiums available under all health insurance coverage for which the employer is qualified.

(2) Form of information

Information under this subsection shall be provided to small employers in a manner determined to be understandable by the average small employer, and shall be sufficient to reasonably inform small employers of their rights and obligations under the health insurance coverage.

(3) Exception

An issuer is not required under this section to disclose any information that is proprietary and trade secret information under applicable law.

(July 1, 1944, ch. 373, title XXVII, § 2713, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1966.)

PRIOR PROVISIONS

A prior section 2713 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238*l* of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

SUBPART 4—EXCLUSION OF PLANS; ENFORCEMENT; PREEMPTION

AMENDMENTS

1996—Pub. L. 104–204, title VI, § 604(a)(2), Sept. 26, 1996, 110 Stat. 2939, redesignated subpart 3 as 4.

§ 300gg–21. Exclusion of certain plans

(a) Exception for certain small group health plans

The requirements of subparts 1 and 3 shall not apply to any group health plan (and health insurance coverage offered in connection with a group health plan) for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

(b) Limitation on application of provisions relating to group health plans

(1) In general

The requirements of subparts 1 through 3 shall apply with respect to group health plans only—

(A) subject to paragraph (2), in the case of a plan that is a nonfederal[1] governmental plan, and

(B) with respect to health insurance coverage offered in connection with a group health plan (including such a plan that is a church plan or a governmental plan).

(2) Treatment of non-Federal governmental plans

(A) Election to be excluded

If the plan sponsor of a nonfederal[1] governmental plan which is a group health plan to which the provisions of subparts 1 through 3 otherwise apply makes an election under this subparagraph (in such form and manner as the Secretary may by regulations prescribe), then the requirements of such subparts insofar as they apply directly to group health plans (and not merely to group health insurance coverage) shall not apply to such governmental plans for such period except as provided in this paragraph.

(B) Period of election

An election under subparagraph (A) shall apply—

(i) for a single specified plan year, or

(ii) in the case of a plan provided pursuant to a collective bargaining agreement, for the term of such agreement.

An election under clause (i) may be extended through subsequent elections under this paragraph.

[1] So in original. Probably should be "non-Federal".

(C) Notice to enrollees

Under such an election, the plan shall provide for—

(i) notice to enrollees (on an annual basis and at the time of enrollment under the plan) of the fact and consequences of such election, and

(ii) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with section 300gg(e) of this title.

(c) Exception for certain benefits

The requirements of subparts 1 through 3 shall not apply to any group health plan (or group health insurance coverage) in relation to its provision of excepted benefits described in section 300gg–91(c)(1) of this title.

(d) Exception for certain benefits if certain conditions met

(1) Limited, excepted benefits

The requirements of subparts 1 through 3 shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 300gg–91(c)(2) of this title if the benefits—

(A) are provided under a separate policy, certificate, or contract of insurance; or

(B) are otherwise not an integral part of the plan.

(2) Noncoordinated, excepted benefits

The requirements of subparts 1 through 3 shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 300gg–91(c)(3) of this title if all of the following conditions are met:

(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

(3) Supplemental excepted benefits

The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 300gg–91(c)(4)[2] of this title if the benefits are provided under a separate policy, certificate, or contract of insurance.

(e) Treatment of partnerships

For purposes of this part—

(1) Treatment as a group health plan

Any plan, fund, or program which would not be (but for this subsection) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care (including items and services paid for as medical care) to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (2)) as an employee welfare benefit plan which is a group health plan.

(2) Employer

In the case of a group health plan, the term ''employer'' also includes the partnership in relation to any partner.

(3) Participants of group health plans

In the case of a group health plan, the term ''participant'' also includes—

(A) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

(B) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is, or may become, eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

(July 1, 1944, ch. 373, title XXVII, § 2721, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1967; amended Pub. L. 104–204, title VI, § 604(b)(1), Sept. 26, 1996, 110 Stat. 2940.)

REFERENCES IN TEXT

Section 300gg–91(c)(4) of this title, referred to in subsec. (d)(3), was in the original ''section 27971(c)(4)'' and was translated as reading ''section 2791(c)(4)'', meaning section 2791(c)(4) of act July 1, 1944, as added by Pub. L. 104–191, § 102(a), to reflect the probable intent of Congress. Act July 1, 1944, does not contain a section 27971.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–204, § 604(b)(1)(A), substituted ''subparts 1 and 3'' for ''subparts 1 and 2''.

Subsec. (b) to (d). Pub. L. 104–204, § 604(b)(1)(B), substituted ''subparts 1 through 3'' for ''subparts 1 and 2'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–204 applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 604(c) of Pub. L. 104–204 set out as an Effective Date note under section 300gg–4 of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

§ 300gg–22. Enforcement

(a) State enforcement

(1) State authority

Subject to section 300gg–23 of this title, each State may require that health insurance issu-

[2] See References in Text note below.

ers that issue, sell, renew, or offer health insurance coverage in the State in the small or large group markets meet the requirements of this part with respect to such issuers.

(2) Failure to implement provisions

In the case of a determination by the Secretary that a State has failed to substantially enforce a provision (or provisions) in this part with respect to health insurance issuers in the State, the Secretary shall enforce such provision (or provisions) under subsection (b) of this section insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in connection with group health plans in such State.

(b) Secretarial enforcement authority

(1) Limitation

The provisions of this subsection shall apply to enforcement of a provision (or provisions) of this part only—

(A) as provided under subsection (a)(2) of this section; and

(B) with respect to group health plans that are non-Federal governmental plans.

(2) Imposition of penalties

In the cases described in paragraph (1)—

(A) In general

Subject to the succeeding provisions of this subsection, any non-Federal governmental plan that is a group health plan and any health insurance issuer that fails to meet a provision of this part applicable to such plan or issuer is subject to a civil money penalty under this subsection.

(B) Liability for penalty

In the case of a failure by—

(i) a health insurance issuer, the issuer is liable for such penalty, or

(ii) a group health plan that is a non-Federal governmental plan which is—

(I) sponsored by 2 or more employers, the plan is liable for such penalty, or

(II) not so sponsored, the employer is liable for such penalty.

(C) Amount of penalty

(i) In general

The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs.

(ii) Considerations in imposition

In determining the amount of any penalty to be assessed under this paragraph, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this part and the gravity of the violation.

(iii) Limitations

(I) Penalty not to apply where failure not discovered exercising reasonable diligence

No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(II) Penalty not to apply to failures corrected within 30 days

No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(D) Administrative review

(i) Opportunity for hearing

The entity assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(ii) Hearing procedure

If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (E).

(E) Judicial review

(i) Filing of action for review

Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such entity is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary.

(ii) Certification of administrative record

The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(iii) Standard for review

The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5.

(iv) Appeal

Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28.

(F) Failure to pay assessment; maintenance of action

(i) Failure to pay assessment

If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(ii) Nonreviewability

In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(G) Payment of penalties

Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

(July 1, 1944, ch. 373, title XXVII, § 2722, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1968.)

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–61 of this title.

§ 300gg–23. Preemption; State flexibility; construction

(a) Continued applicability of State law with respect to health insurance issuers

(1) In general

Subject to paragraph (2) and except as provided in subsection (b) of this section, this part and part C of this subchapter insofar as it relates to this part shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this part.

(2) Continued preemption with respect to group health plans

Nothing in this part shall be construed to affect or modify the provisions of section 1144 of title 29 with respect to group health plans.

(b) Special rules in case of portability requirements

(1) In general

Subject to paragraph (2), the provisions of this part relating to health insurance coverage offered by a health insurance issuer supersede any provision of State law which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by section 300gg of this title[1] which differs from the standards or requirements specified in such section.

(2) Exceptions

Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision—

(i) substitutes for the reference to ''6-month period'' in section 300gg(a)(1) of this title a reference to any shorter period of time;

(ii) substitutes for the reference to ''12 months'' and ''18 months'' in section 300gg(a)(2) of this title a reference to any shorter period of time;

(iii) substitutes for the references to ''63'' days in sections 300gg(c)(2)(A) and 300gg(d)(4)(A)[2] of this title a reference to any greater number of days;

(iv) substitutes for the reference to ''30-day period'' in sections 300gg(b)(2) and 300gg(d)(1) of this title a reference to any greater period;

(v) prohibits the imposition of any preexisting condition exclusion in cases not described in section 300gg(d) of this title or expands the exceptions described in such section;

(vi) requires special enrollment periods in addition to those required under section 300gg(f) of this title; or

(vii) reduces the maximum period permitted in an affiliation period under section 300gg(g)(1)(B) of this title.

(c) Rules of construction

Nothing in this part (other than section 300gg–4 of this title) shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(d) Definitions

For purposes of this section—

(1) State law

The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) State

The term ''State'' includes a State (including the Northern Mariana Islands), any politi-

[1] See References in Text note below.

[2] So in original. Probably should be ''300gg(d)(4)''.

cal subdivisions of a State or such Islands, or any agency or instrumentality of either.

(July 1, 1944, ch. 373, title XXVII, § 2723, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1971; amended Pub. L. 104–204, title VI, § 604(b)(2), Sept. 26, 1996, 110 Stat. 2941.)

REFERENCES IN TEXT

Section 300gg of this title, referred to in subsec. (b)(1), was in the original ''section 701'' and was translated as reading ''section 2701'' meaning section 2701 of act July 1, 1944, as added by Pub. L. 104–191, § 102(a), to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–204 inserted ''(other than section 300gg–4 of this title)'' after ''part''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–204 applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 604(c) of Pub. L. 104–204 set out as an Effective Date note under section 300gg–4 of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after June 30, 1997, except as otherwise provided, see section 102(c) of Pub. L. 104–191, set out as a note under section 300gg of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300gg–4, 300gg–22, 300gg–51 of this title.

PART B—INDIVIDUAL MARKET RULES

SUBPART 1—PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

§ 300gg–41. Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage

(a) Guaranteed availability

(1) In general

Subject to the succeeding subsections of this section and section 300gg–44 of this title, each health insurance issuer that offers health insurance coverage (as defined in section 300gg–91(b)(1) of this title) in the individual market in a State may not, with respect to an eligible individual (as defined in subsection (b) of this section) desiring to enroll in individual health insurance coverage—

(A) decline to offer such coverage to, or deny enrollment of, such individual; or

(B) impose any preexisting condition exclusion (as defined in section 300gg(b)(1)(A) of this title) with respect to such coverage.

(2) Substitution by State of acceptable alternative mechanism

The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 300gg–44 of this title.

(b) "Eligible individual" defined

In this part, the term ''eligible individual'' means an individual—

(1)(A) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage (as defined in section 300gg(c) of this title) is 18 or more months and (B) whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq., 1395j et seq.], or (C) a State plan under title XIX of such Act [42 U.S.C. 1396 et seq.] (or any successor program), and does not have other health insurance coverage;

(3) with respect to whom the most recent coverage within the coverage period described in paragraph (1)(A) was not terminated based on a factor described in paragraph (1) or (2) of section 300gg–12(b) of this title (relating to nonpayment of premiums or fraud);

(4) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

(5) who, if the individual elected such continuation coverage, has exhausted such continuation coverage under such provision or program.

(c) Alternative coverage permitted where no State mechanism

(1) In general

In the case of health insurance coverage offered in the individual market in a State in which the State is not implementing an acceptable alternative mechanism under section 300gg–44 of this title, the health insurance issuer may elect to limit the coverage offered under subsection (a) of this section so long as it offers at least two different policy forms of health insurance coverage both of which—

(A) are designed for, made generally available to, and actively marketed to, and enroll both eligible and other individuals by the issuer; and

(B) meet the requirement of paragraph (2) or (3), as elected by the issuer.

For purposes of this subsection, policy forms which have different cost-sharing arrangements or different riders shall be considered to be different policy forms.

(2) Choice of most popular policy forms

The requirement of this paragraph is met, for health insurance coverage policy forms offered by an issuer in the individual market, if the issuer offers the policy forms for individual health insurance coverage with the largest, and next to largest, premium volume of all such policy forms offered by the issuer in the State or applicable marketing or service area (as may be prescribed in regulation) by the issuer in the individual market in the period involved.

(3) Choice of 2 policy forms with representative coverage

(A) In general

The requirement of this paragraph is met, for health insurance coverage policy forms

offered by an issuer in the individual market, if the issuer offers a lower-level coverage policy form (as defined in subparagraph (B)) and a higher-level coverage policy form (as defined in subparagraph (C)) each of which includes benefits substantially similar to other individual health insurance coverage offered by the issuer in that State and each of which is covered under a method described in section 300gg–44(c)(3)(A) of this title (relating to risk adjustment, risk spreading, or financial subsidization).

(B) Lower-level of coverage described

A policy form is described in this subparagraph if the actuarial value of the benefits under the coverage is at least 85 percent but not greater than 100 percent of a weighted average (described in subparagraph (D)).

(C) Higher-level of coverage described

A policy form is described in this subparagraph if—

(i) the actuarial value of the benefits under the coverage is at least 15 percent greater than the actuarial value of the coverage described in subparagraph (B) offered by the issuer in the area involved; and

(ii) the actuarial value of the benefits under the coverage is at least 100 percent but not greater than 120 percent of a weighted average (described in subparagraph (D)).

(D) Weighted average

For purposes of this paragraph, the weighted average described in this subparagraph is the average actuarial value of the benefits provided by all the health insurance coverage issued (as elected by the issuer) either by that issuer or by all issuers in the State in the individual market during the previous year (not including coverage issued under this section), weighted by enrollment for the different coverage.

(4) Election

The issuer elections under this subsection shall apply uniformly to all eligible individuals in the State for that issuer. Such an election shall be effective for policies offered during a period of not shorter than 2 years.

(5) Assumptions

For purposes of paragraph (3), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(d) Special rules for network plans

(1) In general

In the case of a health insurance issuer that offers health insurance coverage in the individual market through a network plan, the issuer may—

(A) limit the individuals who may be enrolled under such coverage to those who live, reside, or work within the service area for such network plan; and

(B) within the service area of such plan, deny such coverage to such individuals if the issuer has demonstrated, if required, to the applicable State authority that—

(i) it will not have the capacity to deliver services adequately to additional individual enrollees because of its obligations to existing group contract holders and enrollees and individual enrollees, and

(ii) it is applying this paragraph uniformly to individuals without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.

(2) 180-day suspension upon denial of coverage

An issuer, upon denying health insurance coverage in any service area in accordance with paragraph (1)(B), may not offer coverage in the individual market within such service area for a period of 180 days after such coverage is denied.

(e)[1] Application of financial capacity limits

(1) In general

A health insurance issuer may deny health insurance coverage in the individual market to an eligible individual if the issuer has demonstrated, if required, to the applicable State authority that—

(A) it does not have the financial reserves necessary to underwrite additional coverage; and

(B) it is applying this paragraph uniformly to all individuals in the individual market in the State consistent with applicable State law and without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.

(2) 180-day suspension upon denial of coverage

An issuer upon denying individual health insurance coverage in any service area in accordance with paragraph (1) may not offer such coverage in the individual market within such service area for a period of 180 days after the date such coverage is denied or until the issuer has demonstrated, if required under applicable State law, to the applicable State authority that the issuer has sufficient financial reserves to underwrite additional coverage, whichever is later. A State may provide for the application of this paragraph on a service-area-specific basis.

(e)[1] Market requirements

(1) In general

The provisions of subsection (a) of this section shall not be construed to require that a health insurance issuer offering health insurance coverage only in connection with group health plans or through one or more bona fide associations, or both, offer such health insurance coverage in the individual market.

(2) Conversion policies

A health insurance issuer offering health insurance coverage in connection with group health plans under this subchapter shall not be deemed to be a health insurance issuer offering individual health insurance coverage

[1] So in original. Two subsecs. (e) have been enacted.

solely because such issuer offers a conversion policy.

(f) Construction

Nothing in this section shall be construed—

(1) to restrict the amount of the premium rates that an issuer may charge an individual for health insurance coverage provided in the individual market under applicable State law; or

(2) to prevent a health insurance issuer offering health insurance coverage in the individual market from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(July 1, 1944, ch. 373, title XXVII, § 2741, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110 Stat. 1978.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts A and B of title XVIII of the Act are classified generally to parts A (§ 1395c et seq.) and B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of this title. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

EFFECTIVE DATE

Section 111(b) of Pub. L. 104–191 provided that:

''(1) IN GENERAL.—Except as provided in this subsection, part B of title XXVII of the Public Health Service Act [this part] (as inserted by subsection (a)) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

''(2) APPLICATION OF CERTIFICATION RULES.—The provisions of section 102(d)(2) [102(c)(2)] of this Act [set out as a note under section 300gg of this title] shall apply to section 2743 of the Public Health Service Act [section 300gg–43 of this title] in the same manner as it applies to section 2701(e) of such Act [section 300gg(e) of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–44 of this title.

§ 300gg–42. Guaranteed renewability of individual health insurance coverage

(a) In general

Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force such coverage at the option of the individual.

(b) General exceptions

A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one or more of the following:

(1) Nonpayment of premiums

The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(2) Fraud

The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) Termination of plan

The issuer is ceasing to offer coverage in the individual market in accordance with subsection (c) of this section and applicable State law.

(4) Movement outside service area

In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(5) Association membership ceases

In the case of health insurance coverage that is made available in the individual market only through one or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(c) Requirements for uniform termination of coverage

(1) Particular type of coverage not offered

In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of such type may be discontinued by the issuer only if—

(A) the issuer provides notice to each covered individual provided coverage of this type in such market of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage.

(2) Discontinuance of all coverage

(A) In general

Subject to subparagraph (C), in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in a State, health insurance coverage may be discontinued by the issuer only if—

(i) the issuer provides notice to the applicable State authority and to each individual of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

(ii) all health insurance issued or delivered for issuance in the State in such mar-

ket are discontinued and coverage under such health insurance coverage in such market is not renewed.

(B) Prohibition on market reentry

In the case of a discontinuation under subparagraph (A) in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) Exception for uniform modification of coverage

At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with State law and effective on a uniform basis among all individuals with that policy form.

(e) Application to coverage offered only through associations

In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one or more associations, a reference to an ''individual'' is deemed to include a reference to such an association (of which the individual is a member).

(July 1, 1944, ch. 373, title XXVII, § 2742, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110 Stat. 1982.)

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104–191, set out as a note under section 300gg–41 of this title.

§ 300gg–43. Certification of coverage

The provisions of section 300gg(e) of this title shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

(July 1, 1944, ch. 373, title XXVII, § 2743, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110 Stat. 1983.)

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, and provisions of section 102(c)(2) of Pub. L. 104–191, set out as a note under section 300gg of this title, applicable to this section in the same manner as it applies to section 300gg(e) of this title, see section 111(b) of Pub. L. 104–191, set out as a note under section 300gg–41 of this title.

§ 300gg–44. State flexibility in individual market reforms

(a) Waiver of requirements where implementation of acceptable alternative mechanism

(1) In general

The requirements of section 300gg–41 of this title shall not apply with respect to health insurance coverage offered in the individual market in the State so long as a State is found to be implementing, in accordance with this section and consistent with section 300gg–62(b) of this title, an alternative mechanism (in this section referred to as an ''acceptable alternative mechanism'')—

(A) under which all eligible individuals are provided a choice of health insurance coverage;

(B) under which such coverage does not impose any preexisting condition exclusion with respect to such coverage;

(C) under which such choice of coverage includes at least one policy form of coverage that is comparable to comprehensive health insurance coverage offered in the individual market in such State or that is comparable to a standard option of coverage available under the group or individual health insurance laws of such State; and

(D) in a State which is implementing—

(i) a model act described in subsection (c)(1) of this section,

(ii) a qualified high risk pool described in subsection (c)(2) of this section, or

(iii) a mechanism described in subsection (c)(3) of this section.

(2) Permissible forms of mechanisms

A private or public individual health insurance mechanism (such as a health insurance coverage pool or programs, mandatory group conversion policies, guaranteed issue of one or more plans of individual health insurance coverage, or open enrollment by one or more health insurance issuers), or combination of such mechanisms, that is designed to provide access to health benefits for individuals in the individual market in the State in accordance with this section may constitute an acceptable alternative mechanism.

(b) Application of acceptable alternative mechanisms

(1) Presumption

(A) In general

Subject to the succeeding provisions of this subsection, a State is presumed to be implementing an acceptable alternative mechanism in accordance with this section as of July 1, 1997, if, by not later than April 1, 1997, the chief executive officer of a State—

(i) notifies the Secretary that the State has enacted or intends to enact (by not later than January 1, 1998, or July 1, 1998, in the case of a State described in subparagraph (B)(ii)) any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of January

1, 1998,[1] (or, in the case of a State described in subparagraph (B)(ii), July 1, 1998); and

(ii) provides the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

(B) Delay permitted for certain States

(i) Effect of delay

In the case of a State described in clause (ii) that provides notice under subparagraph (A)(i), for the presumption to continue on and after July 1, 1998, the chief executive officer of the State by April 1, 1998—

(I) must notify the Secretary that the State has enacted any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of July 1, 1998; and

(II) must provide the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

(ii) States described

A State described in this clause is a State that has a legislature that does not meet within the 12-month period beginning on August 21, 1996.

(C) Continued application

In order for a mechanism to continue to be presumed to be an acceptable alternative mechanism, the State shall provide the Secretary every 3 years with information described in subparagraph (A)(ii) or (B)(i)(II) (as the case may be).

(2) Notice

If the Secretary finds, after review of information provided under paragraph (1) and in consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism is not an acceptable alternative mechanism or is not (or no longer) being implemented, the Secretary—

(A) shall notify the State of—

(i) such preliminary determination, and

(ii) the consequences under paragraph (3) of a failure to implement such a mechanism; and

(B) shall permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) in a manner so that may be an acceptable alternative mechanism or to provide for implementation of such a mechanism.

(3) Final determination

If, after providing notice and opportunity under paragraph (2), the Secretary finds that the mechanism is not an acceptable alternative mechanism or the State is not implementing such a mechanism, the Secretary shall notify the State that the State is no longer considered to be implementing an acceptable alternative mechanism and that the requirements of section 300gg–41 of this title shall apply to health insurance coverage offered in the individual market in the State, effective as of a date specified in the notice.

(4) Limitation on secretarial authority

The Secretary shall not make a determination under paragraph (2) or (3) on any basis other than the basis that a mechanism is not an acceptable alternative mechanism or is not being implemented.

(5) Future adoption of mechanisms

If a State, after January 1, 1997, submits the notice and information described in paragraph (1), unless the Secretary makes a finding described in paragraph (3) within the 90-day period beginning on the date of submission of the notice and information, the mechanism shall be considered to be an acceptable alternative mechanism for purposes of this section, effective 90 days after the end of such period, subject to the second sentence of paragraph (1).

(c) Provision related to risk

(1) Adoption of NAIC models

The model act referred to in subsection (a)(1)(D)(i) of this section is the Small Employer and Individual Health Insurance Availability Model Act (adopted by the National Association of Insurance Commissioners on June 3, 1996) insofar as it applies to individual health insurance coverage or the Individual Health Insurance Portability Model Act (also adopted by such Association on such date).

(2) Qualified high risk pool

For purposes of subsection (a)(1)(D)(ii) of this section, a ''qualified high risk pool'' described in this paragraph is a high risk pool that—

(A) provides to all eligible individuals health insurance coverage (or comparable coverage) that does not impose any preexisting condition exclusion with respect to such coverage for all eligible individuals, and

(B) provides for premium rates and covered benefits for such coverage consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act (as in effect as of August 21, 1996).

(3) Other mechanisms

For purposes of subsection (a)(1)(D)(iii) of this section, a mechanism described in this paragraph—

(A) provides for risk adjustment, risk spreading, or a risk spreading mechanism (among issuers or policies of an issuer) or otherwise provides for some financial subsidization for eligible individuals, including through assistance to participating issuers; or

(B) is a mechanism under which each eligible individual is provided a choice of all individual health insurance coverage otherwise available.

(July 1, 1944, ch. 373, title XXVII, § 2744, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110

[1] So in original. The comma probably should not appear.

Stat. 1984; amended Pub. L. 104–204, title VI, § 605(b)(1), Sept. 26, 1996, 110 Stat. 2942.)

CODIFICATION

August 21, 1996, referred to in subsec. (b)(1)(B)(ii), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 104–191, which enacted this subchapter, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–204 made technical amendment to reference in original act which appears in text as reference to section 300gg–62(b) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 605(c) of Pub. L. 104–204 provided that: ''The amendments made by this section [enacting section 300gg–51 of this title and amending this section and sections 300gg–61 and 300gg–62 of this title] shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 1998.''

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104–191, set out as a note under section 300gg–41 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–41 of this title.

SUBPART 2—OTHER REQUIREMENTS

CODIFICATION

This subpart was, in the original, subpart 3 of part B of title XXVII of act July 1, 1944, and has been redesignated as subpart 2 for purposes of codification. Another subpart 3 of part B of title XXVII of act July 1, 1944, is classified to subpart 3 (§ 300gg–61 et seq.) of part B of this subchapter.

§ 300gg–51. Standards relating to benefits for mothers and newborns

(a) In general

The provisions of section 300gg–4 of this title (other than subsections (d) and (f)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

(b) Notice requirement

A health insurance issuer under this part shall comply with the notice requirement under section 1185(d) of title 29 with respect to the requirements referred to in subsection (a) of this section as if such section applied to such issuer and such issuer were a group health plan.

(c) Preemption; exception for health insurance coverage in certain States

(1) In general

The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 300gg–23(d)(1) of this title) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

(2) Construction

Section 300gg–62(a) of this title shall not be construed as superseding a State law described in paragraph (1).

(July 1, 1944, ch. 373, title XXVII, § 2751, as added Pub. L. 104–204, title VI, § 605(a)(4), Sept. 26, 1996, 110 Stat. 2941.)

EFFECTIVE DATE

Section applicable to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after Jan. 1, 1998, see section 605(c) of Pub. L. 104–204, set out as an Effective Date of 1996 Amendment note under section 300gg–44 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300gg–62 of this title.

§ 300gg–52. Required coverage for reconstructive surgery following mastectomies

The provisions of section 300gg–6 of this title shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

(July 1, 1944, ch. 373, title XXVII, § 2752, as added Pub. L. 105–277, div. A, § 101(f) [title IX, § 903(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–438.)

EFFECTIVE DATE

Pub. L. 105–277, div. A, § 101(f) [title IX, § 903(c)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–438, provided that: ''The amendment made by subsection (b) [enacting this section] shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act [Oct. 21, 1998].''

SUBPART 3—GENERAL PROVISIONS

CODIFICATION

Another subpart 3 of part B of title XXVII of act July 1, 1944, is classified to subpart 3 (§ 300gg–51) of part B of this subchapter.

§ 300gg–61. Enforcement

(a) State enforcement

(1) State authority

Subject to section 300gg–62 of this title, each State may require that health insurance issu-

ers that issue, sell, renew, or offer health insurance coverage in the State in the individual market meet the requirements established under this part with respect to such issuers.

(2) Failure to implement requirements

In the case of a State that fails to substantially enforce the requirements set forth in this part with respect to health insurance issuers in the State, the Secretary shall enforce the requirements of this part under subsection (b) of this section insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in the individual market in such State.

(b) Secretarial enforcement authority

The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 300gg–22(b)(2) of this title in relation to the enforcement of the provisions of part A of this subchapter with respect to issuers of health insurance coverage in the small group market in the State.

(July 1, 1944, ch. 373, title XXVII, § 2761, formerly § 2745, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110 Stat. 1986; renumbered § 2761 and amended Pub. L. 104–204, title VI, § 605(a)(2), (b)(2), Sept. 26, 1996, 110 Stat. 2941, 2942.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–204 made technical amendment to reference in original act which appears in text as reference to section 300gg–62 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–204 applicable to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after Jan. 1, 1998, see section 605(c) of Pub. L. 104–204, set out as a note under section 300gg–44 of this title.

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104–191, set out as a note under section 300gg–41 of this title.

§ 300gg–62. Preemption

(a) In general

Subject to subsection (b) of this section, nothing in this part (or part C of this subchapter insofar as it applies to this part) shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements unless such standards and requirements prevent the application of a requirement of this part.

(b) Rules of construction

(1) Nothing in this part (or part C of this subchapter insofar as it applies to this part) shall be construed to affect or modify the provisions of section 1144 of title 29.

(2) Nothing in this part (other than section 300gg–51 of this title) shall be construed as requiring health insurance coverage offered in the individual market to provide specific benefits under the terms of such coverage.

(July 1, 1944, ch. 373, title XXVII, § 2762, formerly § 2746, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110 Stat. 1987; renumbered § 2762 and amended, Pub. L. 104–204, title VI, § 605(a)(2), (b)(3), Sept. 26, 1996, 110 Stat. 2941, 2942.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–204, § 605(b)(3), designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–204 applicable to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after Jan. 1, 1998, see section 605(c) of Pub. L. 104–204, set out as a note under section 300gg–44 of this title.

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104–191, set out as a note under section 300gg–41 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300gg–44, 300gg–51, 300gg–61 of this title.

§ 300gg–63. General exceptions

(a) Exception for certain benefits

The requirements of this part shall not apply to any health insurance coverage in relation to its provision of excepted benefits described in section 300gg–91(c)(1) of this title.

(b) Exception for certain benefits if certain conditions met

The requirements of this part shall not apply to any health insurance coverage in relation to its provision of excepted benefits described in paragraph (2), (3), or (4) of section 300gg–91(c) of this title if the benefits are provided under a separate policy, certificate, or contract of insurance.

(July 1, 1944, ch. 373, title XXVII, § 2763, formerly § 2747, as added Pub. L. 104–191, title I, § 111(a), Aug. 21, 1996, 110 Stat. 1987; renumbered § 2763, Pub. L. 104–204, title VI, § 605(a)(2), Sept. 26, 1996, 110 Stat. 2941.)

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104–191, set out as a note under section 300gg–41 of this title.

PART C—DEFINITIONS; MISCELLANEOUS PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300gg–23, 300gg–62 of this title.

§ 300gg–91. Definitions

(a) Group health plan

(1) Definition

The term ''group health plan'' means an employee welfare benefit plan (as defined in sec-

tion 3(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(1)]) to the extent that the plan provides medical care (as defined in paragraph (2)) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

(2) Medical care

The term ''medical care'' means amounts paid for—

(A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

(B) amounts paid for transportation primarily for and essential to medical care referred to in subparagraph (A), and

(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

(3) Treatment of certain plans as group health plan for notice provision

A program under which creditable coverage described in subparagraph (C), (D), (E), or (F) of section 300gg(c)(1) of this title is provided shall be treated as a group health plan for purposes of applying section 300gg(e) of this title.

(b) Definitions relating to health insurance

(1) Health insurance coverage

The term ''health insurance coverage'' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(2) Health insurance issuer

The term ''health insurance issuer'' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(b)(2)]). Such term does not include a group health plan.

(3) Health maintenance organization

The term ''health maintenance organization'' means—

(A) a Federally qualified health maintenance organization (as defined in section 300e(a) of this title),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(4) Group health insurance coverage

The term ''group health insurance coverage'' means, in connection with a group health plan, health insurance coverage offered in connection with such plan.

(5) Individual health insurance coverage

The term ''individual health insurance coverage'' means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

(c) Excepted benefits

For purposes of this subchapter, the term ''excepted benefits'' means benefits under one or more (or any combination thereof) of the following:

(1) Benefits not subject to requirements

(A) Coverage only for accident, or disability income insurance, or any combination thereof.

(B) Coverage issued as a supplement to liability insurance.

(C) Liability insurance, including general liability insurance and automobile liability insurance.

(D) Workers' compensation or similar insurance.

(E) Automobile medical payment insurance.

(F) Credit-only insurance.

(G) Coverage for on-site medical clinics.

(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(2) Benefits not subject to requirements if offered separately

(A) Limited scope dental or vision benefits.

(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(C) Such other similar, limited benefits as are specified in regulations.

(3) Benefits not subject to requirements if offered as independent, noncoordinated benefits

(A) Coverage only for a specified disease or illness.

(B) Hospital indemnity or other fixed indemnity insurance.

(4) Benefits not subject to requirements if offered as separate insurance policy

Medicare supplemental health insurance (as defined under section 1395ss(g)(1) of this title), coverage supplemental to the coverage provided under chapter 55 of title 10, and similar supplemental coverage provided to coverage under a group health plan.

(d) Other definitions

(1) Applicable State authority

The term ''applicable State authority'' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this subchapter for the State involved with respect to such issuer.

(2) Beneficiary

The term ''beneficiary'' has the meaning given such term under section 3(8) of the Em-

ployee Retirement Income Security Act of 1974 [29 U.S.C. 1002(8)].

(3) Bona fide association

The term ''bona fide association'' means, with respect to health insurance coverage offered in a State, an association which—

(A) has been actively in existence for at least 5 years;

(B) has been formed and maintained in good faith for purposes other than obtaining insurance;

(C) does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

(D) makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);

(E) does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

(F) meets such additional requirements as may be imposed under State law.

(4) COBRA continuation provision

The term ''COBRA continuation provision'' means any of the following:

(A) Section 4980B of title 26, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1161 et seq.], other than section 609 of such Act [29 U.S.C. 1169].

(C) Subchapter XX of this chapter.

(5) Employee

The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(6)].

(6) Employer

The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(5)], except that such term shall include only employers of two or more employees.

(7) Church plan

The term ''church plan'' has the meaning given such term under section 3(33) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(33)].

(8) Governmental plan

(A) The term ''governmental plan'' has the meaning given such term under section 3(32) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(32)] and any Federal governmental plan.

(B) FEDERAL GOVERNMENTAL PLAN.—The term ''Federal governmental plan'' means a governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of such Government.

(C) NON-FEDERAL GOVERNMENTAL PLAN.—The term ''non-Federal governmental plan'' means a governmental plan that is not a Federal governmental plan.

(9) Health status-related factor

The term ''health status-related factor'' means any of the factors described in section 300gg–1(a)(1) of this title.

(10) Network plan

The term ''network plan'' means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided, in whole or in part, through a defined set of providers under contract with the issuer.

(11) Participant

The term ''participant'' has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(7)].

(12) Placed for adoption defined

The term ''placement'', or being ''placed'', for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

(13) Plan sponsor

The term ''plan sponsor'' has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(16)(B)].

(14) State

The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(e) Definitions relating to markets and small employers

For purposes of this subchapter:

(1) Individual market

(A) In general

The term ''individual market'' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(B) Treatment of very small groups

(i) In general

Subject to clause (ii), such terms[1] includes coverage offered in connection with a group health plan that has fewer than two participants as current employees on the first day of the plan year.

(ii) State exception

Clause (i) shall not apply in the case of a State that elects to regulate the coverage described in such clause as coverage in the small group market.

[1] So in original. Probably should be ''term''.

(2) Large employer

The term ''large employer'' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

(3) Large group market

The term ''large group market'' means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a large employer.

(4) Small employer

The term ''small employer'' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

(5) Small group market

The term ''small group market'' means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a small employer.

(6) Application of certain rules in determination of employer size

For purposes of this subsection—

(A) Application of aggregation rule for employers

all[2] persons treated as a single employer under subsection (b), (c), (m), or (*o*) of section 414 of title 26 shall be treated as 1 employer.

(B) Employers not in existence in preceding year

In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small or large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(C) Predecessors

Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(July 1, 1944, ch. 373, title XXVII, § 2791, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1972.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsec. (d)(4)(B), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Part 6 of subtitle B of title I of the Act is classified generally to part 6 (§ 1161 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300e, 300gg, 300gg–11, 300gg–21, 300gg–41, 300gg–63, 1320d, 1397cc, 1397ii, 1397jj of this title; title 21 section 360aaa–5.

[2] So in original. Probably should be capitalized.

§ 300gg–92. Regulations

The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this subchapter. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this subchapter.

(July 1, 1944, ch. 373, title XXVII, § 2792, as added Pub. L. 104–191, title I, § 102(a), Aug. 21, 1996, 110 Stat. 1976.)

REFERENCES IN TEXT

Section 104 of the Health Care Portability and Accountability Act of 1996, referred to in text, probably means section 104 of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191, set out below.

ASSURING COORDINATION AMONG DEPARTMENTS OF TREASURY, HEALTH AND HUMAN SERVICES, AND LABOR

Section 104 of Pub. L. 104–191 provided that: ''The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

''(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this subtitle [subtitle A (§§ 101–104) of title I of Pub. L. 104–191, enacting this section, sections 300gg, 300gg–1, 300gg–11 to 300gg–13, 300gg–21 to 300gg–23, and 300gg–91 of this title, and sections 1181 to 1183 and 1191 to 1191c of Title 29, Labor, amending sections 300e and 300bb–8 of this title and sections 1003, 1021, 1022, 1024, 1132, 1136, and 1144 of Title 29, and enacting provisions set out as notes under section 300gg of this title and section 1181 of Title 29] (and the amendments made by this subtitle and section 401 [enacting sections 9801 to 9806 of Title 26, Internal Revenue Code]) are administered so as to have the same effect at all times; and

''(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.''

§§ 300aaa to 300aaa–13. Transferred

CODIFICATION

Former title XXVII of the Public Health Service Act was renumbered part B of title II by Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and is classified to part B (§ 238 et seq.) of subchapter I of this chapter.

Section 300aaa, act July 1, 1944, ch. 373, title XXVII, § 2701, formerly title V, § 501, 58 Stat. 709, as amended, which related to gifts for benefit of Service, was renumbered section 231 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, § 2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238 of this title.

Section 300aaa–1, act July 1, 1944, ch. 373, title XXVII, § 2702, formerly title V, § 502, 58 Stat. 710, as amended,

which related to use of immigration station hospitals, was renumbered section 232 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238a of this title.

Section 300aaa–2, act July 1, 1944, ch. 373, title XXVII, §2703, formerly title V, §503, 58 Stat. 710, as amended, which related to disposition of money collected for care of patients, was renumbered section 233 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238b of this title.

Section 300aaa–3, act July 1, 1944, ch. 373, title XXVII, §2704, formerly title V, §506, 58 Stat. 710, as amended, which related to transportation of remains of officers, was renumbered section 234 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238c of this title.

Section 300aaa–4, act July 1, 1944, ch. 373, title XXVII, §2705, formerly title V, §507, as added June 24, 1967, Pub. L. 90–31, §5, 81 Stat. 79, and amended, which related to availability of appropriations for grants to Federal institutions, was renumbered section 235 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238d of this title.

Section 300aaa–5, act July 1, 1944, ch. 373, title XXVII, §2706, formerly title V, §508, 58 Stat. 711, as amended, which related to transfer of funds for continuance of transferred functions, was renumbered section 236 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238e of this title.

Section 300aaa–6, act July 1, 1944, ch. 373, title XXVII, §2707, formerly title V, §509, 58 Stat. 711, as amended, which related to availability of appropriations, was renumbered section 237 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238f of this title.

Section 300aaa–7, act July 1, 1944, ch. 373, title XXVII, §2708, formerly title V, §510, 58 Stat. 711, as amended, which related to wearing of uniforms, was renumbered section 238 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238g of this title.

Section 300aaa–8, act July 1, 1944, ch. 373, title XXVII, §2709, formerly title V, §511, 58 Stat. 711, as amended, which related to annual report of Surgeon General, was renumbered section 239 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238h of this title.

Section 300aaa–9, act July 1, 1944, ch. 373, title XXVII, §2710, formerly title V, §512, as added Oct. 15, 1968, Pub. L. 90–574, title V, §503(a), 82 Stat. 1012, and amended, which related to memorials and other acknowledgements for contributions to the health of the Nation, was renumbered section 240 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238i of this title.

Section 300aaa–10, act July 1, 1944, ch. 373, title XXVII, §2711, formerly title V, §513, as added June 30, 1970, Pub. L. 91–296, title IV, §401(a), 84 Stat. 351, and amended, which related to evaluation of programs, was renumbered section 241 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238j of this title.

Section 300aaa–11, act July 1, 1944, ch. 373, title XXVII, §2712, formerly title V, §514, as added Nov. 9, 1978, Pub. L. 95–623, §11(e), 92 Stat. 3456, and amended, which related to contract authority, was renumbered section 242 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238k of this title.

Section 300aaa–12, act July 1, 1944, ch. 373, title XXVII, §2713, 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, and amended, which related to recovery by United States of base amount plus interest in certain circumstances, was renumbered section 243 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238*l* of this title.

Section 300aaa–13, act July 1, 1944, ch. 373, title XXVII, §2714, formerly title XXI, §2116, as added Apr. 7, 1986, Pub. L. 99–272, title XVII, §17003, 100 Stat. 359, and amended, which related to use of fiscal agents, was renumbered section 244 of title II of act July 1, 1944, by Pub. L. 103–43, title XX, §2010(a)(1)–(3), June 10, 1993, 107 Stat. 213, and transferred to section 238m of this title.

CHAPTER 7—SOCIAL SECURITY

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