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42 USC Sec. 242b

01/03/05

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A - PUBLIC HEALTH SERVICE

SUBCHAPTER II - GENERAL POWERS AND DUTIES

Part A - Research and Investigations

-HEAD-

Sec. 242b. General authority respecting research, evaluations, and demonstrations in health statistics, health services, and health care technology

-STATUTE-

(a) Scope of activities

The Secretary may, through the Agency for Healthcare Research and Quality or the National Center for Health Statistics, or using Ruth L. Kirschstein 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 8141 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 Healthcare Research and Quality 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 Healthcare Research and Quality and the National Center for Health Statistics.

-SOURCE-

(July 1, 1944, ch. 373, title III, Sec. 304, as added July 28, 1955, ch. 417, Sec. 3, 69 Stat. 382; amended Aug. 2, 1956, ch. 871, title V, Sec. 502, 70 Stat. 930; Pub. L. 90-174, Sec. 3(a), Dec. 5, 1967, 81 Stat. 534; Pub. L. 91-296, title IV, Sec. 401(b)(1)(A), June 30, 1970, 84 Stat. 352; Pub. L. 91-515, title II, Secs. 201(a)-(c), 202, 203, Oct. 30, 1970, 84 Stat. 1301-1303; Pub. L. 93-45, title I, Sec. 102, June 18, 1973, 87 Stat. 91; Pub. L. 93-353, title I, Sec. 103, July 23, 1974, 88 Stat. 362; Pub. L. 95-623, Secs. 3, 7, Nov. 9, 1978, 92 Stat. 3443, 3451; Pub. L. 96-32, Sec. 5(a)-(c), July 10, 1979, 93 Stat. 82; Pub. L. 97-35, title IX, Sec. 918, Aug. 13, 1981, 95 Stat. 565; Pub. L. 98-551, Sec. 5(c), Oct. 30, 1984, 98 Stat. 2819; Pub. L. 101-239, title VI, Sec. 6103(e)(1), Dec. 19, 1989, 103 Stat. 2205; Pub. L. 103-183, title

v, Sec. 501(b), Dec. 14, 1993, 107 Stat. 2237; Pub. L. 106-129, Sec. 2(b)(2), Dec. 6, 1999, 113 Stat. 1670; Pub. L. 107-206, title I, Sec. 804(c), Aug. 2, 2002, 116 Stat. 874.)

-REFTEXT-

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, Sec. 6103(d)(1), Dec. 19, 1989, 103 Stat. 2205.

-COD-

CODIFICATION

In subsec. (b)(4), "section 8141 of title 40" substituted for "the Act of March 3, 1877 (40 U.S.C. 34)" on authority of Pub. L. 107-217, Sec. 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

-MISC1-

AMENDMENTS

2002 - Subsec. (a). Pub. L. 107-206 substituted "Ruth L. Kirschstein National Research Service Awards" for "National Research Service Awards".

1999 - Subsecs. (a), (c). Pub. L. 106-129 substituted "Agency for Healthcare Research and Quality" for "Agency for Health Care Policy and Research" wherever appearing.

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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 918(d)(1), substituted "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (d)(1). Pub. L. 97-35, Sec. 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, Sec. 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, Sec. 5(a), (b), amended directory language of Pub. L. 95-623, Sec. 3(b), (d), and required no change in text. See 1978 Amendment note below.

Subsec. (d). Pub. L. 96-32, Sec. 5(c), substituted "(d)" for "(e)" as designation of subsection added by Pub. L. 95-623, Sec. 7, thereby correcting the subsection designation.

1978 - Subsec. (a)(1). Pub. L. 95-623, Sec. 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, Sec. 3(a), provided for emphasis to demonstrations, evaluations, and epidemiological 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, Sec. 3(a), added par. (3).

Subsec. (b)(1). Pub. L. 95-623, Sec. 3(b), as amended by Pub. L. 96-32, Sec. 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, Sec. 3(d), as amended by Pub. L. 96-32, Sec. 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, Sec. 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, Sec. 7, as amended by Pub. L. 96-32, Sec. 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, Secs. 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, Sec. 201(a)(2), redesignated subsec. (b) as (a)(2), and substituted "subsection" for "section" wherever appearing.

Subsec. (a)(3). Pub. L. 91-515, Secs. 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, Sec. 201(a)(2)(A), (b), added subsec. (b). Former subsec. (b) redesignated (a)(2).

Subsecs. (c), (d). Pub. L. 91-515, Secs. 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.

-TRANS-

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.

-MISC2-

COMMISSION ON SYSTEMIC INTEROPERABILITY

Pub. L. 108-173, title X, Sec. 1012, Dec. 8, 2003, 117 Stat.

2435, provided that:

"(a) Establishment. - The Secretary [of Health and Human Services] shall establish a commission to be known as the 'Commission on Systemic Interoperability' (in this section referred to as the 'Commission').

"(b) Duties. -

"(1) In general. - The Commission shall develop a comprehensive strategy for the adoption and implementation of health care information technology standards, that includes a timeline and prioritization for such adoption and implementation.

"(2) Considerations. - In developing the comprehensive health care information technology strategy under paragraph (1), the Commission shall consider -

"(A) the costs and benefits of the standards, both financial impact and quality improvement;

"(B) the current demand on industry resources to implement this Act [see Tables for classification] and other electronic standards, including HIPAA standards; and

"(C) the most cost-effective and efficient means for industry to implement the standards.

"(3) Noninterference. - In carrying out this section, the Commission shall not interfere with any standards development of adoption processes underway in the private or public sector and shall not replicate activities related to such standards or the national health information infrastructure underway within the Department of Health and Human Services.

"(4) Report. - Not later than October 31, 2005, the Commission shall submit to the Secretary [of Health and Human Services] and to Congress a report describing the strategy developed under

paragraph (1), including an analysis of the matters considered under paragraph (2).

"(c) Membership. -

"(1) Number and appointment. - The Commission shall be composed of 11 members appointed as follows:

"(A) The President shall appoint three members, one of whom the President shall designate as Chairperson.

"(B) The Majority Leader of the Senate shall appoint two members.

"(C) The Minority Leader of the Senate shall appoint two members.

"(D) The Speaker of the House of Representatives shall appoint two members.

"(E) The Minority Leader of the House of Representatives shall appoint two members.

"(2) Qualifications. - The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, health plans and integrated delivery systems, reimbursement of health facilities, practicing physicians, practicing pharmacists, and other providers of health services, health care technology and information systems, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(d) Terms. - Each member shall be appointed for the life of the Commission.

"(e) Compensation. -

"(1) Rates of pay. - Members shall each be paid at a rate not to exceed the daily equivalent of the rate of basic pay for level IV of the Executive Schedule for each day (including travel time)

during which they are engaged in the actual performance of duties vested in the Commission.

"(2) Prohibition of compensation of federal employees. - Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

"(3) Travel expenses. - Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

"(f) Quorum. - A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(g) Director and Staff of Commission; Experts and Consultants. -

"(1) Director. - The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay for level IV of the Executive Schedule.

"(2) Staff. - With the approval of the Commission, the Director may appoint and fix the pay of such additional personnel as the Director considers appropriate.

"(3) Applicability of certain civil service laws. - The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of level IV of the Executive Schedule.

"(4) Experts and consultants. - With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(5) Staff of federal agencies. - Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act [see Tables for classification].

"(h) Powers of Commission. -

"(1) Hearings and sessions. - The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

"(2) Powers of members and agents. - Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

"(3) Obtaining official data. - The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

"(4) Gifts, bequests, and devises. - The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission. For purposes of Federal income, estate, and gift

taxes, property accepted under this subsection shall be considered as a gift, bequest, or devise to the United States.

"(5) Mails. - The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(6) Administrative support services. - Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

"(7) Contract authority. - The Commission may enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)).

"(i) Termination. - The Commission shall terminate on 30 days after submitting its report pursuant to subsection (b)(3) [(b)(4)].

"(j) Authorization of Appropriations. - There is authorized to be appropriated such sums as may be necessary to carry out this section."

MODEL STANDARDS WITH RESPECT TO PREVENTIVE HEALTH SERVICES IN
COMMUNITIES

Pub. L. 95-83, title III, Sec. 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, Sec. 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 analysis 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, Sec. 231, July 30, 1965, 79 Stat. 360, as amended by Pub. L. 90-248, title III, Sec. 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.

-FOOTNOTE-

(!1) See References in Text note below.



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