

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 Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as 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. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 109-482 applicable only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years, see section 109 of Pub. L. 109-482, set out as a note under section 281 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.

SUBCHAPTER III-A—SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

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 func-

tions 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 Healthcare Research and Quality, 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 Healthcare Research and Quality 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, Centers for Medicare & Medicaid Services, 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 may be in the Administration an Associate Administrator for Alcohol Prevention and Treatment Policy to whom the Adminis-

trator may 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 may 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 2010 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 who shall report directly to the Administrator.

(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 re-

ferred 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) Office

Nothing in this subsection shall be construed to preclude the Secretary from establishing within the Substance Abuse and Mental Health Administration an Office of Women’s Health.

(5) 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 Administrator¹ 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) Emergency response

(1) In general

Notwithstanding section 290aa-3 of this title and except as provided in paragraph (2), the Secretary may use not to exceed 2.5 percent of all amounts appropriated under this subchapter for a fiscal year to make noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities.

(2) Exceptions

Amounts appropriated under part C of this subchapter shall not be subject to paragraph (1).

(3) Emergencies

The Secretary shall establish criteria for determining that a substance abuse or mental health emergency exists and publish such criteria in the Federal Register prior to providing funds under this subsection.

(n) Limitation on the 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 section 290aa-4 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. 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.

(o) 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 2001, and such sums as may be necessary for each of the fiscal years 2002 and 2003.

¹ So in original. Probably should be "Administrator".

(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; Pub. L. 106-129, §2(b)(2), Dec. 6, 1999, 113 Stat. 1670; Pub. L. 106-310, div. B, title XXXI, §3102, title XXXIV, §3401(a), Oct. 17, 2000, 114 Stat. 1170, 1218; Pub. L. 108-173, title IX, §900(e)(2)(A), Dec. 8, 2003, 117 Stat. 2372; Pub. L. 111-148, title III, §3509(d), Mar. 23, 2010, 124 Stat. 534.)

REFERENCES IN TEXT

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

2010—Subsec. (f)(1). Pub. L. 111-148, §3509(d)(1), inserted “who shall report directly to the Administrator” before period at end.

Subsec. (f)(4), (5). Pub. L. 111-148, §3509(d)(2), (3), added par. (4) and redesignated former par. (4) as (5).

2003—Subsec. (d)(18). Pub. L. 108-173 substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration”.

2000—Subsec. (e)(1). Pub. L. 106-310, §3401(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “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.”

Subsecs. (m) to (o). Pub. L. 106-310, §3102, added subsecs. (m) and (n), redesignated former subsec. (m) as (o), and substituted “2001, and such sums as may be necessary for each of the fiscal years 2002 and 2003” for “1993, and such sums as may be necessary for fiscal year 1994” before period at end.

1999—Subsec. (d)(8), (9). Pub. L. 106-129, which directed the substitution of “Agency for Healthcare Research and Quality” for “Agency for Health Care Pol-

icy and Research”, was executed by making the substitution for “Agency for Health Care Policy Research”, to reflect the probable intent of Congress.

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

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as 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. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

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. 102-321, title I, § 161, July 10, 1992, 106 Stat. 375, 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."

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

Pub. L. 102-321, title I, subtitle D, July 10, 1992, 106 Stat. 370, 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 [42 U.S.C. 201 et seq.], 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 [42 U.S.C. 201 et seq.]. 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 [42 U.S.C. 201 et seq.], 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 pre-

vicious 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 Adminis-

tration 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 42 U.S.C. 300x(b)], 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 [42 U.S.C. 285n, 285o, 285p], 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) [42 U.S.C. 284(a)], 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

Pub. L. 102-321, title VII, §708, July 10, 1992, 106 Stat. 440, 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

Pub. L. 100-690, title II, §2071, Nov. 18, 1988, 102 Stat. 4214, 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

Pub. L. 100-690, title II, §2073, Nov. 18, 1988, 102 Stat. 4215, 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

Pub. L. 98-24, §1(b), Apr. 26, 1983, 97 Stat. 175, 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

Pub. L. 98-24, §3, Apr. 26, 1983, 97 Stat. 182, 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.

TRANSFER OF BALANCES IN WORKING CAPITAL FUND, NARCOTIC HOSPITALS, TO SURPLUS FUND

Act July 8, 1947, ch. 210, title II, §201, 61 Stat. 269, provided: “That 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.”

[Section 201 of act July 8, 1947, set out above, was formerly classified to section 258a of this title.]

§ 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 activities 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 non-voting 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 coun-