

“(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 and Biomedical Product Assessment Service

(a) Creation; number of members

(1) There shall be in the Public Health Service a Silvio O. Conte Senior Biomedical Research and Biomedical Product Assessment Service (in this section referred to as the “Service”), not to exceed 2,000 members, the purpose of which is to recruit and retain outstanding and qualified scientific and technical experts in the fields of biomedical research, clinical research evaluation, and biomedical product assessment.

(2) The authority established in paragraph (1) may not be construed to require the Secretary to reduce the number of employees serving under any other employment system in order to offset the number of members serving in the Service.

(3) The Secretary shall assign experts under this section to agencies within the Department of Health and Human Services taking into account the need for the expertise of such expert.

(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, clinical research evaluation, or biomedical product assessment. No individual may be appointed to the Service unless such individual (1) has earned a doctoral level degree in biomedicine or a related field, or a doctoral or master's level degree in engineering, bioinformatics, or a related or emerging 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 amount of annual compensation (excluding expenses) specified in section 102 of title 3.

(e) 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.

(f) 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; Pub. L. 114-255, div. A, title III, § 3071(a), Dec. 13, 2016, 130 Stat. 1133.)

REFERENCES IN TEXT

The General Schedule, referred to in subsecs. (b), (d)(2), and (e), 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 (e), are classified to section 3301 et seq. of Title 5.

AMENDMENTS

2016—Pub. L. 114-255, § 3071(a)(1), inserted “and Biomedical Product Assessment” after “Research” in section catchline.

Subsec. (a)(1). Pub. L. 114-255, § 3071(a)(2)(A), substituted “Silvio O. Conte Senior Biomedical Research and Biomedical Product Assessment Service (in this section referred to as the ‘Service’), not to exceed 2,000 members, the purpose of which is to recruit and retain outstanding and qualified scientific and technical experts in the fields of biomedical research, clinical research evaluation, and biomedical product assessment” for “Silvio O. Conte Senior Biomedical Research Service, not to exceed 500 members”.

Subsec. (a)(2). Pub. L. 114-255, § 3071(a)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as

follows: “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’).”

Subsec. (a)(3). Pub. L. 114-255, § 3071(a)(2)(C), added par. (3).

Subsec. (b). Pub. L. 114-255, § 3071(a)(3)(A), substituted “clinical research evaluation, or biomedical product assessment” for “or clinical research evaluation” in introductory provisions.

Subsec. (b)(1). Pub. L. 114-255, § 3071(a)(3)(B), inserted “or a doctoral or master’s level degree in engineering, bioinformatics, or a related or emerging field,” after “related field.”

Subsec. (d)(2). Pub. L. 114-255, § 3071(a)(4), substituted “and shall not exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3” for “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”.

Subsecs. (e) to (g). Pub. L. 114-255, § 3071(a)(5), (6), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: “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.”

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.

§ 237a. Health and Human Services Office on Women’s Health

(a) Establishment of Office

There is established within the Office of the Secretary, an Office on Women’s Health (referred to in this section as the “Office”). The Office shall be headed by a Deputy Assistant Secretary for Women’s Health who may report to the Secretary.

(b) Duties

The Secretary, acting through the Office, with respect to the health concerns of women, shall—