

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—

(1) establish short-range and long-range goals and objectives within the Department of Health and Human Services and, as relevant and appropriate, coordinate with other appropriate offices on activities within the Department that relate to disease prevention, health promotion, service delivery, research, and public and health care professional education, for issues of particular concern to women throughout their lifespan;¹

(2) provide expert advice and consultation to the Secretary concerning scientific, legal, ethical, and policy issues relating to women's health;

(3) monitor the Department of Health and Human Services' offices, agencies, and regional activities regarding women's health and identify needs regarding the coordination of activities, including intramural and extramural multidisciplinary activities;

(4) establish a Department of Health and Human Services Coordinating Committee on Women's Health, which shall be chaired by the Deputy Assistant Secretary for Women's Health and composed of senior level representatives from each of the agencies and offices of the Department of Health and Human Services;

(5) establish a National Women's Health Information Center to—

(A) facilitate the exchange of information regarding matters relating to health information, health promotion, preventive health services, research advances, and education in the appropriate use of health care;

(B) facilitate access to such information;

(C) assist in the analysis of issues and problems relating to the matters described in this paragraph; and

(D) provide technical assistance with respect to the exchange of information (including facilitating the development of materials for such technical assistance);

(6) coordinate efforts to promote women's health programs and policies with the private sector; and

(7) through publications and any other means appropriate, provide for the exchange of information between the Office and recipients of grants, contracts, and agreements under subsection (c), and between the Office and health professionals and the general public.

(c) Grants and contracts regarding duties

(1) Authority

In carrying out subsection (b), the Secretary may make grants to, and enter into cooperative agreements, contracts, and interagency agreements with, public and private entities, agencies, and organizations.

(2) Evaluation and dissemination

The Secretary shall directly or through contracts with public and private entities, agencies, and organizations, provide for evaluations of projects carried out with financial assistance provided under paragraph (1) and for the dissemination of information developed as a result of such projects.

(d) Reports

Not later than 1 year after March 23, 2010, and every second year thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing the activities carried out under this section during the period for which the report is being prepared.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.

(July 1, 1944, ch. 373, title II, § 229, as added Pub. L. 111-148, title III, § 3509(a)(1), Mar. 23, 2010, 124 Stat. 531.)

CONSTRUCTION

Pub. L. 111-148, title III, § 3509(j), Mar. 23, 2010, 124 Stat. 537, provided that: "Nothing in this section [enacting this section, sections 242s, 299b-24a, and 914 of this title and section 399b of Title 21, Food and Drugs, amending sections 287d, 290aa, 299b-25, and 299b-26 of this title, and enacting provisions set out as notes under this section] (or the amendments made by this section) shall be construed to limit the authority of the Secretary of Health and Human Services with respect to women's health, or with respect to activities carried out through the Department of Health and Human Services on the date of enactment of this section [Mar. 23, 2010]."

TRANSFER OF FUNCTIONS

Pub. L. 111-148, title III, § 3509(a)(2), Mar. 23, 2010, 124 Stat. 533, provided that: "There are transferred to the Office on Women's Health (established under section 229 of the Public Health Service Act [42 U.S.C. 237a], as added by this section), all functions exercised by the Office on Women's Health of the Public Health Service prior to the date of enactment of this section [Mar. 23, 2010], including all personnel and compensation authority, all delegation and assignment authority, and all remaining appropriations. All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions that—

"(A) 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 transferred under this paragraph; and

"(B) are in effect at the time this section takes effect, or were final before the date of enactment of this section and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law."

INFORMATION AND AWARENESS ON EATING DISORDERS

Pub. L. 114-255, div. B, title XIII, § 13005, Dec. 13, 2016, 130 Stat. 1286, provided that:

"(a) INFORMATION.—The Secretary of Health and Human Services, acting through the Director of the Office on Women's Health, may—

"(1) update information, related fact sheets, and resource lists related to eating disorders that are available on the public Internet website of the National Women's Health Information Center sponsored by the Office on Women's Health, to include—

"(A) updated findings and current research related to eating disorders, as appropriate; and

"(B) information about eating disorders, including information related to males and females;

¹ So in original. Probably should be "lifespans;"

“(2) incorporate, as appropriate, and in coordination with the Secretary of Education, information from publicly available resources into appropriate obesity prevention programs developed by the Office on Women’s Health; and

“(3) make publicly available (through a public Internet website or other method) information, related fact sheets, and resource lists, as updated under paragraph (1), and the information incorporated into appropriate obesity prevention programs under paragraph (2).

“(b) AWARENESS.—The Secretary of Health and Human Services may advance public awareness on—

“(1) the types of eating disorders;

“(2) the seriousness of eating disorders, including prevalence, comorbidities, and physical and mental health consequences;

“(3) methods to identify, intervene, refer for treatment, and prevent behaviors that may lead to the development of eating disorders;

“(4) discrimination and bullying based on body size;

“(5) the effects of media on self-esteem and body image; and

“(6) the signs and symptoms of eating disorders.”

NO NEW REGULATORY AUTHORITY

Pub. L. 111-148, title III, §3509(h), Mar. 23, 2010, 124 Stat. 537, provided that: “Nothing in this section [enacting this section, sections 242s, 299b-24a, and 914 of this title and section 399b of Title 21, Food and Drugs, amending sections 287d, 290aa, 299b-25, and 299b-26 of this title, and enacting provisions set out as notes under this section] and the amendments made by this section may be construed as establishing regulatory authority or modifying any existing regulatory authority.”

LIMITATION ON TERMINATION

Pub. L. 111-148, title III, §3509(i), Mar. 23, 2010, 124 Stat. 537, provided that: “Notwithstanding any other provision of law, a Federal office of women’s health (including the Office of Research on Women’s Health of the National Institutes of Health) or Federal appointive position with primary responsibility over women’s health issues (including the Associate Administrator for Women’s Services under the Substance Abuse and Mental Health Services Administration) that is in existence on the date of enactment of this section [Mar. 23, 2010] shall not be terminated, reorganized, or have any of its [sic] powers or duties transferred unless such termination, reorganization, or transfer is approved by Congress through the adoption of a concurrent resolution of approval.”

PART B—MISCELLANEOUS PROVISIONS

CODIFICATION

This part was classified to subchapter XXV (§300aaa et seq.) of this chapter prior to its renumbering by Pub. L. 103-43, title XX, §2010(a)(1)-(3), June 10, 1993, 107 Stat. 213.

§ 238. Gifts for benefit of Service

(a) Acceptance by Secretary

The Secretary of Health and Human Services is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income

thereof unless such expenditure has been approved by Act of Congress.

(b) Depository of funds; availability for expenditure

Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) Evidences of unconditional gifts of intangible property

The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary of Health and Human Services, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) Real property or tangible personal property

The Secretary of Health and Human Services shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary of Health and Human Services for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary of Health and Human Services, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.