

partment of Health and Human Services that is inconsistent with the amendments made by this Act [see Tables for classification] shall not have any legal effect, including section 50(e) of part 96 of title 45, Code of Federal Regulations (45 CFR 96.50(e)).”

#### HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this chapter, see Pub. L. 86-613, §18, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

#### DEFINITION OF “SECRETARY”

Pub. L. 90-574, title V, §507, Oct. 15, 1968, 82 Stat. 1013, as amended by Pub. L. 96-88, title V, §509(b), 93 Stat. 695, provided that: “As used in the amendments made by this Act [enacting sections 229a, 299j, 2688e to 2688g, and 2697a of this title, amending sections 210g, 242h, 291a, 291b, 299a to 299e, 2693, and 3259 of this title, repealing section 3442 of this title, and enacting provisions set out as notes under sections 291a, 2688e, 3442 of this title, section 278 of Title 22, Foreign Relations and Intercourse, and section 3681 of Title 38, Veterans’ Benefits], the term ‘Secretary’ means the Secretary of Health and Human Services.”

Pub. L. 90-174, §15, Dec. 5, 1967, 81 Stat. 542, as amended by Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, provided that: “As used in the amendments made by this Act [enacting sections 217b, 243(c), 251(b), 254a, 263a, and 291m-1 and amending sections 242b, 242g(c), 246(d)(1), (e), and 296e(c)(1) of this title] the term ‘Secretary’ means the Secretary of Health and Human Services.”

#### Executive Documents

##### CHANGE OF NAME

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished Environmental Science Services Administration, established National Oceanic and Atmospheric Administration, and redesignated Commissioned Officer Corps of ESSA as Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

##### TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3, of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

##### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

##### EXECUTIVE ORDER No. 13507

Ex. Ord. No. 13507, Apr. 8, 2009, 74 F.R. 17071, which established the White House Office of Health Reform, was

revoked by Ex. Ord. No. 13569, §6, Apr. 5, 2011, 76 F.R. 19891, set out as a note preceding section 101 of Title 3, The President.

#### PART A—ADMINISTRATION

### § 202. Administration and supervision of Service

The Public Health Service in the Department of Health and Human Services shall be administered by the Assistant Secretary for Health under the supervision and direction of the Secretary.

(July 1, 1944, ch. 373, title II, §201, 58 Stat. 683; 1953 Reorg. Plan No. 1, §§5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 103-43, title XX, §2008(f), June 10, 1993, 107 Stat. 212.)

#### Editorial Notes

##### AMENDMENTS

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

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

“Secretary of Health and Human Services” and “Department of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” and “Department of Health, Education, and Welfare”, respectively, pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### Executive Documents

##### TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

#### REORGANIZATION PLAN NO. 3 OF 1966

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

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

#### PUBLIC HEALTH SERVICE

##### SECTION 1. TRANSFER OF FUNCTIONS

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

##### SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the

performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

#### SEC. 3. ABOLITIONS

(a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

#### SEC. 4. INCIDENTAL TRANSFERS

As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

[The Secretary and Department of Health, Education, and Welfare were redesignated the Secretary and Department of Health and Human Services, respectively, by 20 U.S.C. 3508.]

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

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

#### I

Today we face new challenges and unparalleled opportunities in the field of health. Building on the progress of the past several years, we have truly begun to match the achievements of our medicine to the needs of our people.

The task ahead is immense. As a nation, we will unceasingly pursue our research and learning, our training and building, our testing and treatment. But now our concern must also turn to the organization of our Federal health programs.

As citizens we are entitled to the very best health services our resources can provide.

As taxpayers, we demand the most efficient and economic health organizations that can be devised.

I ask the Congress to approve a reorganization plan to bring new strength to the administration of Federal health programs.

I propose a series of changes in the organization of the Public Health Service that will bring to all Americans a structure modern in design, more efficient in operation and better prepared to meet the great and growing needs of the future. Through such improvements we can achieve the full promise of the landmark health legislation enacted by the 89th Congress.

I do not propose these changes lightly. They follow a period of careful deliberation. For many months the Secretary of Health, Education, and Welfare, and the Surgeon General have consulted leading experts in the Nation—physicians, administrators, scientists, and

public health specialists. They have confirmed my belief that modernization and reorganization of the Public Health Service are urgently required and long overdue.

#### II

The Public Health Service is an operating agency of the Department of Health, Education, and Welfare. It is the principal arm of the Federal Government in the field of health. Its programs are among those most vital to our well-being.

Since 1953 more than 50 new programs have been placed in the Public Health Service. Its budget over the past 12 years has increased tenfold—from \$250 million to \$2.4 billion.

Today the organization of the Public Health Service is clearly obsolete. The requirement that new and expanding programs be administered through an organizational structure established by law more than two decades ago stands as a major obstacle to the fulfillment of our Nation's health goals.

As presently constituted, the Public Health Service is composed of four major components:

National Institutes of Health.

Bureau of State Services.

Bureau of Medical Services.

Office of the Surgeon General.

Under present law, Public Health Service functions must be assigned only to these four components.

This structure was designed to provide separate administrative arrangements for health research, programs of State and local aid, health services, and executive staff resources. At a time when these functions could be neatly compartmentalized, the structure was adequate. But today the situation is different.

Under recent legislation many new programs provide for an integrated attack on specific disease problems or health hazards in the environment by combining health services, State and local aid, and research. Each new program of this type necessarily is assigned to one of the three operating components of the Public Health Service. Yet none of these components is intended to administer programs involving such a variety of approaches.

Our health problems are difficult enough without having them complicated by outmoded organizational arrangements.

But if we merely take the step of integrating the four agencies within the Public Health Service we will not go far enough. More is required.

#### III

The Department of Health, Education, and Welfare performs major health or health-related functions which are not carried out through the Public Health Service, although they are closely related to its functions. Among these are:

Health insurance for the aged, administered through the Social Security Administration;

Medical assistance for the needy, administered through the Welfare Administration;

Regulation of the manufacture, labeling, and distribution of drugs, carried out through the Food and Drug Administration; and

Grants-in-aid to States for vocational rehabilitation of the handicapped, administered by the Vocational Rehabilitation Administration.

Expenditures for health and health-related programs of the Department administered outside the Public Health Service have increased from \$44 million in 1953 to an estimated \$5.4 billion in 1967.

As the head of the Department, the Secretary of Health, Education, and Welfare is responsible for the Administration and coordination of all the Department's health functions. He has clear authority over the programs I have just mentioned.

But today he lacks this essential authority over the Public Health Service. The functions of that agency are vested in the Surgeon General and not in the Secretary.

This diffusion of responsibility is unsound and unwise.

To secure the highest possible level of health services for the American people the Secretary of Health, Education, and Welfare must be given the authority to establish—and modify as necessary—the organizational structure for Public Health Service programs.

He must also have the authority to coordinate health functions throughout the Department. The reorganization plan I propose will accomplish these purposes. It will provide the Secretary with the flexibility to create new and responsive organizational arrangements to keep pace with the changing and dynamic nature of our health programs.

My views in this respect follow a basic principle of good government set by the Hoover Commission in 1949 when it recommended that “the Department head should be given authority to determine the organization within his Department.”

#### IV

In summary, the reorganization plan would:

Transfer to the Secretary of Health, Education, and Welfare the functions now vested in the Surgeon General of the Public Health Service and in its various subordinate units (this transfer will not affect certain statutory advisory bodies such as the National Advisory Cancer and Heart Councils);

Abolish the four principal statutory components of the Public Health Service, including the offices held by their heads (the Bureau of Medical Services, the Bureau of State Services, the National Institutes of Health exclusive of its several research institutes such as the National Cancer and Heart Institutes, and the Office of the Surgeon General); and

Authorize the Secretary to assign the functions transferred to him by the plan to officials and entities of the Public Health Service and to other agencies of the Department as he deems appropriate.

Thus, the Secretary would be—

Enabled to assure that all health functions of the Department are carried out as effectively and economically as possible;

Given authority commensurate with his responsibility; and

Made responsible in fact for matters for which he is now, in any case, held accountable by the President, the Congress, and the people.

#### V

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

Should the reorganizations in the accompanying reorganization plan take effect, they will make possible more effective and efficient administration of the affected health programs. It is, however, not practicable at this time to itemize the reductions in expenditures which may result.

I strongly recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, April 25, 1966.

#### INTERNATIONAL HEALTH ADMINISTRATION

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

#### EXECUTIVE ORDER No. 10506

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

#### EX. ORD. NO. 11140. DELEGATION OF FUNCTIONS

Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, as amended by Ex. Ord. No. 12608, Sept. 9, 1967, 52 F.R. 34617, provided:

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Health and Human Services is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the following-described functions vested in the President under the Public Health Service Act (58 Stat. 682), as amended [42 U.S.C. 201 et seq.]:

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

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

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

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

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

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

(g) The authority under Sections 321(a) and 364(a) (42 U.S.C. 248(a) and 267(a)) to approve the selection of suitable sites for and the establishment of additional institutions, hospitals, stations, grounds, and anchorages; subject, however, to the approval of the Director of the Office of Management and Budget, except as he may otherwise provide.

SEC. 2. The Surgeon General is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the function vested in the President by Sections 203 and 207(a)(2) of the Public Health Service Act (58 Stat. 683, 685), as amended (42 U.S.C. 204 and 209(a)(2)), or otherwise, of accepting voluntary resignations of commissioned officers of the Regular Corps or the Reserve Corps [now Ready Reserve Corps].

SEC. 3. The Secretary of Health and Human Services is hereby authorized and empowered, without the approval, ratification, or other action of the President, to exercise the authority vested in the President by Section 704 of Title 37 of the United States Code to prescribe regulations.

SEC. 4. The Secretary of Health and Human Services is hereby authorized to redelegate all or any part of the functions set forth under (a), (b), (c), and (d) of Section 1 hereof to the Surgeon General of the Public Health Service or other official of that Service who is required to be appointed by and with the advice and consent of the Senate.

SEC. 5. All actions heretofore taken by appropriate authority with respect to the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved with respect to such matters, shall, except as they may be inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 6. As used in this order, the term “functions” embraces duties, powers, responsibilities, authority, or discretion, and the term “perform” may be construed to mean “exercise”.

SEC. 7. (a) Executive Order No. 10506 of December 10, 1953, entitled “Delegating Certain Functions of the

President under the Public Health Service Act,” is hereby superseded.

(b) Executive Orders Nos. 9993 of August 31, 1948, 10031 of January 26, 1949, 10280 of August 16, 1951, 10354 of May 26, 1952, and 10497 of October 27, 1953, which prescribed regulations relating to commissioned officers and employees of the Public Health Service, are hereby revoked. Nothing in this subsection shall be deemed to alter or otherwise affect the regulations prescribed by the Surgeon General (42 CFR Parts 21 and 22) to replace the regulations prescribed by the orders described in the preceding sentence.

### § 203. Organization of Service

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and<sup>1</sup> (4) the Bureau of State Services, and<sup>2</sup> the Agency for Healthcare Research and Quality. The Secretary is authorized and directed to assign to the Office of the Surgeon General,<sup>3</sup> to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes of Health shall be administered as a part of the field service. The Secretary may delegate to any officer or employee of the Service such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient.

(July 1, 1944, ch. 373, title II, §202, 58 Stat. 683; June 16, 1948, ch. 481, §6(b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 103-43, title XX, §2008(g), June 10, 1993, 107 Stat. 212; Pub. L. 106-129, §2(b)(2), Dec. 6, 1999, 113 Stat. 1670.)

### Editorial Notes

#### AMENDMENTS

1999—Pub. L. 106-129 substituted “Agency for Healthcare Research and Quality” for “Agency for Health Care Policy and Research”.

1993—Pub. L. 103-43, §2008(g)(2), inserted “, and the Agency for Health Care Policy and Research” in first sentence.

Pub. L. 103-43, §2008(g)(1), which directed the amendment of this section by striking “Surgeon General” the second and subsequent times that such term appears and inserting “Secretary”, was executed by making the substitution before “is authorized and directed” and before “may delegate to any officer” and by leaving unchanged “Surgeon General” in the phrase “assign to the Office of the Surgeon General” in second sentence, to reflect the probable intent of Congress.

1948—Act June 16, 1948, substituted “National Institutes of Health” for “National Institute of Health” in cl. (2).

<sup>1</sup> So in original. The “and” probably should not appear.

<sup>2</sup> So in original. Probably should be followed by “(5)”.

<sup>3</sup> See 1993 Amendment note below.

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### Executive Documents

##### TRANSFER OF FUNCTIONS

Bureau of Medical Services, Bureau of State Services, National Institutes of Health, excluding several research Institutes in agency, and Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare, and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

### § 204. Commissioned Corps and Ready Reserve Corps

#### (a) Establishment

##### (1) In general

There shall be in the Service a commissioned Regular Corps and, for service in time of a public health or national emergency, a Ready Reserve Corps.

##### (2) Requirement

All commissioned officers shall be citizens of the United States and shall be appointed without regard to the civil-service laws and compensated without regard to the Classification Act of 1923, as amended.

##### (3) Appointment

Commissioned officers of the Ready Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by the President.

##### (4) Active duty

Commissioned officers of the Ready Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training.

##### (5) Warrant officers

Warrant officers may be appointed to the Service for the purpose of providing support to the health and delivery systems maintained by the Service and any warrant officer appointed to the Service shall be considered for purposes of this chapter and title 37 to be a commissioned officer within the Commissioned Corps of the Service.

#### (b) Assimilating Reserve Corps officers into the Regular Corps

Effective on March 23, 2010, all individuals classified as officers in the Reserve Corps under