

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-531 effective immediately after enactment of Pub. L. 102-408, see section 313(c) of Pub. L. 102-531, set out as a note under section 292y of this title.

REQUIRED ASSURANCES REGARDING BLOODBORNE DISEASES

Pub. L. 102-408, title III, § 308, Oct. 13, 1992, 106 Stat. 2089, provided that: "With respect to awards of grants or contracts under title VII or VIII of the Public Health Service Act [42 U.S.C. 292 et seq., 296 et seq.], the Secretary of Health and Human Services may make such an award for the provision of traineeships only if the applicant for the award provides assurances satisfactory to the Secretary that all trainees will, as appropriate, receive instruction in the utilization of universal precautions and infection control procedures for the prevention of the transmission of bloodborne diseases."

§ 295k. Health professions data**(a) In general**

The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which program shall initially include data respecting all physicians and dentists in the States. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, chiropractors, clinical psychologists, professional counselors, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

(b) Certain authorities and requirements**(1) Sources of information**

In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

(2) Contracts for studies of health professions

The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location. Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies

providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.

(3) Grants and contracts regarding States

The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurance, satisfactory to the Secretary, that—

(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

(C) such State or entity shall comply with the requirements of subsection (e).

(d)¹ Reports to Congress

The Secretary shall submit to the Congress on October 1, 1993, and biennially thereafter, the following reports:

(1) A comprehensive report regarding the status of health personnel according to profession, including a report regarding the analytic and descriptive studies conducted under this section.

(2) A comprehensive report regarding applicants to, and students enrolled in, programs and institutions for the training of health personnel, including descriptions and analyses of student indebtedness, student need for financial assistance, financial resources to meet the needs of students, student career choices such as practice specialty and geographic location and the relationship, if any, between student indebtedness and career choices.

(e) Requirements regarding personal data**(1) In general**

The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity,

¹ So in original. No subsec. (c) has been enacted.

as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

(2) Consent as precondition to disclosure

Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3) Disclosure by Secretary

(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) "Program entity" defined

For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

(g)² Technical assistance

The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.

²So in original. No subsec. (f) has been enacted.

(h) Grants and contracts regarding nonprofit entities

(1) In general

In carrying out subsection (a), the Secretary may make grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any nonprofit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

(2) Reports

With respect to reports required in subsection (d), each such report made on or after October 1, 1991, shall include a description and analysis of data collected pursuant to paragraph (1).

(July 1, 1944, ch. 373, title VII, §792, as added Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 2058; amended Pub. L. 105-392, title I, §106(b), Nov. 13, 1998, 112 Stat. 3559.)

Editorial Notes

PRIOR PROVISIONS

A prior section 792 of act July 1, 1944, was classified to section 295h-1b of this title prior to the general amendment of this subchapter by Pub. L. 102-408.

Another prior section 792 of act July 1, 1944, was classified to section 295h-1 of this title prior to repeal by Pub. L. 97-35.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-392 inserted "professional counselors," after "clinical psychologists,".

Statutory Notes and Related Subsidiaries

STUDY REGARDING SHORTAGES OF LICENSED PHARMACISTS

Pub. L. 106-129, §5, Dec. 6, 1999, 113 Stat. 1675, provided that:

"(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the 'Secretary'), acting through the appropriate agencies of the Public Health Service, shall conduct a study to determine whether and to what extent there is a shortage of licensed pharmacists. In carrying out the study, the Secretary shall seek the comments of appropriate public and private entities regarding any such shortage.

"(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act [Dec. 6, 1999], the Secretary shall complete the study under subsection (a) and submit to the Congress a report that describes the findings made through the study and that contains a summary of the comments received by the Secretary pursuant to such subsection."

ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION

Pub. L. 102-408, title III, §301, Oct. 13, 1992, 106 Stat. 2080, as amended by Pub. L. 102-531, title III, §313(b), Oct. 27, 1992, 106 Stat. 3507; Pub. L. 105-392, title I, §104(b)(1)-(3), Nov. 13, 1998, 112 Stat. 3552, which was formerly set out as a note under this section, was renumbered section 762 of the Public Health Service Act by Pub. L. 105-392, title I, §104(b)(4)-(6), Nov. 13, 1998, 112 Stat. 3553, and is classified to section 294o of this title.

COMMISSION ON ALLIED HEALTH

Pub. L. 102-408, title III, §302, Oct. 13, 1992, 106 Stat. 2082, provided for establishment of a National Commission on Allied Health, charged with (1) making recommendations to the Secretary of Health and Human

Services and Congress with respect to nationwide supply and distribution of allied health personnel, current and future shortages of personnel, priority research needs within allied health professions, Federal policies relating to personnel and research as well as undergraduate and graduate financing, concerted efforts on part of allied health facilities and educational institutions to address such matters, and needs with respect to nationwide data bases concerning supply and distribution of allied health personnel, and (2) encouraging entities providing allied health education to voluntarily achieve recommendations of Commission, and further provided for composition of Commission, date certain for appointments to Commission, resources for Commission activities, an interim progress report due not later than Oct. 1, 1993, a final report due not later than Apr. 1, 1994, and termination of Commission 60 days after submission of final report.

STUDY REGARDING SHORTAGE OF CLINICAL LABORATORY TECHNOLOGISTS FOR MEDICALLY UNDERSERVED AND RURAL COMMUNITIES

Pub. L. 102-408, title III, §303, Oct. 13, 1992, 106 Stat. 2083, directed Secretary of Health and Human Services, with respect to the shortage of clinical laboratory technologists, to conduct a study for the purpose of determining whether there are special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities, and assessing alternative routes for certification of the competence of individuals to serve as such technologists, with consideration of the role of entities providing such certifications, and, not later than Oct. 1, 1993, complete the study and submit to Committee on Energy and Commerce of House of Representatives, and to Committee on Labor and Human Resources of Senate, a report describing the findings made as result of the study.

NATIONAL ADVISORY COUNCIL ON MEDICAL LICENSURE

Pub. L. 102-408, title III, §307, Oct. 13, 1992, 106 Stat. 2086, directed Secretary of Health and Human Services to establish National Advisory Council on Medical Licensure to advise Secretary on American Medical Association's system of verifying and maintaining information regarding qualifications of individuals to practice medicine, as well as advice regarding establishment and operation of any similar system, provided for activities of Council, including review of private credentials verification system and recommendations on how it could be improved, as well as review of State procedures for licensing individuals licensed in other States and procedures for licensing international medical graduates, provided for composition of Council and appointment of members, required submission of an interim report to Congress not later than Sept. 30, 1993, and a final report with recommendations not later than Sept. 30, 1995, provided for termination of Council not later than Sept. 30, 1995, or upon submission of final report, whichever is earlier, and further directed Secretary, in cooperation with Council to submit to Congress, not later than Sept. 30, 1994, study of not less than 10 States for purposes of determining average time required for States to process licensure applications of domestic and international medical graduates as well as percentages of domestic and international licensure applications approved.

§ 295l. Repealed. Pub. L. 105-392, title I, § 106(a)(2)(C), Nov. 13, 1998, 112 Stat. 3557

Section, act July 1, 1944, ch. 373, title VII, §793, as added Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 2061; amended Pub. L. 102-531, title III, §313(a)(6), Oct. 27, 1992, 106 Stat. 3507, required development, publication, dissemination, and biennial report to Congress on statistics respecting public and community health personnel.

A prior section 793 of act July 1, 1944, was classified to section 295h-1c of this title prior to the general amendment of this subchapter by Pub. L. 102-408.

Another prior section 793 of act July 1, 1944, was renumbered section 794 by Pub. L. 97-35 and classified to section 295h-2 of this title.

§ 295m. Prohibition against discrimination on basis of sex

The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this subchapter to, or for the benefit of, any school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, or public health or any training center for allied health personnel, or graduate program in clinical psychology, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this subchapter with any such school or training center unless the school, training center, or graduate program furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

(1) on October 13, 1992, is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979.

(July 1, 1944, ch. 373, title VII, §794, as added Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 2063.)

Editorial Notes

PRIOR PROVISIONS

A prior section 794 of act July 1, 1944, was classified to section 295h-2 of this title prior to the general amendment of this subchapter by Pub. L. 102-408.

Another prior section 794 of act July 1, 1944, was classified to section 294h-3 of this title prior to repeal by Pub. L. 91-519.

§ 295n. Repealed. Pub. L. 105-392, title I, § 101(b)(1), Nov. 13, 1998, 112 Stat. 3537

Section, act July 1, 1944, ch. 373, title VII, §795, as added Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 2063; amended Pub. L. 102-531, title III, §313(a)(7), Oct. 27, 1992, 106 Stat. 3507, related to obligated service regarding certain programs.

A prior section 795 of act July 1, 1944, was classified to section 295h-4 of this title prior to the general amendment of this subchapter by Pub. L. 102-408.

Another prior section 795 of act July 1, 1944, was classified to section 295h-4 of this title prior to the general amendment of part G of this subchapter by Pub. L. 94-484.

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SAVINGS PROVISION

Pub. L. 105-392, title I, §101(b)(2), Nov. 13, 1998, 112 Stat. 3537, provided that: "The amendments made by