

Subsec. (r)(2). Pub. L. 103-183, §402(b)(2), substituted “1998” for “1995”.

#### 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 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

### § 247c-2. Data collection regarding programs under subchapter XXIV

For the purpose of collecting and providing data for program planning and evaluation activities under subchapter XXIV of this chapter, there are authorized to be appropriated to the Secretary (acting through the Director of the Centers for Disease Control and Prevention) such sums as may be necessary for each of the fiscal years 2001 through 2005. Such authorization of appropriations is in addition to other authorizations of appropriations that are available for such purpose.

(July 1, 1944, ch. 373, title III, §318B, as added Pub. L. 106-345, title IV, §412, Oct. 20, 2000, 114 Stat. 1350.)

### § 247d. Public health emergencies

#### (a) Emergencies

If the Secretary determines, after consultation with such public health officials as may be necessary, that—

- (1) a disease or disorder presents a public health emergency; or
- (2) a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists,

the Secretary may take such action as may be appropriate to respond to the public health emergency, including making grants, providing awards for expenses, and entering into contracts and conducting and supporting investigations into the cause, treatment, or prevention of a disease or disorder as described in paragraphs (1) and (2). Any such determination of a public health emergency terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary, whichever occurs first. Determinations that terminate under the preceding sentence may be renewed by the Secretary (on the basis of the same or additional facts), and the preceding sentence applies to each such renewal. Not later than 48 hours

after making a determination under this subsection of a public health emergency (including a renewal), the Secretary shall submit to the Congress written notification of the determination.

#### (b) Public Health Emergency Fund

##### (1) In general

There is established in the Treasury a fund to be designated as the “Public Health Emergency Fund” to be made available to the Secretary without fiscal year limitation to carry out subsection (a) of this section only if a public health emergency has been declared by the Secretary under such subsection. There is authorized to be appropriated to the Fund such sums as may be necessary.

##### (2) Report

Not later than 90 days after the end of each fiscal year, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Commerce and the Committee on Appropriations of the House of Representatives a report describing—

(A) the expenditures made from the Public Health Emergency Fund in such fiscal year; and

(B) each public health emergency for which the expenditures were made and the activities undertaken with respect to each emergency which was conducted or supported by expenditures from the Fund.

#### (c) Supplement not supplant

Funds appropriated under this section shall be used to supplement and not supplant other Federal, State, and local public funds provided for activities under this section.

#### (d) Data submittal and reporting deadlines

In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a) of this section, individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required under any law administered by the Secretary, the Secretary may, notwithstanding any other provision of law, grant such extensions of such deadlines as the circumstances reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply. Before or promptly after granting such an extension or waiver, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the extension or waiver.

#### (e) Temporary reassignment of State and local personnel during a public health emergency

##### (1) Emergency reassignment of federally funded personnel

Notwithstanding any other provision of law, and subject to paragraph (2), upon request by the Governor of a State or a tribal organization or such Governor or tribal organization's designee, the Secretary may authorize the requesting State or Indian tribe to temporarily

reassign, for purposes of immediately addressing a public health emergency in the State or Indian tribe, State and local public health department or agency personnel funded in whole or in part through programs authorized under this chapter, as appropriate.

**(2) Activation of emergency reassignment**

**(A) Public health emergency**

The Secretary may authorize a temporary reassignment of personnel under paragraph (1) only during the period of a public health emergency determined pursuant to subsection (a).

**(B) Contents of request**

To seek authority for a temporary reassignment of personnel under paragraph (1), the Governor of a State or a tribal organization shall submit to the Secretary a request for such reassignment flexibility and shall include in the request each of the following:

(i) An assurance that the public health emergency in the geographic area of the requesting State or Indian tribe cannot be adequately and appropriately addressed by the public health workforce otherwise available.

(ii) An assurance that the public health emergency would be addressed more efficiently and effectively through the requested temporary reassignment of State and local personnel described in paragraph (1).

(iii) An assurance that the requested temporary reassignment of personnel is consistent with any applicable All-Hazards Public Health Emergency Preparedness and Response Plan under section 247d-3a of this title.

(iv) An identification of—

(I) each Federal program from which personnel would be temporarily reassigned pursuant to the requested authority; and

(II) the number of personnel who would be so reassigned from each such program.

(v) Such other information and assurances upon which the Secretary and Governor of a State or tribal organization agree.

**(C) Consideration**

In reviewing a request for temporary reassignment under paragraph (1), the Secretary shall consider the degree to which the program or programs funded in whole or in part by programs authorized under this chapter would be adversely affected by the reassignment.

**(D) Termination and extension**

**(i) Termination**

A State or Indian tribe's temporary reassignment of personnel under paragraph (1) shall terminate upon the earlier of the following:

(I) The Secretary's determination that the public health emergency no longer exists.

(II) Subject to clause (ii), the expiration of the 30-day period following the date on which the Secretary approved the State or Indian tribe's request for such reassignment flexibility.

**(ii) Extension of reassignment flexibility**

The Secretary may extend reassignment flexibility of personnel under paragraph (1) beyond the date otherwise applicable under clause (i)(II) if the public health emergency still exists as of such date, but only if—

(I) the State or Indian tribe that submitted the initial request for a temporary reassignment of personnel submits a request for an extension of such temporary reassignment; and

(II) the request for an extension contains the same information and assurances necessary for the approval of an initial request for such temporary reassignment pursuant to subparagraph (B).

**(3) Voluntary nature of temporary reassignment of State and local personnel**

**(A) In general**

Unless otherwise provided under the law or regulation of the State or Indian tribe that receives authorization for temporary reassignment of personnel under paragraph (1), personnel eligible for reassignment pursuant to such authorization—

(i) shall have the opportunity to volunteer for temporary reassignment; and

(ii) shall not be required to agree to a temporary reassignment.

**(B) Prohibition on conditioning Federal awards**

The Secretary may not condition the award of a grant, contract, or cooperative agreement under this chapter on the requirement that a State or Indian tribe require that personnel eligible for reassignment pursuant to an authorization under paragraph (1) agree to such reassignment.

**(4) Notice to Congress**

The Secretary shall give notice to the Congress in conjunction with the approval under this subsection of—

(A) any initial request for temporary reassignment of personnel; and

(B) any request for an extension of such temporary reassignment.

**(5) Guidance**

The Secretary shall—

(A) not later than 6 months after March 13, 2013, issue proposed guidance on the temporary reassignment of personnel under this subsection; and

(B) after providing notice and a 60-day period for public comment, finalize such guidance.

**(6) Report to Congress**

Not later than 4 years after March 13, 2013, the Comptroller General of the United States shall conduct an independent evaluation, and submit to the appropriate committees of the Congress a report, on temporary reassignment under this subsection, including—

(A) a description of how, and under what circumstances, such temporary reassignment has been used by States and Indian tribes;

(B) an analysis of how such temporary reassignment has assisted States and Indian tribes in responding to public health emergencies;

(C) an evaluation of how such temporary reassignment has improved operational efficiencies in responding to public health emergencies;

(D) an analysis of the extent to which, if any, Federal programs from which personnel have been temporarily reassigned have been adversely affected by the reassignment; and

(E) recommendations on how medical surge capacity could be improved in responding to public health emergencies and the impact of the reassignment flexibility under this section on such surge capacity.

#### (7) Definitions

In this subsection—

(A) the terms “Indian tribe” and “tribal organization” have the meanings given such terms in section 450b of title 25; and

(B) the term “State” includes, in addition to the entities listed in the definition of such term in section 201 of this title, the Freely Associated States.

#### (8) Sunset

This subsection shall terminate on September 30, 2018.

(July 1, 1944, ch. 373, title III, § 319, as added Pub. L. 106-505, title I, § 102, Nov. 13, 2000, 114 Stat. 2315; amended Pub. L. 107-188, title I, §§ 141, 144(a), 158, June 12, 2002, 116 Stat. 626, 630, 633; Pub. L. 113-5, title II, § 201, Mar. 13, 2013, 127 Stat. 170.)

#### PRIOR PROVISIONS

A prior section 247d, act July 1, 1944, ch. 373, title III, § 319, as added Pub. L. 98-49, July 13, 1983, 97 Stat. 245; amended Pub. L. 100-607, title II, § 256(a), Nov. 4, 1988, 102 Stat. 3110; Pub. L. 102-321, title I, § 163(b)(2), July 10, 1992, 106 Stat. 376; Pub. L. 102-531, title III, § 312(d)(2), Oct. 27, 1992, 106 Stat. 3504, authorized the Secretary to take appropriate action relating to public health emergencies, prior to repeal by Pub. L. 106-505, title I, § 102, Nov. 13, 2000, 114 Stat. 2315.

Another prior section 247d, act July 1, 1944, ch. 373, title III, § 319, formerly § 310, as added Sept. 25, 1962, Pub. L. 87-692, 76 Stat. 592, and amended and renumbered, which related to migrant health centers, was renumbered section 329 of act July 1, 1944, by Pub. L. 95-626, title I, § 102(a), Nov. 10, 1978, 92 Stat. 3551, and transferred to section 254b of this title, prior to being omitted in the general amendment of subpart I (§ 254b et seq.) of part D of this subchapter by Pub. L. 104-299, § 2.

#### CHANGE OF NAME

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.

#### AMENDMENTS

2013—Subsec. (e). Pub. L. 113-5 added subsec. (e).

2002—Subsec. (a). Pub. L. 107-188, § 158, substituted “grants, providing awards for expenses, and” for “grants and” in concluding provisions.

Pub. L. 107-188, § 144(a), inserted at end of concluding provisions “Any such determination of a public health emergency terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary, whichever occurs first. Determinations that terminate under the preceding sentence may be renewed by the Secretary (on the basis of the same or additional facts), and the preceding sentence applies to each such renewal. Not later than 48 hours after making a determination under this subsection of a public health emergency (including a renewal), the Secretary shall submit to the Congress written notification of the determination.”

Subsec. (d). Pub. L. 107-188, § 141, added subsec. (d).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-188, title I, § 144(b), June 12, 2002, 116 Stat. 630, provided that: “The amendment made by subsection (a) [amending this section] applies to any public health emergency under section 319(a) of the Public Health Service Act [42 U.S.C. 247d(a)], including any such emergency that was in effect as of the day before the date of the enactment of this Act [June 12, 2002]. In the case of such an emergency that was in effect as of such day, the 90-day period described in such section with respect to the termination of the emergency is deemed to begin on such date of enactment.”

### § 247d-1. Vaccine tracking and distribution

#### (a) Tracking

The Secretary, together with relevant manufacturers, wholesalers, and distributors as may agree to cooperate, may track the initial distribution of federally purchased influenza vaccine in an influenza pandemic. Such tracking information shall be used to inform Federal, State, local, and tribal decision makers during an influenza pandemic.

#### (b) Distribution

The Secretary shall promote communication between State, local, and tribal public health officials and such manufacturers, wholesalers, and distributors as agree to participate, regarding the effective distribution of seasonal influenza vaccine. Such communication shall include estimates of high priority populations, as determined by the Secretary, in State, local, and tribal jurisdictions in order to inform Federal, State, local, and tribal decision makers during vaccine shortages and supply disruptions.

#### (c) Confidentiality

The information submitted to the Secretary or its contractors, if any, under this section or under any other section of this chapter related to vaccine distribution information shall remain confidential in accordance with the exception from the public disclosure of trade secrets, commercial or financial information, and information obtained from an individual that is privileged and confidential, as provided for in section 552(b)(4) of title 5, and subject to the penalties and exceptions under sections 1832 and 1833 of title 18 relating to the protection and theft of trade secrets, and subject to privacy protections that are consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.