

## TITLE 42.—THE PUBLIC HEALTH

## Chapter 1.—THE PUBLIC HEALTH SERVICE.

Some of the provisions of this chapter have been superseded, amended in effect, or supplemented by chapter 1A of this title.

## Section 1. Public Health Service; laws and regulations applicable to.—

The United States Public Health Service created by this section has duties imposed on it by chapter 4A of Title 20.

## 5. Appointment to higher grade of officers of Public Health Service detailed with Isthmian Canal Commission.—

It is doubtful whether this section should be in the Code as it does not seem to constitute general and permanent legislation. It has been suggested, however, that in order to give full force and effect to this section which is § 4 of Act Mar. 4, 1915, c. 167, 38 Stat. 1191, it is necessary to refer to the provisions of section 5 of said Act which reads as follows:

"Sec. 5. That the numbers in such grades provided for in sections 2 and 4 [this section] of this Act, except where vacancies occurring in any grade by the provisions of this Act can be filled by such officers in a lower grade as are entitled to the benefits of this Act, shall be temporarily increased during the time such offices may be held: *Provided*, That the officer who may be advanced and appointed major general in the Medical Department, United States Army, shall thereupon become the head of such department, and the operation of so much of section 26 of the Act of February 2, 1901, as limits the term of office of the head of the Medical Department, United States Army, shall be suspended during the incumbency of the head of the department who may be appointed under this Act: *Provided*, That whenever the head of the Medical Department appointed under the provisions of this Act shall become separated from the active list of the Army, by retirement or otherwise, the extra office or grade to which he shall have been so advanced or appointed shall cease and determine, and thereafter the rank of the head of the Medical Department, United States Army, shall be that of a brigadier general: *Provided further*, That nothing in this Act shall operate to interfere with or retard the promotion to which any officer would be entitled under existing law: *And provided further*, That the officers advanced to higher grades under this Act shall be junior to the officers who now rank them under existing law when these officers have reached the same grade."

## 6. Duties, funds, and property of Public Health Service; care of sick and disabled seamen.—

As to furnishing of medical service in the Federal prisons see §§ 751 and 752 of Title 18.

## 9. Suppression of Spanish influenza and other communicable diseases.—

It has been suggested that this section be omitted from the Code as of a temporary character. It is the second and final section of "A joint resolution to aid in combating Spanish influenza and other communicable diseases" section 1 of which, providing an appropriation to be available for such purpose for the period of nine months, was omitted as temporary. The section under discussion is considered to be so intimately bound up, both as to its purpose and specific language, with section 1 that it also should be omitted.

## 10. Surgeon General; appointment.—

"July 1, 1902, c. 1370, § 1, 32 Stat. 712," should be cited at the end of this section as authority for substituting "Surgeon General" for "Supervising Surgeon General."

## 13. Original appointments as assistant surgeon; promotion.—

In connection with this section see § 71j of this title.

★ 15a. Details; two hospital attendants for duty in laboratory.—The Surgeon-General of the Public Health Service is authorized to cause the detail of two hospital attendants from the port of New York for duty in the laboratory of the Bureau, and who shall each receive the pay equivalent to the compensation of a first-class hospital attendant. (Mar. 2, 1895, c. 177, § 1, 28 Stat. 780; July 1, 1902, c. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, c. 288, § 1, 37 Stat. 309.)

This section, which was omitted from the Code, constitutes a part of § 1 of the Legislative, etc., Appropriation Act of Mar. 2, 1895, c. 177, cited to the text.

Act July 1, 1902, c. 1370, cited to the text, entitled "An Act to increase the efficiency and change the name of the United States Marine-Hospital Service," substituted "Public Health and Marine-Hospital Service" for "United States Marine-Hospital Service," and "Surgeon General" for "Supervising Surgeon General."

Act Aug. 14, 1912, c. 288, cited to the text, entitled "An Act to change the name of the Public Health and Marine-Hospital Service to the Public Health Service, to increase the pay of officers of said service, and for other purposes," substituted "Public Health Service" for "Public Health and Marine-Hospital Service."

The changes are incorporated in the text.

## ★ 16. Same; for work with Bureau of Mines.—

This section should be omitted from the Code as it is temporary legislation repeated from year to year in Appropriation Acts.

## 18. Reserve of Public Health Service.—

In connection with this section see § 71g of this title.

## 21. National Institute of Health; National Advisory Health Council.—

The Hygienic Laboratory is now known as the National Institute of Health by virtue of § 23a of this title.

In connection with this section see § 71r of this title, which among other things changes the name of the advisory board provided for in this section.

## 22. Same; chiefs of divisions; director of institute.—

The Hygienic Laboratory is now known as the National Institute of Health by virtue of § 23a of this title.

In connection with this section see §§ 71c and 71l of this title.

## 23. Same; pay of director.—

This section has been superseded by § 23f of this title.

The Hygienic Laboratory is now known as the National Institute of Health by virtue of § 23a of this title.

23a. National Institute of Health; successor to Hygienic Laboratory; laws, authorizations and appropriations applicable; buildings; personnel.—The Hygienic Laboratory of the Public Health Service shall be known as the National Institute of Health, and all laws, authorizations, and appropriations pertaining to the Hygienic Laboratory shall be applicable for the operation and maintenance of the National Institute of Health. The Secretary of the Treasury is authorized to utilize the site now occupied by the Hygienic Laboratory and the land adjacent thereto owned by the Government and available for this purpose, or when funds are available therefor, to acquire sites by purchase, condemnation, or otherwise, in or near the District of Columbia, and to erect thereon and to furnish and equip suitable and adequate buildings for the use of such institute. In the administration and operation of this institute the Surgeon General shall select persons who show unusual aptitude in science. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$750,000, or so much thereof as may be necessary for construction and equipment of additional buildings at the present Hygienic Laboratory of the Public Health Service, Washington, District of Columbia. (May 20, 1930, c. 320, § 1, 46 Stat. 370.)

The Act cited to the text was entitled "An Act to establish and operate a National Institute of Health, to create a system of fellowships in said institute, and to authorize the Government to accept donations for use in ascertaining the cause, prevention, and cure of disease affecting human beings, and for other purposes."

The popular name of this Act is the "Ransdell Act."

Laws relating to the Hygienic Laboratory made applicable to the National Institute of Health by this section include §§ 21 to 23 and 71c of this title.

23b. Same; acceptance of gifts; purpose; investments; fellowships.—The Secretary of the Treasury is authorized to accept on behalf of the United States gifts made unconditionally

by will or otherwise for study, investigation, and research in the fundamental problems of the diseases of man and matters pertaining thereto, and for the acquisition of grounds or for the erection, equipment, and maintenance of buildings and premises: *Provided*, That conditional gifts may be accepted if recommended by the Surgeon General and at National Advisory Health Council. Any such gifts shall be held in trusts and shall be invested by the Secretary of the Treasury in securities of the United States, and the principal or income thereof shall be expended by the Surgeon General, with the approval of the Secretary of the Treasury, for the purposes indicated in this section and sections 23a and 23e of this title, subject to the same examination and audit as provided for appropriations made for the Public Health Service by Congress. Donations of \$500,000 or over in aid of research will be acknowledged permanently by the establishment within the Institute of suitable memorials to the donors. The Surgeon General, with the approval of the Secretary of the Treasury, is authorized to establish and maintain fellowships in the National Institute of Health, from funds donated for that purpose. (May 26, 1930, c. 320, § 2, 46 Stat. 492.)

For title of Act see note to § 23a.

**23c. Same; duties of scientists receiving fellowships.**—Individual scientists, other than commissioned officers of the Public Health Service, designated by the Surgeon General to receive fellowships may be appointed for duty in the National Institute of Health established by section 23a of this title. During the period of such fellowship these appointees shall hold appointments under regulations promulgated by the Secretary of the Treasury and shall be subject to administrative regulations for the conduct of the Public Health Service. Scientists so selected may likewise be designated for the prosecution of investigations in other localities and institutions in this and other countries during the term of their fellowships. (May 26, 1930, c. 320, § 3, 46 Stat. 380.)

For title of Act see note to § 23a.

**23d. Same; personnel; appointment; titles; compensation; expenditures authorized.**—The Secretary of the Treasury, upon the recommendation of the Surgeon General, is authorized (1) to designate the titles and fix the compensation of the necessary scientific personnel under regulations approved by the President; (2) in accordance with the civil service laws to appoint, and in accordance with sections 661 to 674 of Title 5, and amendments thereto, fix the compensation of such clerical and other assistants; and (3) to make such expenditures (including expenditures for personal services and rent at the seat of government, for books of reference, periodicals, and exhibits, and for printing and binding) as he deems necessary for the proper administration of such institution. (May 26, 1930, c. 320, § 4, 46 Stat. 380.)

For title of Act see note to § 23d.

**23e. Same; facilities to whom available.**—The facilities of the Institute shall from time to time be made available to bona fide health authorities of States, counties, or municipalities for purposes of instruction and investigation. (May 26, 1930, c. 320, § 5, 46 Stat. 380.)

For title of Act see note to § 23a.

**23f. Same; rank, pay, and allowances of Director.**—The Director of the National Institute of Health while so serving shall have the rank and shall receive the pay and allowances of a medical director of the Public Health Service. (May 26, 1930, c. 320, § 6, 46 Stat. 380.)

For title of Act see note to § 23a.

**28. Divisions under Assistant Surgeons General; assistants; pay and allowances; rank.**—

It has been suggested that in view of the fact that the pay and allowances of commissioned medical officers of the Public Health

Service, when acting as Assistant Surgeons General (with rank relative to that of colonel in the Army) are now entirely covered by the provisions of Title 37, PAY AND ALLOWANCES, the following sentence in this section should be omitted: "Their pay and allowances shall be the same as are provided by regulations of the Public Health Service for officers in charge of said divisions."

#### 34. Titles of officers.—

In connection with this section see §§ 71k, 71l, and 71m of this title. Section 71m repeals the limitation imposed by law upon the number of senior surgeons and Assistant Surgeons General at large of the Public Health Service on active duty.

#### PAY

#### 61. Travel expenses for travel on Government-owned vessels.—

This section was repeated and made permanent in the Treasury and Post Office Departments Appropriation Act of Mar. 2, 1926, c. 43, § 1, 44 Stat. 147.

#### 62. Longevity pay; credit for service in other branches.—

The relevant portion of the Act May 18, 1920, c. 100, sec. 11, 41 Stat. 603, cited to the text, reads as follows:

"Longevity pay for officers in the Army, Navy, Marine Corps, Coast Guard, Public Health Service, and Coast and Geodetic Survey shall be based on the total of all service in any or all of said services."

It has been suggested that this language should be substituted for that of § 62, it being a later expression of the opinion of Congress. It may be considered, however, that both of these provisions, while not repealed, are, in effect, superseded by Title 37, PAY AND ALLOWANCES which brings to pass the same results, by virtue of §§ 1 and 4 thereof.

#### 63. Computation of length of service of officers of Public Health Service.—

This section was repeated in the Navy Department Appropriation Act of May 21, 1926, c. 355, 44 Stat. 604.

#### 64. Transportation of dependents.—

For definition of words "child" and "children" as used in this section, see § 64a.

**64a. "Child" and "children" in section 64 defined.**—The words "child" and "children" as used in section 64 of this title, shall be held to include, legitimate children, stepchildren, and adopted children, where such legitimate children, stepchildren, or adopted children are in fact dependent upon the person claiming dependency allowance. (Feb. 21, 1920, c. 288, 45 Stat. 1254.)

The Act cited to the text was entitled "An Act to define the terms 'child' and 'children' as used in the Acts of May 18, 1920, and June 10, 1922."

#### 66. Retired pay of officers and warrant officers retired on or before June 30, 1922.—

See § 26a of Title 37.

#### Chapter 1A.—THE PUBLIC HEALTH SERVICE; SUPPLEMENTAL PROVISIONS.

This chapter constitutes Act Apr. 9, 1930, c. 125, 46 Stat. 150, entitled "An Act to provide for the coordination of the public-health activities of the Government, and for other purposes." The chapter supersedes, amends in effect, or supplements some of the provisions in chapter 1 of this title.

**Section 71. Officers and employees; details to executive and independent departments carrying on public-health activities; salaries and allowances.**—Upon the request of the head of an executive department or an independent establishment which is carrying on a public-health activity the Secretary of the Treasury is authorized to detail officers or employees of the Public Health Service to such department or independent establishment in order to cooperate in such work. When officers or employees are so detailed their salaries and allowances shall be paid by the Public Health Service from applicable appropriations. (Apr. 9, 1930, c. 125, § 1, 46 Stat. 150.)

**71a. Same; details to educational and research institutions.**—The Surgeon General of the Public Health Service is