

/\* Part 2 of the Ryan White Act follows. \*/

Section 300ff-44. Offering and encouraging early intervention services

(a) In general. The Secretary may not make a grant under section 2641 [42 USC 300ff-41] unless, in the case of entities to which the State provides amounts from the grant for the provision of early intervention services, the State involved agrees that:

(1) if the entity is a health care provider that regularly provides treatment for sexually transmitted diseases, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

(2) if the entity is a health care provider that regularly provides treatment for intravenous substance abuse, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

(3) if the entity is a family planning clinic, the entity will offer and encourage such services with respect to individuals to whom the entity provides family planning services and whom the entity has reason to believe has HIV disease; and

(4) if the entity is a health care provider that provides treatment for tuberculosis, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment.

(b) Sufficiency of amount of grant. With respect to compliance with the agreement made under subsection (a), an entity to which subsection (a) applies may be required to offer, encourage, and provide early intervention services only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

(c) Criteria for offering and encouraging. Subject to section 2641(b)(4) [42 USC 300ff-41(b)(4)], an entity to which subsection (a) applies is, for purposes of such subsection, offering and encouraging early intervention services with respect to the individuals involved if the entity:

(1) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing the health care involved; and

(2) provides the early intervention services only with the consent of the individuals.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2644, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 601.)

Section 300ff-45. Notification of certain individuals receiving blood transfusions

(a) In general. The Secretary may not make a grant under section 2641 [42 USC 300ff-41] unless the State involved provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1, 1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will provide public education and information for the purpose of--

(1) encouraging the population of such individuals to receive early intervention services; and

(2) informing such population of any health facilities in the geographic area involved that provide such services.

(b) Rule of construction. An agreement made under subsection (a) may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 2641 [42 USC 300ff-41] provide individual notifications to the individuals described in such subsection.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2645, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 602.)

Section 300ff-46. Reporting and partner notification

(a) Reporting. The Secretary may not make a grant under section 2641 [42 USC 300ff-41] unless, with respect to testing for HIV disease, the State involved provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient:

(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such disease;

(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease; and

(3) to assess the adequacy of early intervention services in the State.

(b) Partner notification. The Secretary may not make a grant under section 2641 [42 USC 300ff-41] unless the State involved provides assurances satisfactory to the Secretary that the State will require that the public health officer of the State, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding cases of HIV disease.

/\* This is an unusual section. The government here is not requiring as a condition of getting a grant that the state require partner notification. Instead, it is quite clear in requiring that the state public health department CONSIDER partner notification. It is entirely possible that a state health officer might not determine that any partner notification is "appropriate." However, the meaning appears to be that there should be some partner notification. However, the ultimate decision is that of the state health officer's determination. \*/

(c) Rules of construction. An agreement made under this section may not be construed:

(1) to require or prohibit any State from providing that identifying information concerning individuals with HIV disease is required to be submitted to the State; or

(2) to require any State to establish a requirement that entities other than the public health officer of the State are required to make the notifications referred to in subsection (b).

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2646, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 602.)

Section 300ff-47. Requirement of State law protection against intentional transmission

(a) In general. The Secretary may not make a grant under section 2641 [42 USC 300ff-41] to a State unless the chief executive officer determines that the criminal laws of the State are adequate to prosecute any HIV infected individual, subject to the condition described in subsection (b), who:

(1) makes a donation of blood, semen, or breast milk, if the individual knows that he or she is infected with HIV and intends, through such donation, to expose another [to] HIV in the event that the donation is utilized;

(2) engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV; and

(3) injects himself or herself with a hypodermic needle and subsequently provides the needle to another person for purposes of hypodermic injection, if the individual knows that he or she is infected and intends, through the provision of the needle, to expose another to such etiologic agent in the event that the needle is utilized.

(b) Consent to risk of transmission. The State laws described in subsection (a) need not apply to circumstances under which the conduct described in paragraphs (1) through (3) of subsection (a) if the individual who is subjected to the behavior involved knows that the other individual is infected and provides prior informed consent to the activity.

(c) State certification with respect to required laws. With respect to complying with subsection (a) as a condition of receiving a grant under section 2601 [42 USC 300ff-11], the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the laws of the State are adequate. The existence of a criminal law of general application, which can be applied to the conduct described in paragraphs (1) through (3) of subsection (a), is sufficient for compliance with this section.

(d) Time limitations with respect to required laws. With respect to receiving a grant under section 2601 [42 USC 300ff-11], if a State is unable to certify compliance with subsection (a), the Secretary may make a grant to a State under such section if:

(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State has in place or will establish the prohibitions described in subsection (a); and

(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2647, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 603; Nov. 3, 1990, P. L. 101-502, 6(c), 104 Stat. 1291.)

/\* These laws are reproduced in the state statutes sections. \*/

300ff-48. Testing and other early intervention services for State prisoners

(a) In general. In addition to grants under section 2641 [42 USC 300ff-41], the Secretary may make grants to States for the purpose of assisting the States in providing early intervention services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d), that:

(1) the services be provided to such individuals; and

(2) each such individual be informed of the requirements of subsection (c) regarding testing and be informed of the results of such testing of the individual.

(b) Requirement of matching funds. (1) In general. The Secretary may not make a grant under subsection (a) unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to:

(A) for the first fiscal year of payments under the grant, not less than \$1 for each \$2 of Federal funds provided in the grant; and

(B) for any subsequent fiscal year of such payments, not less than \$1 for each \$1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution. Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and services (or portions of services) subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(c) Testing. The Secretary may not make a grant under subsection (a) unless:

(1) the State involved requires that, subject to subsection (d), any individual sentenced by the State to a term of imprisonment be tested for HIV disease:

(A) upon entering the State penal system; and

(B) during the 30-day period preceding the date on which the individual is released from such system;

(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State:

(A) upon the request of any such employee, provides the results to the employee in any case in which the medical officer of the prison determines that there is a reasonable basis for believing that the employee has been exposed by the individual to such disease; and

(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State:

(A) upon the request of the spouse, provides such results to the spouse prior to any conjugal visit and provides such results to the spouse during the period described in paragraph (1) (B); and

(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A);

(4) with respect to such testing upon entering the State penal system of such an individual who has been convicted of rape or aggravated sexual assault, the State:

(A) upon the request of the victim of the rape or assault, provides such results to the victim; and

(B) informs the victim of the availability to the victim of such results; and

(5) the State, except as provided in any of paragraphs (2) through (4), maintains the confidentiality of the results of testing for HIV disease in each prison operated by the State or with amounts provided by the State, and makes disclosures of such results only as medically necessary.

(d) Determination of prisons subject to requirement. (1) In general. The Secretary may not make a grant under subsection (a) unless the State involved agrees that the requirement established in such subsection regarding the provision of early intervention services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

(2) Description of criteria. The criteria to be considered for purposes of paragraph (1) are:

(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison:

(i) the severity of the epidemic of HIV disease in the areas during the period in which the inmates resided in the areas; and

(ii) the incidence, in the areas during such period, of behavior that places individuals at significant risk of developing HIV disease; and

(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

(e) Applicability of provisions regarding informed consent, counseling, and other matters. The Secretary may not make a grant under subsection (a) unless the State involved agrees that sections 2641(b)(4), 2662, and 2664(c) [42 USC 300ff-41(b)(4), 300ff-62, 300ff-64(c)] will apply to the provision of early intervention services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2641 [42 USC 300ff-41].

(f) Requirement of application. The Secretary may not make a grant under subsection (a) unless an application for the grant is

submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(g) Rule of construction. With respect to testing inmates of State prisons for HIV disease without the consent of the inmates, the agreements made under this section may not be construed to authorize, prohibit, or require any State to conduct such testing, except as provided in subparagraphs (A) and (B) of subsection (c) (1).

[(h)](g) Authorization of appropriations. To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1988 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2648, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(b) (1), 104 Stat. 615 [Nov. 4, 1988, P. L. 100-607, Title IX, 902, 102 Stat. 3171; Nov. 18, 1988, P. L. 100-690, Title II, Subtitle G, Ch 1, 2605(a), 102 Stat. 4234]; Aug. 18, 1990, P. L. 101-381, Title III, 301(b) (2)-(4), 104 Stat. 617, 617.)

Short titles:

"This title may be cited as the 'Prison Testing Act of 1988'."

300ff-49. Determination of amount of allotments

(a) Minimum allotment. Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2641(a) [42 USC 300ff-41(a)] for a State for a fiscal year shall be the greater of:

(1) \$100,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and \$50,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

(2) an amount determined under subsection (b).

(b) Determination under formula. The amount referred to in subsection (a) (2) is the product of:

(1) an amount equal to the amount appropriated under [subsection (a) of] section 2650 [42 USC 300ff-50] for the fiscal year involved; and



(2) a percentage equal to the quotient of:

(A) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the State involved for the most recent fiscal year for which such data is available; divided by

(B) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the United States for the most recent fiscal year for which such data is available.

(c) Certain allocations by Secretary. (1) Discretionary grants to certain States. After determining the amount of an allotment under this subsection (a) for a fiscal year, the Secretary shall reduce the amount of the allotment of each State by 10 percent. From the amounts available as a result of such reductions, the Secretary shall, on a discretionary basis, make grants to States receiving allotments for the fiscal year involved. Such grants shall be made subject to each of the agreements and assurances required as a condition of receiving grants under section 2641 [42 USC 300ff-41].

(2) Grants to certain political subdivisions. (A) (i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control and Prevention, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such

subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III [42 USC 300ff-51 et seq. and 300ff-61 et seq.] will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a) [42 USC 300ff-51(a)].

(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).

(d) Disposition of certain funds appropriated for allotments. (1) In general. Any amounts available pursuant to paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary each fiscal year to States receiving payments under section 2641(a) [42 USC 300ff-41(a)] for the fiscal year (other than any State referred to in paragraph (2)(C)). The Secretary shall make payments, as grants, to each such State from any such allotment for the State for the fiscal year involved.

(2) Specification of amounts. The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2641(a) [42 USC 300ff-41(a)] as a result of:

(A) the failure of any State to submit an application under section 2651 [42 USC 300ff-51];

(B) the failure, in the determination of the Secretary, of any State to prepare the application in compliance with such section or to submit the application within a reasonable period of time; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

(3) Amount of allotment. The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of:

(A) an amount equal to the amount available pursuant to paragraph (2) for the fiscal year involved; and

(B) the percentage determined under subsection (b) (2) for the State.

(e) Transition rules. (1) For the fiscal years 1991 through 1993, the amount of an allotment under section 2641 [42 USC 300ff-41] shall be the greater of the amount determined under subsection (a) and an amount equal to the amount applicable under paragraph (2) for the fiscal year involved.

(2) For purposes of paragraph (1):

(A) the amount applicable for fiscal year 1991 is an amount equal to the amount received by the State involved from the Secretary, acting through the Director of the Centers for Disease Control and Prevention, for fiscal year 1990 for the provision of counseling and testing services with respect to HIV;

(B) the amount applicable for fiscal year 1992 is 85 percent of the amount specified in subparagraph (A); and

(C) the amount applicable for fiscal year 1993 is 70 percent of the amount specified in subparagraph (A).

300ff-49a. Miscellaneous provisions

The Secretary may not make a grant under section 2641 [42 USC 300ff-41] unless:

(1) the State involved submits to the Secretary a comprehensive plan for the organization and delivery of the early intervention services to be funded with the grant that includes a description of the purposes for which the State intends to use such assistance, including:

(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with the grant will maximize the quality of early intervention services available to individuals with HIV disease throughout the State; and

(B) a description of the manner in which services funded with the grant will be coordinated with other available related services for individuals with HIV disease; and

(2) the State agrees that:

(A) the public health agency administering the grant will conduct public hearings regarding the proposed use and distribution of the grant;

(B) to the maximum extent practicable, early intervention services delivered pursuant to the grant will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

(C) early intervention services under the grant will be provided in settings accessible to low-income individuals with HIV disease; and

(D) outreach to low-income individuals with HIV disease will be provided to inform such individuals of the services available pursuant to the grant.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2649A, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 605.)

#### 300ff-50. Authorization of appropriations

For the purpose of making grants under section 2641 [42 USC 300ff-41], there are authorized to be appropriated \$230,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2650, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 606.)

### Categorical Grants

#### Section 300ff-51. Establishment of program

(a) In general. For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a) [42 USC 300ff-52(a)].

(b) Purposes of grants. (1) In general. The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

(2) Specification of early intervention services. The early intervention services referred to in paragraph (1) are:

(A) counseling individuals with respect to HIV disease in accordance with section 2662 [42 USC 300ff-62];

(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(C) referrals described in paragraph (3);

(D) other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with the disease;

(E) providing the therapeutic measures described in subparagraph (B).

(3) Referrals. The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate:

(A) to entities receiving amounts under part A or B [42 USC 300ff-11 et seq. or 300ff-21 et seq.] for the provision of such services;

(B) to biomedical research facility of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 2671 [42 USC 300ff-71], in the case of a pregnant woman.

(4) Requirement of availability of all early intervention services through each grantee. The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities under which the entities provide the services.

(5) Optional services. A grantee under subsection (a):

(A) may expend the grant to provide outreach services to individuals who may have HIV disease or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

(B) may, in the case of individuals who seek early intervention services from the grantee, expend the grant:

(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

(c) Participation in certain consortium. The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to make reasonable efforts to participate in a consortium established with a grant under section 2612(a)(1) [42 USC 300ff-22(a)(1)] regarding comprehensive services to individuals with HIV disease, if such a consortium exist in the geographic area with respect to which the applicant is applying to receive such a grant.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart II, 2651, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 606; Nov. 15, 1990, P. L. 101-557, Title IV, 401(b)(2), 104 Stat. 2771.)

Section 300ff-52. Minimum qualifications of grantees

(a) In general. The entities referred to in section 2651(a) [42 USC 300ff-51(a)] are public entities and nonprofit private entities that are:

(1) migrant health centers under section 329 [42 USC 254b] or community health centers under section 330 [42 USC 254c];

(2) grantees under section 340 [42 USC 256] (regarding health services for the homeless);

(3) grantees under section 1001 [42 USC 300] (regarding family planning) other than States;

(4) comprehensive hemophilia diagnostic and treatment centers;

(5) Federally-qualified health centers under section 1905 (1) (2) (B) of the Social Security Act [42 USC 1396d (1) (2) (B)]; or

(6) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV disease.

(b) Status as Medicaid provider. (1) In general. Subject to paragraph (2), the Secretary may not make a grant under section 2651 [42 USC 300ff-51] for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 USC 1396 et seq.] for the State:

(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver regarding certain secondary agreements. (A) In the case of an entity making an agreement pursuant to paragraph (1) (B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to

whether the entity accepts voluntary donations regarding the provision of services to the public.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart II, 2652, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 607; Nov. 15, 1990, P. L. 101-557, Title IV, 401(b)(3), 104 Stat. 2771.)

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Section 300ff-53. Preferences in making grants

(a) In general. In making grants under section 2651 [42 USC 300ff-51], the Secretary shall give preference to any qualified applicant experiencing an increase in the burden of providing services regarding HIV disease, as indicated by the factors specified in subsection (b).

(b) Specification of factors. (1) In general. In the case of the geographic area with respect to which the entity involved is applying for a grant under section 2651 [42 USC 300ff-51], the factors referred to in subsection (a), as determined for the period specified in paragraph (2), are:

(A) the number of cases of acquired immune deficiency syndrome;

(B) the rate of increase in such cases;

(C) the lack of availability of early intervention services;

(D) the number of other cases of sexually transmitted diseases, and the number of cases of tuberculosis and of drug abuse;

(E) the rate of increase in each of the cases specified in subparagraph (D);

(F) the lack of availability of primary health services from providers other than such applicant; and

(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

(2) Relevant period of time. The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 2651 [42 USC 300ff-51].

(c) Equitable allocations. In providing preferences for purposes of subsection (b), the Secretary shall equitably allocate the preferences among urban and rural areas.



(July 1, 1944, ch 373, Title XXVI, Part C, Subpart II, 2653, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 608.)

300ff-54. Miscellaneous provisions

(a) Services for individuals with hemophilia. In making grants under section 2651 [42 USC 300ff-51], the Secretary shall ensure that any such grants made regarding the provision of early intervention services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

(b) Technical assistance. The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under section 2651 [42 USC 300ff-51], and may provide technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to such section.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart II, 2654, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 608.)

300ff-55. Authorization of appropriations

For the purpose of making grants under section 2651 [42 USC 300ff-51], there are authorized to be appropriated \$75,000,000 for fiscal years 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart II, 2655, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 609.)

General Provisions

300ff-61. Confidentiality and informed consent

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(a) Confidentiality. The Secretary may not make a grant under this part unless:

(1) in the case of any State applying for a grant under section 2641 [42 USC 300ff-41], the State agrees to ensure that information regarding the receipt of early intervention services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

(2) in the case of any entity applying for a grant under section 2651 [42 USC 300ff-51], the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

(b) Informed consent. (1) In general. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV disease, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2662(a) [42 USC 300ff-62(a)] and that the decision of the individual with respect to undergoing such testing is voluntarily made.

(2) Provisions regarding anonymous testing. (A) If, pursuant to section 2664(b) [42 USC 300ff-64(b)], an individual will undergo testing pursuant to this part through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

(B) If, pursuant to section 2664(b) [42 USC 300ff-64(b)], an individual will undergo testing pursuant to this part without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2661, as added Aug. 18, 1990. P. L. 101-381, Title III, 301(a), 104 Stat. 609.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

300ff-62. Provision of certain counseling services

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3Credits 3
3History; Ancillary Laws and Directives 3
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(a) Counseling before testing. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, before testing an individual for HIV disease, the applicant will provide to the individual appropriate counseling regarding the disease (based on the most recently available scientific data), including counseling on:

- (1) measures for the prevention of exposure to, and the transmission of, HIV;
- (2) the accuracy and reliability of the results of testing for HIV disease;
- (3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;
- (4) encouraging the individual, as appropriate, to undergo such testing;
- (5) the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;
- (6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2664(b) [42 USC 300ff-64(b)]; and
- (7) provisions of applicable law relating to discrimination against individuals with HIV disease.

(b) Counseling of individuals with negative test results. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV disease indicate that an individual does not have the disease, the applicant will review for the individual the information provided pursuant to subsection (a), including:

- (1) the information described in paragraphs (1) through (3) of such subsection; and
- (2) the appropriateness of further counseling, testing, and education of the individual regarding such disease.

(c) Counseling of individuals with positive test results. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing

for HIV disease indicate that the individual has the disease, the applicant will provide to the individual appropriate counseling regarding such disease, including:

(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such disease; and

(3) providing counseling on:

(A) the availability, through the applicant, of early intervention services;

(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

(C) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV and any individual whom the infected individual may have exposed to HIV; and

(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

(d) Additional requirements regarding appropriate counseling. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV disease, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

(e) Counseling of emergency response employees. The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV disease, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling. (f) Rule of construction regarding counseling without testing. Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV disease as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2662, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 610.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

300ff-63. Applicability of requirements regarding confidentiality, informed consent, and counseling

Z::::::::::::::::::::::::::?  
3Credits 3  
3History; Ancillary Laws and Directives 3  
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The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV disease, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2661 and 2662 [42 USC 300ff-61, 300ff-62].

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2663, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 611.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

300ff-64. Additional required agreements

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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(a) Reports to Secretary. The Secretary may not make a grant under this part unless:

- (1) the applicant submits to the Secretary:

(A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

(2) the applicant agrees to submit to the Secretary a report providing:

(A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

(B) epidemiological and demographic data on the population of such individuals;

(C) the extent to which the costs of HIV-related health care for such individuals are paid by third-party payors;

(D) the average costs of providing each category of early intervention service; and

(E) the aggregate amounts expended for each such category.

(b) Provision of opportunities for anonymous counseling and testing. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual:

(1) to undergo counseling and testing regarding HIV disease without being required to provide any information relating to the identity of the individual; and

(2) to undergo such counseling and testing through the use of a pseudonym.

(c) Prohibition against requiring testing as condition of receiving other health services. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

(d) Maintenance of support. The Secretary may not make a grant under this part unless the applicant for the grant agrees to maintain the expenditures of the applicant for early intervention services at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant.

(e) Requirements regarding imposition of charges for services.

(1) In general. The Secretary may not make a grant under this

part unless, subject to paragraph (5), the applicant for the grant agrees that:

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the applicant will not impose a charge on any such individual for the provision of early intervention services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the applicant:

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public.

(2) Limitation on charges regarding individuals subject to charges. With respect to the imposition of a charge for purposes of paragraph (1)(B)(ii), the Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that:

(A) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(B) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(C) in the case of individuals with an income greater than 300 percent of the official poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(3) Assessment of charge. With respect to compliance with the agreement made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph:

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and of paragraph (2) regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(4) Applicability of limitation on amount of charge. The Secretary may not make a grant under this part unless the applicant for the grant agrees that the limitations established in paragraph (2) regarding the imposition of charges for services

applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or similar charges.

(5) Waiver regarding certain secondary agreements. The requirement established in paragraph (1)(B)(i) shall be waived by the Secretary in the case of any entity for whom the Secretary has granted a waiver under section 2642(b) or 2652(b)(2) [42 USC 300ff-42(b) or 300ff-52(b)(2)].

(f) Relationship to items and services under other programs. (1) In general. The Secretary may not make a grant under this part unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended by the applicant, or by any entity receiving amounts from the applicant for the provision of early intervention services, to make payment for any such service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service:

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(2) Applicability to certain secondary agreements for provision of services. An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under this part provides early intervention services if the Secretary has provided a waiver under section 2642(b) or 2652(b)(2) [42 USC 300ff-42(b) or 300ff-52(b)(2)] regarding the entity.

(g) Administration of grant. The Secretary may not make a grant under this part unless the applicant for the grant agrees that:

(1) the applicant will not expend amounts received pursuant to this part for any purpose other than the purposes described in the subpart under which the grant involved is made;

(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

(3) the applicant will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

(h) Construction. A State may not use amounts received under a grant awarded under section 2641 [42 USC 300ff-41] to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2664, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 611.)



HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added by Act Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

300ff-65. Requirement of submission of application containing certain agreements and assurances

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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The Secretary may not make a grant under this part unless:

(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2664(a)(1) [42 USC 300ff-64(a)(1)];

(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2665, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 614.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added by Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

300ff-66. Provision by Secretary of supplies and services in lieu of grant funds

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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(a) In general. Upon the request of a grantee under this part, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing early intervention services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(b) Limitation. With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amount withheld.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2666, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 614.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added by Act Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

300ff-67. Use of funds

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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Counseling programs carried out under this part:

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

(2) shall be designed to reduce exposure to and transmission of HIV disease by providing accurate information; and

(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart III, 2667, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 614.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

"This part", referred to in this section, is Part C of Title XXVI of Act July 1, 1944, ch 373, as added by Act Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 597, which appears as 42 USC 300ff-41 et seq.

#### GENERAL PROVISIONS

300ff-71. Demonstration grants for research and services for pediatric patients regarding acquired immune deficiency syndrome

(a) In general. The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the National Institutes of Health, shall make demonstration grants to community health centers, and other appropriate public or nonprofit private entities that provide primary health care to the public, for the purpose of:

(1) conducting, at the health facilities of such entities, clinical research on therapies for pediatric patients with HIV disease as well as pregnant women with HIV disease; and

(2) with respect to the pediatric patients who participate in such research, providing health care on an outpatient basis to such patients and the families of such patients.

(b) Minimum qualifications of grantees. The Secretary may not make a grant under subsection (a) unless the health facility operated by the applicant for the grant serves a significant number of pediatric patients and pregnant women with HIV disease.

(c) Cooperation with biomedical institutions. (1) Design of research protocol. The Secretary may not make a grant under subsection (a) unless the applicant for the grant:

(A) has entered into a cooperative agreement or contract with an appropriately qualified entity with expertise in biomedical research under which the entity will assist the applicant in designing and conducting a protocol for the research to be conducted pursuant to the grant; and

(B) agrees to provide the clinical data developed in the research to the Director of the National Institutes of Health.

(2) Analysis and evaluation. The Secretary, acting through the Director of the National Institutes of Health:

(A) may assist grantees under subsection (a) in designing and conducting protocols described in subparagraph (A) of paragraph (1); and

(B) shall analyze and evaluate the data submitted to the Director pursuant to subparagraph (B) of such paragraph.

(d) Case management. The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the case management of the pediatric patient involved and the family of the patient.

(e) Referrals for additional services. The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the pediatric patient involved and the family of the patient:

(1) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

(2) referrals for other social and support services, as appropriate.

(f) Incidental services. The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide the family of the pediatric patient involved with such transportation, child care, and other incidental services as may be necessary to enable the pediatric patient and the family of the patient to participate in the program established by the applicant pursuant to such subsection.

(g) Application. The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(h) Evaluations. The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

(i) Definition. For purposes of this section, the term "community health center" has the meaning given such term in section 330(a) [42 USC 254c(a)].

(j) Authorization of appropriations. For the purpose of carrying out this section, there are authorized to be appropriated \$20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part D, 2671, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 617.)

300ff-72. Provisions relating to blood banks

(a) Informational and training programs. The Secretary shall:

(1) develop and make available to technical and supervisory personnel employed at blood banks and facilities that produce blood products, materials and information concerning measures that may be implemented to protect the safety of the blood supply with respect to the activities of such personnel, including:

(A) state-of-the-art diagnostic and testing procedures relating to pathogens in the blood supply; and

(B) quality assurance procedures relating to the safety of the blood supply and of blood products; and

(2) develop and implement a training program that is designed to increase the number of employees of the Department of Health and Human Services who are qualified to conduct inspections of blood banks and facilities that produce blood products.

(b) Updates. The Secretary shall periodically review and update the materials and information made available under informational or training programs conducted under subsection (a).

(c) Authorization of appropriations. There are authorized to be appropriated to carry out this section, \$1,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part D, 2672, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 618.)

300ff-73. Research, evaluation, and assessment program

(a) Establishment. The Secretary, acting through the Agency for Health Care Policy and Research, shall establish a program to enable independent research to be conducted by individuals and organizations with appropriate expertise in the fields of health, health policy, and economics (particularly health care economics) to develop:

(1) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering HIV-related health care, mental health care, early intervention, and support services, that shall include a report concerning patient outcomes, satisfaction, perceived quality of care, and total cumulative cost, and a review of the appropriateness of such models for the delivery of health and support services to infants, children, women, and families with HIV disease;

(2) through a review of private sector financing mechanisms for the delivery of HIV-related health and support services, an assessment of strategies for maintaining private health benefits

for individuals with HIV disease and an assessment of specific business practices or regulatory barriers that could serve to reduce access to private sector benefit programs;

(3) an assessment of the manner in which different points-of-entry to the health care system affect the cost, quality, and outcome of the care and treatment of individuals and families with HIV disease; and

(4) a summary report concerning the major and continuing unmet needs in health care, mental health care, early intervention, and support services for individuals and families with HIV disease in urban and rural areas.

(b) Report. Not later than 2 years after the date of enactment of this title [enacted Aug. 18, 1990], and periodically thereafter, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a progress report that contains the findings and assessments developed under subsection (a).

(c) Authorization of appropriations. There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part D, 2673, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 619.)

#### 300ff-74. Evaluations and reports

(a) Evaluations. The Secretary shall, directly or through grants and contracts, evaluate programs carried out under this title [42 USC 300ff-11 et seq.].

(b) Report to Congress. The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under this title [42 USC 300ff-11 et seq.], and annually thereafter, prepare and submit to the appropriate Committees of Congress a report:

(1) summarizing all of the reports that are required to be submitted to the Secretary under this title [42 USC 300ff-11 et seq.];

(2) recommending criteria to be used in determining the geographic areas with the most substantial need for HIV-related health services;

(3) summarizing all of the evaluations carried out pursuant to subsection (a) during the period for which the report under this subsection is prepared; and

(4) making such recommendations for administrative and legislative initiatives with respect to this title [42 USC 300ff-11 et seq.] as the Secretary determines to be appropriate.

(c) Authorization of appropriations. There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part D, 2674, as added Aug. 18, 1990. P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 620.)

300ff-75. Coordination

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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(a) Requirement. The Secretary shall assure that the Health Resources and Services Administration and the Centers for Disease Control and Prevention will coordinate the planning of the funding of programs authorized under this title to assure that health support services for individuals with HIV disease are integrated with each other and that the continuity of care of individuals with HIV disease is enhanced. In coordinating the allocation of funds made available under this title the Health Resources and Services Administration and the Centers for Disease Control and Prevention shall utilize planning information submitted to such agencies by the States and entities eligible for support.

(b) Integration by State. As a condition of receipt of funds under this title [42 USC 300ff-11 et seq.], a State shall assure the Secretary that health support services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV disease is enhanced.

(c) Integration by local or private entities. As a condition of receipt of funds under this title [42 USC 300ff-11 et seq.], a local government or private nonprofit entity shall assure the Secretary that services funded under this title [42 USC 300ff-11 et seq.] will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV is enhanced.

(July 1, 1944, ch 373, Title XXVI, Part D, 2675, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 620.)

(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(34), 106 Stat. 3506.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Amendments:

1992. Act Oct. 27, 1992, in subsec. (a), substituted "Centers for Disease Control and Prevention" for "Centers for Disease Control" in two places.

##### 300ff-76. Definitions

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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For purpose of this title [42 USC 300ff-11 et seq.]:

(1) Counseling. The term "counseling" means such counseling provided by an individual trained to provide such counseling.

(2) Designated officer of emergency response employees. The term "designated officer of emergency response employees" means an individual designated under section 26\_\_\_\_ by the public health officer of the State involved.

(3) Emergency. The term "emergency" means an emergency involving injury or illness.

(4) Emergency response employee. The term "emergency response employees" means firefighters, law enforcement officers, paramedics, emergency medical technicians, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

(5) Employer of emergency response employees. The term "employer of emergency response employees" means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

(6) Exposed. The term "exposed", with respect to HIV disease or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

(7) Families with HIV disease. The term "families with HIV disease" means families in which one or more members have HIV disease.



(8) HIV. The term "HIV" means infection with the etiologic agent for acquired immune deficiency syndrome.

(9) HIV disease. The term "HIV disease" means infection with the etiologic agent for acquired immune deficiency syndrome, and includes any condition arising from such syndrome.

(10) Official poverty line. The term "official poverty line" means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(a) of the Omnibus Budget Reconciliation Act of 1981 [42 USC 9902(a)].

(11) Person. The term "person" includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

(12) State. The term "State", except as otherwise specifically provided, means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Republic of the Marshall Islands.

(July 1, 1944, ch 373, Title XXVI, Part D, 2676, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 620.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"Section 26\_\_\_\_", referred to in para. (2) of this section, is probably a reference to section 2686 of Title XXVI of Act July 1, 1944, ch 373, as added by Act Aug. 18, 1990. P. L. 101-381, Title IV, Subtitle A, 401, 104 Stat. 627, which appears as 42 USC 300ff-86.

#### EMERGENCY RESPONSE EMPLOYEES

#### Guidelines and Model Curriculum

300ff-80. Grants for implementation

Z::::::::::::::::::::?:  
3Credits 3  
3History; Ancillary Laws and Directives 3  
@:::::::::::::::::::::Y

(a) In general. With respect to the recommendations contained in the guidelines and the model curriculum developed under section 253 of Public Law 100-607 [42 USC 300ee-2], the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

(b) Requirement of application. The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(c) Authorization of appropriations. For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1991 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart I, 2680, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 622.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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3Effective date of section 3  
3Other provisions 3  
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Effective date of section:

This section takes effect on Aug. 18, 1990, as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as a note to this section.

Other provisions:

Effective date of Part E of Title XXVI of Public Health Service Act. Act Aug. 18, 1990. P. L. 101-381, Title IV, Subtitle B, 411(b), 104 Stat. 628, provides: "Sections 2680 and 2681 of part E of title XXVI of the Public Health Service Act [this section and 42 USC 300ff-81], as added by subsection (a) of this section, shall take effect upon the date of the enactment of this Act. Such part shall otherwise take effect upon the expiration of

the 30-day period beginning on the date on which the Secretary issues guidelines under section 2681(a) [42 USC 300ff-81(a)].".

Notifications of Possible Exposure to Infectious Diseases

300ff-81. Infectious diseases and circumstances relevant to notification requirements

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3Credits 3  
3History; Ancillary Laws and Directives 3  
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(a) In general. Not later than 180 days after the date of the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 [enacted Aug. 18, 1990], the Secretary shall complete the development of:

(1) a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed in responding to emergencies;

(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 2683(d) [42 USC 300ff-83(d)].

(b) Specification of airborne infectious diseases. The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

(c) Dissemination. The Secretary shall:

(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

(2) make such copies available to the public.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2681, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 623.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

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References in text:

The "Ryan White Comprehensive AIDS Resources Emergency Act of 1990", referred to in this section, is Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 576, which appears generally as 42 USC 300ff et seq. For full classification of such Act, consult USC Tables volumes.

Effective date of section:

This section takes effect on Aug. 18, 1990, as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-82. Routine notifications with respect to airborne infectious diseases in victims assisted [Caution: for prospective effective date, see the Effective date of section note below]

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(a) Routine notification of designated officer. (1) Determination by treating facility. If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination. (2) Determination by facility ascertaining cause of death. If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

(b) Requirement of prompt notification. With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

(b) Requirement of prompt notification. With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2682, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 623.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

This section takes effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under 42 USC 300ff-81(a), as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-83. Request for notifications with respect to victims assisted [Caution: for prospective effective date, see the Effective date of section note below]

(a) Initiation of process by employee. If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

(b) Initial determination by designated officer. The duties referred to in subsection (a) are that:

(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 2681(a) [42 USC 300ff-81(a)(1)], the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

(c) Submission of request to medical facility. (1) In general. If a designated officer makes a determination under subsection (b) (2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

(2) Form of request. A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b) (1).

(d) Evaluation and response regarding request to medical facility. (1) In general. If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was exposed to an infectious disease included on the list issued under paragraph (1) of section 2681(a) [42 USC 300ff-81(a)(1)], as indicated by the guidelines issued under paragraph (2) of such section.

(2) Notification of exposure. If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

(3) Finding of no exposure. If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

(4) Insufficient information. (A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.

(B) (i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no

information on whether the victim involved has an infectious disease included on the list under section 2681(a) [42 USC 300ff-81(a)], the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.

(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

(e) Time for making response. After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

(f) Death of victim of emergency. (1) Facility ascertaining cause of death. If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

(2) Responsibility of facility. Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this subpart regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

(g) Assistance of public health officer. (1) Evaluation of response of medical facility regarding insufficient facts. (A) In the case of a request under subsection (c) to which a medical facility has made the response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

(B) As soon as is practicable after a public health officer receives a request under paragraph (1), but not later

than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

(2) Findings of evaluation. (A) If an evaluation under paragraph (1) (A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d) (1):

(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

(B) If an evaluation under paragraph (1) (A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c):

(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

(ii) if sufficient facts are obtained by the designated officer:

(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2683, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 624.)

Effective date of section:

This section takes effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues



guidelines under 42 USC 300ff-81(a), as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-84. Procedures for notification of exposure [Caution: for prospective effective date, see the Effective date of section note below]

(a) Contents of notification to officer. In making a notification required under section 2682 or section 2683(d) (2) [42 USC 300ff-82 or 300ff-83(d) (2)], a medical facility shall provide:

(1) the name of the infectious disease involved; and

(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

(b) Manner of notification. If a notification under section 2682 [42 USC 300ff-82] or section 2682(d) (2) is mailed or otherwise indirectly made:

(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2684, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 626.)

This section takes effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under 42 USC 300ff-81(a), as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-85. Notification of employee [Caution: for prospective effective date, see the Effective date of section note below]

(a) In general. After receiving a notification for purposes of section 2682 or 2683(d) (2) [42 USC 300ff-82 or 300ff-83(d) (2)], a

designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who:

(1) responded to the emergency involved; and

(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

(b) Certain contents of notification to employee. A notification under this subsection to an emergency response employee shall inform the employee of:

(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

(3) if medically appropriate under such criteria, the date of such emergency.

(c) Responses other than notification of exposure. After receiving a response under paragraph (3) or (4) of subsection (d) of section 2683 [42 USC 300ff-83(d)(3) or (4)], or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2685, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 626.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

This section takes effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under 42 USC 300ff-81(a), as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-86. Selection of designated officers [Caution: for prospective effective date, see the Effective date of section note below]

(a) In general. For the purposes of receiving notifications and responses and making requests under this subpart [42 USC 300ff-81 et seq.] on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

(b) Preference in making designations. In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2686, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 627.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

This section takes effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under 42 USC 300ff-81(a), as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-87. Limitations with respect to duties of medical facilities [Caution: for prospective effective date, see the Effective date of section note below]

The duties established in this subpart [42 USC 300ff-81 et seq.] for a medical facility:

(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 2683(c) [42 USC 300ff-83(c)] received by a medical facility before the expiration of such 30-day period.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2687, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 627.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

This section takes effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under 42 USC 300ff-81(a), as provided by 411(b) of Subtitle B of Title IV of Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 628, which appears as 42 USC 300ff-80 note.

300ff-88. Rules of construction [Caution: for prospective effective date, see the Effective date of section note below]

(a) Liability of medical facilities and designated officers. This subpart [42 USC 300ff-81 et seq.] may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, or any designated officer, for failure to comply with the duties established in this subpart [42 USC 300ff-81 et seq.].

(b) Testing. This subpart [42 USC 300ff-81 et seq.] may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

(c) Confidentiality. This subpart [42 USC 300ff-81 et seq.] may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

(d) Failure to provide emergency services. This subpart [42 USC 300ff-81 et seq.] may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

(July 1, 1944, ch 373, Title XXVI, Part E, Subpart II, 2688, as added Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle B, 411(a), 104 Stat. 627.)

300ff-89. Injunctions regarding violation of prohibition

(a) In general. The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this subpart [42 USC 300ff-81 et seq.].

(b) Facilitation of information on violations. The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this subpart [42 USC 300ff-81 et seq.]. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.