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HEALTH AND SAFETY CODE - HSC

DIVISION 103. DISEASE PREVENTION AND HEALTH PROMOTION [104100 - 106036] (*Division 103 added by Stats. 1995, Ch. 415, Sec. 5.*)

PART 1. CHRONIC DISEASE [104100 - 104324.5] (*Part 1 added by Stats. 1995, Ch. 415, Sec. 5.*)

CHAPTER 2. Cancer [104145 - 104210.2] (*Heading of Chapter 2 amended by Stats. 2015, Ch. 303, Sec. 340.*)

ARTICLE 2. The Cancer Research Act of 1997 [104175 - 104189] (*Article 2 added by Stats. 1997, Ch. 756, Sec. 1.*)

104175. The Legislature finds and declares that decades after the war on cancer was declared, it remains an insidious killer of Californians. Simultaneously, cancer absorbs millions of dollars from California's economy through health care costs, and takes an horrendous toll on the personal lives of citizens.

(*Added by Stats. 1997, Ch. 756, Sec. 1. Effective January 1, 1998.*)

104180. The Cancer Research Fund is hereby established in the State Treasury. Moneys in the fund shall be available for expenditure by the department, upon appropriation by the Legislature. The fund shall consist of money accepted by the department from grants and donations from private entities and of public moneys transferred to the fund. It is the intent of the Legislature that, after the initial appropriation made pursuant to Assembly Bill 1554 of the 1997–98 Regular Session, the fund be enhanced by annual allocations determined in subsequent budget acts.

(*Amended by Stats. 2001, Ch. 246, Sec. 1. Effective September 5, 2001.*)

104181. (a) The moneys in the Cancer Research Fund, established pursuant to Section 104180, shall be expended for the purpose of cancer research.

(b) The State Department of Health Services shall establish and administer the Cancer Research Program created by this article in a manner that will ensure the participation of both private sector and public research organizations. The State Department of Health Services may contract with nonprofit organizations, foundations, or public entities to administer the Cancer Research Program created by this article. A nonprofit organization shall be established under Section 501(c)(3) of the Internal Revenue Code for the purpose of conducting public health research. A nonprofit organization, foundation, or public entity shall have prior experience administering research programs offering comprehensive grant and contract opportunities for research concerning public health and disease-related projects, with substantial participation by private entities and public research organizations. In addition, a nonprofit organization, foundation, or public entity shall have experience in seeking, combining, and maximizing private funding to supplement public funding of projects. It is the intent of the Legislature that this program incorporate the principles and organizational elements set forth in this article, including, but not limited to, a research program office with a director and other essential staff, a cancer research council, and a research peer review panel.

(c) For the purposes of this article, all of the following shall apply:

(1) "Cancer research" is research with respect to the cause and prevention, cure, diagnosis, and treatment of cancer, including, but not limited to, intramural and extramural research in the fields of biomedical science and engineering, economics, epidemiology, diet and lifestyle, public health, and technology development and translation, with emphasis on noninvasive treatments.

(2) "Department" means the State Department of Health Services.

(3) "Grantee" means any qualifying public, private, or nonprofit agency or individual, including, but not limited to, colleges, universities, hospitals, laboratories, research institutions, local health departments, voluntary health agencies, cancer registries, health maintenance organizations, publicly traded or private corporations, students, fellows, entrepreneurs, and individuals conducting research in this state. A grantee may also be a corporation that is headquartered in California and that will conduct a substantial majority of the grant's research in this state.

(4) "Indirect costs" includes use allowance for research facilities, heating, lighting, library services, health and safety services, project administration, and building maintenance, as defined by federal cost accounting guidelines for federally sponsored research.

(5) "Program" means the Cancer Research Program.

(6) "Council" means the Cancer Research Council established pursuant to Section 104182.

(Added by Stats. 1997, Ch. 756, Sec. 1. Effective January 1, 1998.)

104181.5. The department, in awarding grants under this program, shall not encumber money allocated in any fiscal year other than the fiscal year in which the appropriation was made beginning with nonobligated 2000–01 fiscal year funds, subject to receiving multiyear spending authority for those funds.

(Added by Stats. 1999, Ch. 751, Sec. 1. Effective January 1, 2000.)

104181.6. Notwithstanding subdivision (a) of Section 2.00 of the Budget Act of 2002 and any other provision of law, commencing with the appropriation for the 2002–03 fiscal year, and for each fiscal year thereafter, any amount appropriated to the department for the Cancer Research Program shall be available, for purposes of that program, for encumbrance for one fiscal year beyond the year of appropriation and for expenditure for three fiscal years beyond the year of encumbrance.

(Added by Stats. 2003, Ch. 230, Sec. 6. Effective August 11, 2003.)

104182. (a) The Cancer Research Council is hereby established, to consist of 15 members appointed by the Director of Health Services representing a range of expertise and experience, and the chief of the California Cancer Registry as an ex officio, nonvoting member. The voting members shall be appointed by February 15, 1998, as follows:

(1) Nine members from persons recommended by relevant organizations, as follows:

(A) One member drawn from a cancer survivor group or cancer-related advocacy group.

(B) Five members drawn from the ranks of scientists or clinicians, two from public universities or research organizations, and three from private universities or research organizations. The scientists shall have expertise in one or more of the various fields of cancer research.

(C) One member who is a practicing cancer medical specialist from a health organization with a commitment to cancer research and control.

(D) Two members from private industry with an interest in cancer research and control, including, but not limited to, entrepreneurs or persons from the science or high technology industry.

(2) Three members nominated by the Senate Committee on Rules as follows:

(A) One member drawn from a cancer survivor group or cancer-related advocacy group.

(B) One member drawn from a health organization.

(C) One member drawn from private industry with an interest in cancer research or control.

(3) Three members nominated by the Speaker of the Assembly as follows:

(A) One member drawn from a cancer survivor group or cancer-related advocacy group.

(B) One member drawn from a health organization.

(C) One scientist or clinician who has expertise in one or more of the various fields of cancer research.

(b) It is the intent of the Legislature that the council contain the proportional representation of appointees described in subdivision (a) when the council approves the funding of research grants, and that vacancies affecting the proportional representation be filled before grants are approved, and within 45 days of the occurrence of a vacancy.

(c) Members shall serve without compensation, but may receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

(d) All appointments shall be for a term of four years, except that, for purposes of the initial appointments, the Director of Health Services shall appoint five members to four-year terms, five members to three-year terms, and five members to two-year terms. Each of those groups of five members shall include three members appointed under paragraph (1) of subdivision (a), one member appointed under paragraph (2) of that subdivision, and one member appointed under paragraph (3) of that subdivision.

(Added by Stats. 1997, Ch. 755, Sec. 3. Effective January 1, 1998.)

104182.5. Not less than a majority of the appointed members of the Cancer Research Council shall be present and voting for approval and selection of research priorities under Section 104185 and ultimate recommendations to the State Department of Health Services regarding grantmaking decisions.

(Added by Stats. 1999, Ch. 751, Sec. 2. Effective January 1, 2000.)

104182.7. (a) The department shall grant a minimum of 65 percent of any fiscal year appropriation that is awarded for research to cancer research proposals directly researching gender-specific cancers.

(b) Any amount of funding for gender-specific cancer research for any fiscal year, to the extent the amount is below the threshold minimum allocation for any fiscal year established pursuant to subdivision (a), shall be carried forward, upon approval of the council for the following fiscal year or years for gender-specific cancer research, to the extent allowed by the limitations on the appropriated funds subject to that allocation. Funding allocations carried over from any fiscal year under this subdivision shall be in addition to the funding allocation for gender-specific cancer research for fiscal years to which the additional allocation is transferred pursuant to this subdivision.

(Added by Stats. 1999, Ch. 751, Sec. 3. Effective January 1, 2000.)

104185. (a) This program shall incorporate the principles and organizational elements set forth in this article, including, but not limited to, a research program office with a director and other essential staff, a research council, and a research peer review panel. No more than 10 percent of the annual allocation for this program, up to a maximum of five hundred thousand dollars (\$500,000), shall be expended annually for the total administrative costs of the program. Administrative costs shall be kept to a strict minimum.

(b) The program shall be administered pursuant to the following principles:

(1) The department shall work in close collaboration with the council and seek the advice of the council before taking an action different from an action recommended by the council.

(2) The council shall participate in the development of the strategic objectives and priorities of the program based on the intent of this article and advise on what and how many research grants should be funded based on the research priorities that are established for the program and the technical merits of the proposals as determined by the peer review panels.

(3) The research priorities shall reflect, and the program shall fund, innovative and creative research, with a special emphasis on research that complements, rather than duplicates, the research funded by the federal government and other entities.

(4) All research funds shall be awarded on the basis of the priorities established for the program, statutorily or by the council, and the scientific merit and clinical applicability of the proposed research, as determined by an open, competitive peer review process that ensures objectivity, consistency, and high quality. All investigators, regardless of affiliation, shall have equal access and opportunity to compete for program funds.

(5) The peer review process for the selection of research grants awarded under this program shall be generally modeled on that used by the National Institute of Health in its grantmaking process, including the appeals process, but shall reflect in composition the creativity and diversity called for in this article and in the research priorities established in this article and by the council.

(6) A grantee shall be awarded grants for both direct and indirect costs of conducting the sponsored research consistent with those federal guidelines governing all federal research grants and contracts. All intellectual property assets developed under this program shall be treated in accordance with state and federal law.

(7) In establishing research priorities, the council shall consider a broad range of cross-disciplinary cancer research, as defined in paragraph (1) of subdivision (c) of Section 104181, including, but not limited to, research into the cause and prevention, cure, diagnosis, and treatment of cancer, emphasizing gender-specific cancers, based on magnitude of incidence and mortality, that have not previously received state funding.

(Added by Stats. 1997, Ch. 756, Sec. 1. Effective January 1, 1998.)

104187. The State Department of Health Services shall do all of the following:

- (a) Provide overall coordination of the program.
- (b) Provide staff assistance to the program and council.
- (c) Develop administrative procedures relative to the solicitation, review, and awarding of grants to ensure an impartial, high-quality peer review system.
- (d) Recruit and supervise research review panels. The membership of these panels shall vary depending on the subject matter of proposals and review requirements, and shall draw on the most qualified individuals. The work of the review panels shall be administered pursuant to policies and procedures established for the implementation of the program. In order to avoid conflicts of interest and to ensure access to qualified reviewers, the department may utilize reviewers not only from California but also from outside the state. When serving on review panels, institutions, corporations, or individuals who have submitted grant applications for funding by this program shall be governed by conflict-of-interest provisions consistent with Section 52h.5 of Title 42 of the Code of Federal Regulations governing scientific review of research grant applications, and any applicable conflict-of-interest provisions in state law. Any appointed member of the Cancer Research Council shall be ineligible to apply for or receive funding for cancer research from the Cancer Research Program during his or her term of service on the council, and for one cycle immediately following his or her term of service on the council, if the council member helped plan that subsequent cycle.
- (e) Provide for periodic program evaluation to ensure that research funded is consistent with program goals.
- (f) Disseminate grant moneys within 60 days of notification of the award and maintain a system of financial reporting and accountability. Grant moneys disseminated pursuant to this subdivision shall be available for expenditure for a period of three years beginning with funds appropriated in the 1998–99 fiscal year.
- (g) Provide for the systematic dissemination of research results to the public and the health care community, including work to produce public service advertising on screening and research results, and provide for a mechanism to disseminate the most current research findings in the areas of cause and prevention, cure, diagnosis, and treatment of cancer, in order that these findings may be applied to the planning, implementation, and evaluation of any cancer-related programs of the department.
- (h) Develop policies and procedures to facilitate the translation of research results into commercial, alternate technological, and other applications wherever appropriate and consistent with state and federal law.
- (i) Transmit, on or before December 31, 1998, and annually on or before each December 31 thereafter, a report to the Legislature on grants made, grants in progress, program accomplishments, and future program directions. Each report shall include, but not be limited to, all of the following information:
 - (1) The number and dollar amounts of research grants, including the amount allocated to indirect costs.
 - (2) The subject of research grants.
 - (3) The relationship between federal and state funding for cancer research.
 - (4) The relationship between each project and the overall strategy of the research program.
 - (5) A summary of research findings, including discussion of promising new areas.
 - (6) The corporations, institutions, and campuses receiving grant awards.

(Amended by Stats. 1999, Ch. 751, Sec. 4. Effective January 1, 2000.)

104187.5. Peer review panels, in reviewing proposals for cancer research, may recommend the awarding of a grant to a cancer research proposal on the condition that a single adjustment or correction be made before the receipt of funding under this article.

(Added by Stats. 1999, Ch. 751, Sec. 5. Effective January 1, 2000.)

104188. The maximum indirect cost rate that may be charged on any cancer research program grant awarded to any institution under this article shall not be more than 25 percent of the institution's direct costs.

(Added by Stats. 2002, Ch. 1161, Sec. 9. Effective September 30, 2002.)

104189. The responsibilities of the council shall include, but not be limited to, all of the following:

- (a) Development and review of the strategic objectives and research priorities of the program.
- (b) Delineation of resource allocation across the various priorities established for the program.
- (c) Participation in periodic program and financial review, including the report transmitted pursuant to subdivision (i) of Section 104187.
- (d) Development and review of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

- (e) Development of appropriate linkages to nonacademic entities, including, but not limited to, voluntary organizations, health care delivery systems, industry, government agencies, research entrepreneurs, and public officials.
- (f) Development and review of criteria and standards for granting awards.
- (g) Oversight and review of the request for applications (RFA).
- (h) Review of research review panel reports and recommendations for grant awards.
- (i) Make recommendations relating to the grants that are to be awarded.
- (j) Development and review of oversight mechanisms for the dissemination of research results.
- (k) Development and review of policies and liaison programs to facilitate the translation of research results into commercial, alternate technological, or other applications wherever appropriate.
- (l) Establishment of its own internal rules of operation.
- (m) Participation in the identification and recruitment of scientists with relevant expertise for possible participation in a peer review panel. The council may propose to assign a member of the council to sit as a nonvoting member of the peer review panels.

(Added by Stats. 1997, Ch. 756, Sec. 1. Effective January 1, 1998.)