

§ 645. Confidentiality of medical quality assurance records; qualified immunity for participants

(a) In this section—

(1) “medical quality assurance program” means any activity carried out by or for the Coast Guard to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics) medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

(2) “medical quality assurance record” means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Coast Guard as part of a medical quality assurance program.

(3) “health care provider” means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

(2) Except as provided in this section, an individual who reviews or creates medical quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard assigned Public Health Service health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or

privileging, or to monitor professional standards for a health care provider who is or was a member or an employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional qualifications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

(e) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

(f) Medical quality assurance records may not be made available to any person under section 552 of title 5.

(g) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) Nothing in this section shall be construed as—

(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if the record pertains to any matter within their respective jurisdictions;

(3) limiting access to the information in a record created and maintained outside a medi-

cal quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(i) Except as otherwise provided in this section, an individual who willfully discloses a medical quality assurance record knowing that the record is a medical quality assurance record, is liable to the United States Government for a civil penalty of not more than \$3,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.

(Added Pub. L. 102-587, title V, § 5203(a), Nov. 4, 1992, 106 Stat. 5072; amended Pub. L. 104-324, title VII, § 746(b), Oct. 19, 1996, 110 Stat. 3943; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 645, acts Aug. 4, 1949, ch. 393, § 1, 63 Stat. 547; Sept. 3, 1954, ch. 1263, § 34, 68 Stat. 1239; Aug. 23, 1958, Pub. L. 85-738, §§ 4, 5, 72 Stat. 833, provided for settlement of claims incident to activities of Coast Guard, prior to repeal, effective two years after Sept. 26, 1968, by Pub. L. 90-525, § 2, Sept. 26, 1968, 82 Stat. 877. See section 2733 of Title 10, Armed Forces.

AMENDMENTS

2004—Subsec. (h)(2). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1996—Subsecs. (d) to (h). Pub. L. 104-324 redesignated subsec. (d), relating to disclosure by person with access to a record or testimony, as (e) and redesignated former subsecs. (e) to (h) as (f) to (i), respectively.

§ 646. Admiralty claims against the United States

(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than \$100,000, an admiralty claim against the United States for—

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than \$100,000, the Secretary shall certify it to Congress.

(Aug. 4, 1949, ch. 393, 63 Stat. 548; Pub. L. 86-533, § 1(3)(A), June 29, 1960, 74 Stat. 245; Pub. L. 92-417, § 2(a), Aug. 29, 1972, 86 Stat. 655.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 71 (June 15, 1936, ch. 550, 49 Stat. 1514; July 1, 1944, ch. 373, title VII, § 711, 58 Stat. 714; Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1051).

This section closely parallels title 46, U.S.C., 1946 ed., §§ 797, 798, which authorizes the Secretary of the Navy to negotiate amicable settlement of claims against the United States arising out of the operation of Naval vessels. It grants similar authority to the Secretary of the Treasury in relation to vessels in the Coast Guard service, and the limiting amount is reduced from \$1,000,000 to \$25,000. It is believed that this section will work to the benefit of the Government by reducing civil litigation and the number of claims which must presently be certified to Congress for appropriations in order to make settlement. It will greatly expedite the settlement of just claims and should result in a considerable overall savings to the Government. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-417 incorporated in part first sentence of former subsec. (a) in text preceding par. (1), substituted "Secretary" for "Secretary of the Treasury", inserted provisions authorizing payments up to \$100,000, struck out second, third, and fourth sentences providing that provisions of this section were supplementary to other provisions, that claims in excess of \$3,000 accrued prior to Sept. 8, 1939, would not be considered, and that payments be made out of Coast Guard appropriations, and added pars. (1) to (3).

Subsec. (b). Pub. L. 92-417 incorporated in part first sentence of former subsec. (a).

Subsec. (c). Pub. L. 92-417 incorporated provisions of last sentence of former subsec. (a) and substituted "\$100,000" for "\$25,000".

1960—Subsec. (b). Pub. L. 86-533 repealed subsec. (b) which required the Secretary of the Treasury to report to the Congress the payment of claims determined, compromised, settled, or paid.

§ 647. Claims for damage to property of the United States

The Secretary may consider, ascertain, adjust, determine, compromise, or settle claims for damage cognizable in admiralty in a district court of the United States and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard or property for which the Coast Guard may have assumed, by contract or otherwise, any obligation to respond for damage thereto. The Secretary is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary is further authorized to execute on behalf of the United States and to deliver in exchange for such payment a full release of such claim. This section, as respects the determination, compromise, settlement, and payment of claims, shall be supplementary to, and not in lieu of, all other provisions of law authorizing the determination, compromise, or settlement of claims for damage to property hereinabove described. No settlement or compromise where there is involved a payment in the net amount of over \$100,000 is authorized by this section.

(Aug. 4, 1949, ch. 393, 63 Stat. 549; Pub. L. 86-533, § 1(3)(B), June 29, 1960, 74 Stat. 245; Pub. L. 94-546, § 1(34), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 98-557, § 17(b)(3)(A), Oct. 30, 1984, 98 Stat. 2868.)