

(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Administration.

(Added Pub. L. 102-40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 219; amended Pub. L. 108-170, title III, § 302(e), Dec. 6, 2003, 117 Stat. 2058.)

#### AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108-170, § 302(e)(1), substituted "health" for "medical" in three places in concluding provisions.

Subsec. (a)(2). Pub. L. 108-170, § 302(e)(2), substituted "health" for "medical" the first place it appeared and inserted "chiropractor," after "podiatrist,".

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-170, title III, § 302(h), Dec. 6, 2003, 117 Stat. 2058, provided that: "The amendments made by this section [amending this section and sections 7401 to 7404, 7409, and 7421 of this title] shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act [Dec. 6, 2003]."

### § 7317. Hazardous research projects: indemnification of contractors

(a)(1) With the approval of the Secretary, any contract or research authorized by section 7303 of this title, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor as provided in paragraph (2), but only to the extent that the liability, loss, or damage concerned arises out of the direct performance of the contract and to the extent not covered by the financial protection required under subsection (e).

(2) Indemnity under paragraph (1) is indemnity against either or both of the following:

(A) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(B) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract that provides for indemnification in accordance with subsection (a) must also provide for—

(1) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

(c) A payment may not be made under subsection (a) unless the Secretary certifies that the amount is just and reasonable.

(d) Upon approval by the Secretary, payments under subsection (a) may be made from—

(1) funds obligated for the performance of the contract concerned;

(2) funds available for research or development or both, and not otherwise obligated; or

(3) funds appropriated for those payments.

(e) Each contractor which is a party to an indemnification agreement under subsection (a) shall have and maintain financial protection of such type and in such amounts as the Secretary shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Secretary may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

(f) In administering the provisions of this section, the Secretary may use the facilities and services of private insurance organizations and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this section may be made without regard to the provisions of section 6101(b) to (d) of title 41, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made under any such contract.

(g) The authority to indemnify contractors under this section does not create any rights in third persons which would not otherwise exist by law.

(h) Funds appropriated to carry out this section shall remain available until expended.

(i) In this section, the term "contractor" includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subsection (a).

(Added Pub. L. 102-40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 220; amended Pub. L. 111-350, § 5(j)(4), Jan. 4, 2011, 124 Stat. 3850.)

#### AMENDMENTS

2011—Subsec. (f). Pub. L. 111-350 substituted "section 6101(b) to (d) of title 41" for "section 3709 of the Revised Statutes (41 U.S.C. 5)".

### § 7318. National Center for Preventive Health

(a)(1) The Under Secretary for Health shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereinafter in this section referred to as the "Center"). The Center shall be located at a Department health care facility.

(2) The head of the Center is the Director of Preventive Health (hereinafter in this section referred to as the "Director").

(3) The Under Secretary for Health shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

(b) The purposes of the Center are the following:

(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect to the

provision, evaluation, and improvement of preventive health services.

(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

(c) In carrying out the purposes of the Center, the Director shall do the following:

(1) Develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to—

(A) the on-going provision of regularly-furnished services; and

(B) patient education and screening programs carried out throughout the Administration.

(2) Develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services.

(3) In order to encourage the effective provision of preventive health services by Veterans Health Administration personnel—

(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the Administration.

(4) Facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Under Secretary for Health and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services.

(5) Provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

(d) There is authorized to be appropriated \$1,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year for the purpose of permitting the National Center for Preventive Health to carry out research, clinical, educational, and administrative activities under this section. Such activities shall be considered to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

(e) In this section, the term “preventive health services” has the meaning given such term in section 1701(9) of this title.

(Added Pub. L. 102-585, title V, § 511(a)(1), Nov. 4, 1992, 106 Stat. 4955; amended Pub. L. 103-446, title XII, § 1201(c)(5), Nov. 2, 1994, 108 Stat. 4683.)

#### AMENDMENTS

1994—Subsecs. (a)(1), (3), (c)(4). Pub. L. 103-446 substituted “Under Secretary for Health” for “Chief Medical Director”.

#### SELECTION OF FACILITY AT WHICH CENTER TO BE ESTABLISHED

Pub. L. 102-585, title V, § 511(c), Nov. 4, 1992, 106 Stat. 4956, as amended by Pub. L. 103-446, title XII, § 1202(e)(2), Nov. 2, 1994, 108 Stat. 4689, provided that: “In order to establish the National Center for Preventive Health pursuant to section 7318 of title 38, United States Code, as added by subsection (a), the Under Secretary for Health of the Department of Veterans Affairs shall solicit proposals from Department health care facilities to establish the center. The Under Secretary for Health shall establish such center at the facility or facilities which the Under Secretary for Health determines, on the basis of a review and analysis of such proposals, would most effectively carry out the purposes set forth in subsection (b) of such section.”

#### § 7319. Mammography quality standards

(a) A mammogram may not be performed at a Department facility unless that facility is accredited for that purpose by a private nonprofit organization designated by the Secretary. An organization designated by the Secretary under this subsection shall meet the standards for accrediting bodies established under subsection (e) of section 354 of the Public Health Service Act (42 U.S.C. 263b).

(b) The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe quality assurance and quality control standards relating to the performance and interpretation of mammograms and use of mammogram equipment and facilities of the Department of Veterans Affairs consistent with the requirements of section 354(f)(1) of the Public Health Service Act. Such standards shall be no less stringent than the standards prescribed by the Secretary of Health and Human Services under section 354(f) of the Public Health Service Act.

(c)(1) The Secretary, to ensure compliance with the standards prescribed under subsection (b), shall provide for an annual inspection of the equipment and facilities used by and in Department health care facilities for the performance of mammograms. Such inspections shall be carried out in a manner consistent with the inspection of certified facilities by the Secretary of Health and Human Services under section 354(g) of the Public Health Service Act.

(2) The Secretary may not provide for an inspection under paragraph (1) to be performed by a State agency.

(d) The Secretary shall ensure that mammograms performed for the Department under contract with any non-Department facility or provider conform to the quality standards prescribed by the Secretary of Health and Human Services under section 354 of the Public Health Service Act.

(e) For the purposes of this section, the term “mammogram” has the meaning given such term in paragraph (5) of section 354(a) of the Public Health Service Act.

(Added Pub. L. 104-262, title III, § 321(a)(1), Oct. 9, 1996, 110 Stat. 3195.)

#### REFERENCES IN TEXT

Section 354 of the Public Health Service Act, referred to in text, is section 354 of act July 1, 1944, ch. 373, which is classified to section 263b of Title 42, The Public Health and Welfare.