

Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

(c) Regulations prescribed by the Secretary under sections 7331, 7332, and 7333 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 7332(b)(2)(C)¹ of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

(d) In prescribing and implementing such regulations, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Secretary prescribe.

(Added Pub. L. 94-581, title I, §111(a)(1), Oct. 21, 1976, 90 Stat. 2851, §4134; amended Pub. L. 97-295, §4(87), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 100-322, title I, §122(a), May 20, 1988, 102 Stat. 504; renumbered §7334 and amended Pub. L. 102-40, title IV, §401(a)(4)(A), 402(d)(1), 403(a)(1), (4), May 7, 1991, 105 Stat. 221, 239.)

REFERENCES IN TEXT

Section 201 of the National Research Act, referred to in subsec. (b)(1), is section 201 of Pub. L. 93-348, title II, July 12, 1974, 88 Stat. 348, as amended, which was set out as a note under section 2891-1 of Title 42, The Public Health and Welfare, and was repealed by Pub. L. 95-622, title III, §302(b), Nov. 9, 1978, 92 Stat. 3442.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.), referred to in subsec. (b)(2), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classified principally to chapter 60 (§4541 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of Title 42 and Tables.

The Drug Abuse Office and Treatment Act of 1972, referred to in subsec. (b)(2), which was redesignated the Drug Abuse Prevention, Treatment, and Rehabilitation Act, is Pub. L. 92-255, Mar. 21, 1972, 86 Stat. 65, as amended, which is classified principally to chapter 16 (§1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 21 and Tables.

Section 7332(b)(2)(C) of this title, referred to in subsec. (c), was formerly a reference to section 4132(b)(2)(C) of this title which was redesignated section 4132(b)(2)(D) by Pub. L. 100-322, title I, §121(b)(2)(A), May 20, 1988, 102 Stat. 502, and subsequently renum-

bered section 7332(b)(2)(D) by Pub. L. 102-40, title IV, §401(a)(4)(A), May 7, 1991, 105 Stat. 221. The reference to section 4132(b)(2)(C) in subsec. (c) was amended to reflect the renumbering by Pub. L. 102-40 but not the redesignation by Pub. L. 100-322.

AMENDMENTS

1991—Pub. L. 102-40, §401(a)(4)(A), renumbered section 4134 of this title as this section.

Subsec. (a). Pub. L. 102-40, §403(a)(4), struck out “of this section” after “subsection (b)”.

Pub. L. 102-40, §403(a)(1), substituted “Secretary” for “Administrator”.

Pub. L. 102-40, §402(d)(1), substituted “7331” for “4131”, “7332” for “4132”, and “7333” for “4133”.

Subsec. (b). Pub. L. 102-40, §403(a)(4), struck out “of this section” after “subsection (a)” in introductory provisions.

Subsec. (c). Pub. L. 102-40, §403(a)(1), substituted “Secretary” for “Administrator”.

Pub. L. 102-40, §402(d)(1), substituted “7331, 7332, and 7333” for “4131, 4132, and 4133” and “7332(b)(2)(C)” for “4132(b)(2)(C)”.

Subsec. (d). Pub. L. 102-40, §403(a)(1), substituted “Secretary” for “Administrator” in two places.

1988—Pub. L. 100-322 amended section generally, substituting provisions consisting of subsecs. (a) to (d) for former provisions consisting of subsecs. (a) and (b).

1982—Subsec. (a). Pub. L. 97-295 substituted “Health and Human Services” for “Health, Education, and Welfare” wherever appearing, and substituted “the President (or the delegate of the President)” for “the Director of the Office of Drug Abuse Policy (or any successor authority)”.

SUBCHAPTER IV—RESEARCH CORPORATIONS

PRIOR PROVISIONS

A prior subchapter IV of this chapter consisted of sections 4141 and 4142 prior to amendment by Pub. L. 102-40, title IV, §401(c)(1), May 7, 1991, 105 Stat. 238, which struck out the subchapter heading “PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL”, renumbered sections 4141 and 4142 as sections 7451 and 7452 of this title, respectively, and transferred those sections to subchapter IV of chapter 74 of this title.

A prior subchapter V of this chapter consisting of sections 4151 and 4152, related to quality assurance, prior to repeal by Pub. L. 102-40, title IV, §401(a)(2)(A), May 7, 1991, 105 Stat. 210. See Prior Provisions notes set out under section 4114 of this title.

A prior subchapter VI of this chapter was redesignated as this subchapter.

AMENDMENTS

1991—Pub. L. 102-40, title IV, §401(a)(2)(B), May 7, 1991, 105 Stat. 210, redesignated subchapter VI of this chapter as this subchapter. For disposition of former subchapter IV of this chapter, see Prior Provisions note above.

§ 7361. Authority to establish; status

(a) The Secretary may authorize the establishment at any Department medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research and education at the medical center. Such a corporation may be established to facilitate either research or education or both research and education.

(b)(1) Subject to paragraph (2), a corporation established under this subchapter may facilitate the conduct of research, education, or both at more than one medical center. Such a corporation shall be known as a “multi-medical center research corporation”.

¹ See References in Text note below.

(2) The board of directors of a multi-medical center research corporation under this subsection shall include the official at each Department medical center concerned who is, or who carries out the responsibilities of, the medical center director of such center as specified in section 7363(a)(1)(A)(i) of this title.

(3) In facilitating the conduct of research, education, or both at more than one Department medical center under this subchapter, a multi-medical center research corporation may administer receipts and expenditures relating to such research, education, or both, as applicable, performed at the Department medical centers concerned.

(c) Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable Department medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State. In the case of any multi-medical center research corporation that facilitates the conduct of research, education, or both at Department medical centers located in different States, the corporation shall be established in accordance with the nonprofit corporation laws of the State in which one of such Department medical centers is located.

(d)(1) Except as otherwise provided in this subchapter or under regulations prescribed by the Secretary, any corporation established under this subchapter, and its officers, directors, and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives that apply generally to private nonprofit corporations.

(2) A corporation under this subchapter is not—

(A) owned or controlled by the United States; or

(B) an agency or instrumentality of the United States.

(e) If by the end of the four-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Secretary shall dissolve the corporation.

(f) A corporation established under this subchapter may act as a multi-medical center research corporation under this subchapter in accordance with subsection (b) if—

(1) the board of directors of the corporation approves a resolution permitting facilitation by the corporation of the conduct of research, education, or both at the other Department medical center or medical centers concerned; and

(2) the Secretary approves the resolution of the corporation under paragraph (1).

(Added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 510, §4161; renumbered §7361 and amended Pub. L. 102-40, title IV, §§401(a)(4)(B), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102-291, §3(a), May 20, 1992, 106 Stat. 179; Pub. L. 104-262, title III, §343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106-117, title II, §204(a), Nov. 30, 1999, 113 Stat. 1562; Pub. L. 111-163, title VIII,

§801(a), (b)(1), (c), (d), May 5, 2010, 124 Stat. 1175, 1176.)

REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (e), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-163, §801(c)(1), struck out “Except as otherwise required in this subchapter or under regulations prescribed by the Secretary, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.” after “the medical center.”

Subsecs. (b) to (d). Pub. L. 111-163, §801(a)(1)(B), (b)(1), (c)(2), added subsecs. (b) to (d). Former subsec. (b) redesignated (e).

Subsec. (e). Pub. L. 111-163, §801(d), inserted “section 501(c)(3) of” after “exempt from taxation under”.

Pub. L. 111-163, §801(a)(1)(A), redesignated subsec. (b) as (e).

Subsec. (f). Pub. L. 111-163, §801(a)(2), added subsec. (f).

1999—Subsec. (a). Pub. L. 106-117 inserted “and education” after “research” and inserted at end “Such a corporation may be established to facilitate either research or education or both research and education.”

1996—Subsec. (b). Pub. L. 104-262 struck out “section 501(c)(3) of” before “the Internal Revenue Code of 1986”.

1992—Subsec. (b). Pub. L. 102-291 substituted “four-year period” for “three-year period”.

1991—Pub. L. 102-40, §401(a)(4)(B), renumbered section 4161 of this title as this section.

Subsec. (a). Pub. L. 102-40, §403(a)(2), substituted “Department” for “Veterans’ Administration”.

Pub. L. 102-40, §403(a)(1), substituted “Secretary” for “Administrator” in two places.

Subsec. (b). Pub. L. 102-40, §403(a)(1), substituted “Secretary” for “Administrator”.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-291, §3(c), May 20, 1992, 106 Stat. 179, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 7368 of this title] shall take effect as of October 1, 1991.”

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Pub. L. 102-291, §3(d), May 20, 1992, 106 Stat. 179, provided that: “The following actions of the Secretary of Veterans Affairs during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act [May 20, 1992] are hereby ratified:

“(1) A failure to dissolve a nonprofit corporation established under section 7361(a) of title 38, United States Code, that, within the three-year period beginning on the date of the establishment of the corporation, was not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)].

“(2) The establishment of a nonprofit corporation for approved research under section 7361(a) of title 38, United States Code.”

§ 7362. Purpose of corporations

(a) A corporation established under this subchapter shall be established to provide a flexible funding mechanism for the conduct of approved research and education at one or more Department medical centers and to facilitate functions related to the conduct of research as described in section 7303(a) of this title and education and training as described in sections 7302, 7471, 8154,