

(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,

and 1701(6)(B)<sup>1</sup> of this title in conjunction with the applicable Department medical center or centers.

(b) For purposes of this section, the term “education” includes education and training and means the following:

(1) In the case of employees of the Veterans Health Administration, such term means work-related instruction or other learning experiences to—

- (A) improve performance of current duties;
- (B) assist employees in maintaining or gaining specialized proficiencies; and
- (C) expand understanding of advances and changes in patient care, technology, and health care administration.

(2) In the case of veterans under the care of the Veterans Health Administration, such term means instruction or other learning experiences related to improving and maintaining the health of veterans and includes education and training for patients and families and guardians of patients.

(Added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 510, §4162; renumbered §7362 and amended Pub. L. 102-40, title IV, §§401(a)(4)(B), 403(a)(1)-(3), May 7, 1991, 105 Stat. 221, 239; Pub. L. 106-117, title II, §204(b), Nov. 30, 1999, 113 Stat. 1562; Pub. L. 111-163, title VIII, §§802, 804(b), May 5, 2010, 124 Stat. 1176, 1179.)

#### REFERENCES IN TEXT

Section 1701(6)(B) of this title, referred to in subsec. (a), which related to inclusion of consultation, professional counseling, training, and mental health services in definition of “medical services”, was repealed and a new section 1701(6)(B) relating to dental services and appliances was enacted, by Pub. L. 107-135, title II, §208(a)(1)(A), (C), Jan. 23, 2002, 115 Stat. 2461.

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111-163, §804(b), struck out last sentence which read as follows: “Any funds received by the Secretary for the conduct of research or education at the medical center other than funds appropriated to the Department may be transferred to and administered by the corporation for these purposes.”

Pub. L. 111-163, §802(a), in first sentence, substituted “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” for “Any corporation established under this subchapter shall be established solely to facilitate” and inserted “or centers” before period at end.

Subsec. (b). Pub. L. 111-163, §802(b), substituted “the term ‘education’ includes education and training and” for “the term ‘education and training’” in introductory provisions.

Subsec. (b)(1). Pub. L. 111-163, §802(c), struck out concluding provisions which read as follows: “Such term includes (in the case of such employees) education and training conducted as part of a residency or other program designed to prepare an individual for an occupation or profession.”

Subsec. (b)(2). Pub. L. 111-163, §802(d), substituted “and includes education and training for patients and families” for “to patients and to the families”.

1999—Pub. L. 106-117 designated existing provisions as subsec. (a), in first sentence, inserted “and education

and training as described in sections 7302, 7471, 8154, and 1701(6)(B) of this title” after “7303(a) of this title”, in second sentence, inserted “or education” after “research” and substituted “these purposes” for “that purpose”, and added subsec. (b).

1991—Pub. L. 102-40, §401(a)(4)(B), renumbered section 4162 of this title as this section.

Pub. L. 102-40, §403(a)(3), substituted “7303(a)” for “4101(c)(1)”.

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

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

#### § 7363. Board of directors; executive director

(a) The Secretary shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) with respect to the Department medical center—

(A)(i) the director (or directors of each Department medical center, in the case of a multi-medical center research corporation);

(ii) the chief of staff; and

(iii) as appropriate for the activities of such corporation, the associate chief of staff for research and the associate chief of staff for education; or

(B) in the case of a Department medical center at which one or more of the positions referred to in subparagraph (A) do not exist, the official or officials who are responsible for carrying out the responsibilities of such position or positions at the Department medical center; and

(2) subject to subsection (c), not less than two members who are not officers or employees of the Federal Government and who have backgrounds, or business, legal, financial, medical, or scientific expertise, of benefit to the operations of the corporation.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Under Secretary for Health of the Department. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) to the board of directors of a corporation established under this subchapter may not be affiliated with or employed by any entity that is a source of funding for research or education by the Department unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986.

(Added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 510, §4163; renumbered §7363 and amended Pub. L. 102-40, title IV, §§401(a)(4)(B), 403(a)(1), (2), (4), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104-262, title III, §343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106-117, title II, §204(c), Nov. 30, 1999, 113 Stat. 1562; Pub. L. 111-163, title VIII, §803, May 5, 2010, 124 Stat. 1177.)

<sup>1</sup> See References in Text note below.