

respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans."

§ 7315. Geriatrics and Gerontology Advisory Committee

(a) The Secretary shall establish in the Veterans Health Administration a Geriatrics and Gerontology Advisory Committee (hereinafter in this section referred to as the "Committee"). The membership of the Committee shall be appointed by the Secretary, upon the recommendation of the Under Secretary for Health, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans service organization. The Secretary, upon the recommendation of the Under Secretary for Health, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this section.

(b) The Committee shall—

(1) advise the Under Secretary for Health on all matters pertaining to geriatrics and gerontology;

(2) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on August 26, 1980), the ability of each center established under section 7314 of this title to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 (Public Law 96-330; 94 Stat. 1048);

(3) assess the capability of the Department to provide high quality geriatric services, extended services, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

(4) assess the current and projected needs of eligible older veterans for geriatric services, extended-care services, and other health-care services from the Department and its activities and plans designed to meet such needs; and

(5) perform such additional functions as the Secretary or Under Secretary for Health may direct.

(c)(1) The Committee shall submit to the Secretary, through the Under Secretary for Health, such reports as the Committee considers appropriate with respect to its findings and conclu-

sions under subsection (b). Such reports shall include the following:

(A) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to section 7314 of this title.

(B) Assessments of the quality of the operations of such centers.

(C) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric services, extended-care services, and other health-care services.

(D) Assessments of and recommendations for correcting any deficiencies in the operations of such centers.

(E) Recommendations for such other geriatric services, extended-care services, and other health-care services as may be needed to meet the needs of older veterans.

(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.

(Added Pub. L. 102-40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 217; amended Pub. L. 102-83, §4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 102-405, title I, §102, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1973, 1984; Pub. L. 103-446, title XII, §§1201(i)(9), 1202(b)(2), Nov. 2, 1994, 108 Stat. 4688, 4689; Pub. L. 107-330, title III, §308(g)(13), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The Veterans' Administration Health-Care Amendments of 1980, referred to in subsec. (b)(2), is Pub. L. 96-330, Aug. 26, 1980, 94 Stat. 1030. Title III of the Act amended former sections 4101 and 4103 of this title and enacted provisions set out as notes under former section 4101 of this title. For the purposes of title III, see section 301 of Pub. L. 96-330, set out as a note under section 7314 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-330 inserted "Veterans Health" before "Administration" in first sentence.

1994—Subsec. (b)(2). Pub. L. 103-446, §1201(i)(9), which directed substitution of "Veterans' Administration" for "Department", could not be executed because "Department" did not appear subsequent to execution of amendment by Pub. L. 103-446, §1202(b)(2). See below.

Pub. L. 103-446, §1202(b)(2), amended Pub. L. 102-83, §4(a)(3), (4), to make it inapplicable to this section. See 1991 Amendment note below.

1992—Subsecs. (a), (b)(1), (5), (c)(1). Pub. L. 102-405, §302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (c)(2). Pub. L. 102-405, §102, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Not later than 90 days after receipt of a report submitted under paragraph (1), the Secretary shall transmit the report, together with the Secretary's com-

ments and recommendations thereon, to the appropriate committees of the Congress.”

1991—Subsec. (b)(2). Pub. L. 102-83, §4(a)(3), (4), which directed substitution of “Department” for “Veterans’ Administration”, was amended by Pub. L. 103-446, §1202(b)(2), to make it inapplicable to this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-446, title XII, §1202(b), Nov. 2, 1994, 108 Stat. 4689, provided that the amendment made by that section is effective Aug. 6, 1991, and as if included in the enactment of Pub. L. 102-83.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7316. Malpractice and negligence suits: defense by United States

(a)(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a health care employee of the Administration in furnishing health care or treatment while in the exercise of that employee’s duties in or for the Administration shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the health care employee (or employee’s estate) whose act or omission gave rise to such claim.

(2) For purposes of paragraph (1), the term “health care employee of the Administration” means a physician, dentist, podiatrist, chiropractor, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or such person’s estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person’s immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting in the scope

of such person’s employment in or for the Administration at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of such person’s office or employment, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) The Secretary may, to the extent the Secretary considers appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a)), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of such person’s duties in or for the Administration, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

(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].”