

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 renumbered 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”.

(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.

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