

(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

(d) Waiver

(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

(A) has established an irrevocable trust—

(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 300s-1(b)(1)(K) of this title or the amount, determined under subsection (c), that the United States is entitled to recover, and

(ii) which will only be used by the entity to provide the care required by clause (ii) of section 300s-1(b)(1)(K) of this title; and

(B) will meet the obligation of the facility under clause (i) of section 300s-1(b)(1)(K) of this title.

(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

(e) Lien

The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this subchapter.

(July 1, 1944, ch. 373, title XVI, §1622, formerly §1631, as added Pub. L. 93-641, §4, Jan. 4, 1975, 88 Stat. 2269; amended Pub. L. 94-278, title XI, §1106(c), Apr. 22, 1976, 90 Stat. 416; renumbered §1622 and amended Pub. L. 96-79, title II, §§202(b), 203(c), Oct. 4, 1979, 93 Stat. 632, 635; Pub. L. 98-369, div. B, title III, §2381(b), July 18, 1984, 98 Stat. 1114.)

CODIFICATION

Section was formerly classified to section 300s-1 of this title prior to the general revision of this subchapter by Pub. L. 96-79.

PRIOR PROVISIONS

A prior section 1622 of act July 1, 1944, as added Jan. 4, 1975, Pub. L. 93-641, §4, 88 Stat. 2265, was renumbered section 1602 as part of the general revision of this subchapter by Pub. L. 96-79 and is classified to section 300q-2 of this title.

AMENDMENTS

1984—Pub. L. 98-369 amended section generally. Prior to the amendment, section read as follows:

“(a) If any facility constructed, modernized, or converted with funds provided under this subchapter is, at

any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

“(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 300s-1 or 300t-12 of this title or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

“(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

“(b) The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility in any State—

“(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) of this section with respect to such facility is applied to the development, expansion, or support of another medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 300m-3(c) of this title; or

“(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) of this section exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.”

1979—Subsec. (a)(1)(A). Pub. L. 96-79, §203(c), substituted “section 300s-1 or 300t-12 of this title” for “section 300o-3 of this title”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-79 effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as a note under section 300q of this title.

REGULATIONS AND PERSONNEL

Requirements for regulations and personnel to implement this section, see section 2381(c) of Pub. L. 98-369, set out as a note under section 291i of this title.

§ 300s-2. State supervision or control of operations of facilities receiving funds

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee, the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter.

(July 1, 1944, ch. 373, title XVI, §1623, formerly §1632, as added Pub. L. 93-641, §4, Jan. 4, 1975, 88 Stat. 2270; renumbered §1623, Pub. L. 96-79, title II, §202(b), Oct. 4, 1979, 93 Stat. 632.)

§ 300s-3. Definitions

Except as provided in section 300t-12(e) of this title, for purposes of this subchapter—

(1) The term “hospital” includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses’ home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional¹ personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(2) The term “public health center” means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(3) The term “nonprofit” as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term “outpatient medical facility” means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(A) which is operated in connection with a hospital,

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(5) The term “rehabilitation facility” means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(6) The term “facility for long-term care” means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services—

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(7) The term “construction” means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects’ fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(8) The term “cost” as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part B, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(9) The term “modernization” includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(10) The term “title,”² when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years’ undisturbed use and possession for the purposes of construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this subchapter, or (B) the term of repayment of a loan made or guaranteed under this subchapter in the case of a project assisted by a loan or loan guarantee.

(11) The term “medical facility” means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(12) The term “State Agency” means the State health planning and development agency of a State designated under subchapter XIII.³

(13) The term “urban or rural poverty area” means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be de-

² So in original. The comma probably should follow the ending quotations.

³ See References in Text note below.

¹ So in original. Probably should be “professional”.