

(5) The term “neglect” means a negligent act or omission by any individual responsible for providing services in a facility rendering care or treatment which caused or may have caused injury or death to a<sup>1</sup> individual with mental illness or which placed a<sup>1</sup> individual with mental illness at risk of injury or death, and includes an act or omission such as the failure to establish or carry out an appropriate individual program plan or treatment plan for a<sup>1</sup> individual with mental illness, the failure to provide adequate nutrition, clothing, or health care to a<sup>1</sup> individual with mental illness, or the failure to provide a safe environment for a<sup>1</sup> individual with mental illness, including the failure to maintain adequate numbers of appropriately trained staff.

(6) The term “Secretary” means the Secretary of Health and Human Services.

(7) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(8) The term “American Indian consortium” means a consortium established under part C of the Developmental Disabilities Assistance and Bill of Rights Act<sup>3</sup> (42 U.S.C. 6042 et seq.).

(Pub. L. 99-319, title I, §102, May 23, 1986, 100 Stat. 478; Pub. L. 100-509, §3, Oct. 20, 1988, 102 Stat. 2543; Pub. L. 102-173, §§4, 10(1), Nov. 27, 1991, 105 Stat. 1217, 1219; Pub. L. 106-310, div. B, title XXXII, §3206(b), Oct. 17, 2000, 114 Stat. 1194; Pub. L. 106-402, title IV, §401(b)(13)(A), Oct. 30, 2000, 114 Stat. 1739.)

#### REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in par. (2), is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of the Act probably means subtitle C of title I of the Act, which is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in par. (8), is title I of Pub. L. 88-164, as added by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, which was repealed by Pub. L. 106-402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737. Part C of the Act was classified generally to subchapter III (§6041 et seq.) of chapter 75 of this title. Provisions similar to former part C of the Act are contained in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. 106-402, which is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of this title.

#### AMENDMENTS

2000—Par. (2). Pub. L. 106-402 substituted “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000” for “part C of the Developmental Disabilities Assistance and Bill of Rights Act”.

Par. (4). Pub. L. 106-310, §3206(b)(1)(A), inserted “, except as provided in section 10804(d) of this title,” after “means” in introductory provisions.

Par. (4)(B). Pub. L. 106-310, §3206(b)(1)(B), designated existing provisions as cl. (i), redesignated former cls. (i) to (iii) as subcls. (I) to (III), respectively, of cl. (i), and added cl. (ii).

Par. (8). Pub. L. 106-310, §3206(b)(2), added par. (8).

<sup>3</sup> See References in Text note below.

1991—Par. (1). Pub. L. 102-173, §10(1), substituted “individual with mental illness” for “mentally ill individual” wherever appearing.

Pars. (3) to (7). Pub. L. 102-173 added par. (3), redesignated former pars. (3) to (6) as (4) to (7), respectively, and substituted “individual with mental illness” for “mentally ill individual” wherever appearing in pars. (4) and (5).

1988—Par. (1). Pub. L. 100-509, §3(1), inserted “or death” after “caused, injury”.

Par. (3)(B). Pub. L. 100-509, §3(2), designated existing provisions as cl. (i), substituted “, even if the whereabouts of such inpatient or resident are unknown;” for period at end, and added cls. (ii) and (iii).

Par. (4). Pub. L. 100-509, §3(3), inserted “or death” after “injury” in two places and inserted before period at end “, including the failure to maintain adequate numbers of appropriately trained staff”.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### § 10803. Allotments

The Secretary shall make allotments under this subchapter to eligible systems to establish and administer systems—

(1) which meet the requirements of section 10805 of this title; and

(2) which are designed to—

(A) protect and advocate the rights of individuals with mental illness; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

(Pub. L. 99-319, title I, §103, May 23, 1986, 100 Stat. 479; Pub. L. 102-173, §10(2), Nov. 27, 1991, 105 Stat. 1219.)

#### AMENDMENTS

1991—Par. (2). Pub. L. 102-173 substituted “individuals with mental illness” for “mentally ill individuals” in two places.

#### § 10804. Use of allotments

##### (a) Contracts

(1) An eligible system may use its allotment under this subchapter to enter into contracts with State agencies and nonprofit organizations which operate throughout the State. In order to be eligible for a contract under this paragraph—

(A) such an agency shall be independent of any agency which provides treatment or services (other than advocacy services) to individuals with mental illness; and

(B) such an agency or organization shall have the capacity to protect and advocate the rights of individuals with mental illness.

(2) In carrying out paragraph (1), an eligible system should consider entering into contracts with organizations including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which,<sup>1</sup> provide

<sup>1</sup> So in original. The comma probably should not appear.