

§ 290jj-2. Regulations and enforcement**(a) Training**

Not later than 6 months after October 17, 2000, the Secretary, after consultation with appropriate State, local, public and private protection and advocacy organizations, health care professionals, social workers, facilities, and patients, shall promulgate regulations that—

(1) require States that license non-medical, community-based residential facilities for children and youth to develop licensing rules and monitoring requirements concerning behavior management practice that will ensure compliance with Federal regulations and to meet the requirements of subsection (b);

(2) require States to develop and implement such licensing rules and monitoring requirements within 1 year after the promulgation of the regulations referred to in the matter preceding paragraph (1); and

(3) support the development of national guidelines and standards on the quality, quantity, orientation and training, required under this part, as well as the certification or licensure of those staff responsible for the implementation of behavioral intervention concepts and techniques.

(b) Requirements

The regulations promulgated under subsection (a) shall require—

(1) that facilities described in subsection (a) ensure that there is an adequate number of qualified professional and supportive staff to evaluate residents, formulate written individualized, comprehensive treatment plans, and to provide active treatment measures;

(2) the provision of appropriate training and certification of the staff of such facilities in the prevention and use of physical restraint and seclusion, including the needs and behaviors of the population served, relationship building, alternatives to restraint, de-escalation methods, avoiding power struggles, thresholds for restraints, the physiological impact of restraint and seclusion, monitoring physical signs of distress and obtaining medical assistance, legal issues, position asphyxia, escape and evasion techniques, time limits for the use of restraint and seclusion, the process for obtaining approval for continued restraints and seclusion, procedures to address problematic restraints, documentation, processing with children, and follow-up with staff, and investigation of injuries and complaints; and

(3) that such facilities provide complete and accurate notification of deaths, as required under section 290jj-1(1) of this title.

(c) Enforcement

A State to which this part applies that fails to comply with any requirement of this part, including a failure to provide appropriate training and certification, shall not be eligible for participation in any program supported in whole or in part by funds appropriated under this chapter.

(July 1, 1944, ch. 373, title V, §595B, as added Pub. L. 106-310, div. B, title XXXII, §3208, Oct. 17, 2000, 114 Stat. 1199.)

PART J—SERVICES PROVIDED THROUGH
RELIGIOUS ORGANIZATIONS

CODIFICATION

This part was, in the original, part G of title V of act July 1, 1944, and has been redesignated as part J for purposes of codification. Another part G of title V of act July 1, 1944, is classified to part G (§290hh et seq.) of this subchapter.

§ 290kk. Applicability to designated programs**(a) Designated programs**

Subject to subsection (b), this part applies to discretionary and formula grant programs administered by the Substance Abuse and Mental Health Services Administration that make awards of financial assistance to public or private entities for the purpose of carrying out activities to prevent or treat substance abuse (in this part referred to as a “designated program”). Designated programs include the program under subpart II of part B of subchapter XVII (relating to formula grants to the States).

(b) Limitation

This part does not apply to any award of financial assistance under a designated program for a purpose other than the purpose specified in subsection (a).

(c) Definitions

For purposes of this part (and subject to subsection (b)):

(1) The term “designated program” has the meaning given such term in subsection (a).

(2) The term “financial assistance” means a grant, cooperative agreement, or contract.

(3) The term “program beneficiary” means an individual who receives program services.

(4) The term “program participant” means a public or private entity that has received financial assistance under a designated program.

(5) The term “program services” means treatment for substance abuse, or preventive services regarding such abuse, provided pursuant to an award of financial assistance under a designated program.

(6) The term “religious organization” means a nonprofit religious organization.

(July 1, 1944, ch. 373, title V, §581, as added Pub. L. 106-554, §1(a)(7) [title I, §144], Dec. 21, 2000, 114 Stat. 2763, 2763A-619.)

CODIFICATION

Another section 581 of act July 1, 1944, is classified to section 290hh of this title.

§ 290kk-1. Religious organizations as program participants**(a) In general**

Notwithstanding any other provision of law, a religious organization, on the same basis as any other nonprofit private provider—

(1) may receive financial assistance under a designated program; and

(2) may be a provider of services under a designated program.

(b) Religious organizations

The purpose of this section is to allow religious organizations to be program participants

on the same basis as any other nonprofit private provider without impairing the religious character of such organizations, and without diminishing the religious freedom of program beneficiaries.

(c) Nondiscrimination against religious organizations

(1) Eligibility as program participants

Religious organizations are eligible to be program participants on the same basis as any other nonprofit private organization as long as the programs are implemented consistent with the Establishment Clause and Free Exercise Clause of the First Amendment to the United States Constitution. Nothing in this chapter shall be construed to restrict the ability of the Federal Government, or a State or local government receiving funds under such programs, to apply to religious organizations the same eligibility conditions in designated programs as are applied to any other nonprofit private organization.

(2) Nondiscrimination

Neither the Federal Government nor a State or local government receiving funds under designated programs shall discriminate against an organization that is or applies to be a program participant on the basis that the organization has a religious character.

(d) Religious character and freedom

(1) Religious organizations

Except as provided in this section, any religious organization that is a program participant shall retain its independence from Federal, State, and local government, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) Additional safeguards

Neither the Federal Government nor a State shall require a religious organization to—

- (A) alter its form of internal governance; or
- (B) remove religious art, icons, scripture, or other symbols,

in order to be a program participant.

(e) Employment practices

Nothing in this section shall be construed to modify or affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment. A religious organization's exemption provided under section 2000e-1 of this title regarding employment practices shall not be affected by its participation in, or receipt of funds from, a designated program.

(f) Rights of program beneficiaries

(1) In general

If an individual who is a program beneficiary or a prospective program beneficiary objects to the religious character of a program participant, within a reasonable period of time after the date of such objection such program participant shall refer such individual to, and the appropriate Federal, State, or local government that administers a designated program

or is a program participant shall provide to such individual (if otherwise eligible for such services), program services that—

(A) are from an alternative provider that is accessible to, and has the capacity to provide such services to, such individual; and

(B) have a value that is not less than the value of the services that the individual would have received from the program participant to which the individual had such objection.

Upon referring a program beneficiary to an alternative provider, the program participant shall notify the appropriate Federal, State, or local government agency that administers the program of such referral.

(2) Notices

Program participants, public agencies that refer individuals to designated programs, and the appropriate Federal, State, or local governments that administer designated programs or are program participants shall ensure that notice is provided to program beneficiaries or prospective program beneficiaries of their rights under this section.

(3) Additional requirements

A program participant making a referral pursuant to paragraph (1) shall—

(A) prior to making such referral, consider any list that the State or local government makes available of entities in the geographic area that provide program services; and

(B) ensure that the individual makes contact with the alternative provider to which the individual is referred.

(4) Nondiscrimination

A religious organization that is a program participant shall not in providing program services or engaging in outreach activities under designated programs discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(g) Fiscal accountability

(1) In general

Except as provided in paragraph (2), any religious organization that is a program participant shall be subject to the same regulations as other recipients of awards of Federal financial assistance to account, in accordance with generally accepted auditing principles, for the use of the funds provided under such awards.

(2) Limited audit

With respect to the award involved, a religious organization that is a program participant shall segregate Federal amounts provided under award into a separate account from non-Federal funds. Only the award funds shall be subject to audit by the government.

(h) Compliance

With respect to compliance with this section by an agency, a religious organization may obtain judicial review of agency action in accordance with chapter 7 of title 5.

(July 1, 1944, ch. 373, title V, § 582, as added Pub. L. 106-554, § 1(a)(7) [title I, § 144], Dec. 21, 2000, 114 Stat. 2763, 2763A-620.)

CODIFICATION

Another section 582 of act July 1, 1944, is classified to section 290hh-1 of this title.

§ 290kk-2. Limitations on use of funds for certain purposes

No funds provided under a designated program shall be expended for sectarian worship, instruction, or proselytization.

(July 1, 1944, ch. 373, title V, § 583, as added Pub. L. 106-554, § 1(a)(7) [title I, § 144], Dec. 21, 2000, 114 Stat. 2763, 2763A-622.)

§ 290kk-3. Educational requirements for personnel in drug treatment programs

(a) Findings

The Congress finds that—

(1) establishing unduly rigid or uniform educational qualification for counselors and other personnel in drug treatment programs may undermine the effectiveness of such programs; and

(2) such educational requirements for counselors and other personnel may hinder or prevent the provision of needed drug treatment services.

(b) Nondiscrimination

In determining whether personnel of a program participant that has a record of successful drug treatment for the preceding three years have satisfied State or local requirements for education and training, a State or local government shall not discriminate against education and training provided to such personnel by a religious organization, so long as such education and training includes basic content substantially equivalent to the content provided by nonreligious organizations that the State or local government would credit for purposes of determining whether the relevant requirements have been satisfied.

(July 1, 1944, ch. 373, title V, § 584, as added Pub. L. 106-554, § 1(a)(7) [title I, § 144], Dec. 21, 2000, 114 Stat. 2763, 2763A-622.)

PART K—MINORITY FELLOWSHIP PROGRAM

§ 290ll. Fellowships

(a) In general

The Secretary shall maintain a program, to be known as the Minority Fellowship Program, under which the Secretary shall award fellowships, which may include stipends, for the purposes of—

(1) increasing the knowledge of mental and substance use disorders practitioners on issues related to prevention, treatment, and recovery support for individuals who are from racial and ethnic minority populations and who have a mental or substance use disorder;

(2) improving the quality of mental and substance use disorder prevention and treatment services delivered to racial and ethnic minority populations; and

(3) increasing the number of culturally competent mental and substance use disorders professionals who teach, administer services, conduct research, and provide direct mental or

substance use disorder services to racial and ethnic minority populations.

(b) Training covered

The fellowships awarded under subsection (a) shall be for postbaccalaureate training (including for master's and doctoral degrees) for mental and substance use disorder treatment professionals, including in the fields of psychiatry, nursing, social work, psychology, marriage and family therapy, mental health counseling, and substance use disorder and addiction counseling.

(c) Authorization of appropriations

To carry out this section, there are authorized to be appropriated \$12,669,000 for each of fiscal years 2018 through 2022.

(July 1, 1944, ch. 373, title V, § 597, as added Pub. L. 114-255, div. B, title IX, § 9024, Dec. 13, 2016, 130 Stat. 1253.)

SUBCHAPTER IV—CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

§ 291. Congressional declaration of purpose

The purpose of this subchapter is—

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

(July 1, 1944, ch. 373, title VI, § 600, as added Pub. L. 88-443, § 3(a), Aug. 18, 1964, 78 Stat. 447.)

PRIOR PROVISIONS

A prior section 291, act July 1, 1944, ch. 373, title VI, § 601, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended Oct. 25, 1949, ch. 722, § 6, 63 Stat. 900; July 12, 1954, ch. 471, § 4(a), 68 Stat. 464, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

Provisions similar to those comprising this section were contained in former section 291o, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, prior to the general amendment of this subchapter by Pub. L. 88-443.

EFFECTIVE DATE

Pub. L. 88-443, § 3(b), Aug. 18, 1964, 78 Stat. 461, as amended by Pub. L. 91-296, title I, § 120, June 30, 1970, 84 Stat. 343, provided that: "The amendment made by subsection (a) [enacting this section and sections 291a to 291j, 291k to 291m, 291n, and 291o of this title] shall become effective upon the date of enactment of this Act [Aug. 18, 1964], except that—

"(1) all applications approved by the Surgeon General under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.] prior to such date, and allot-