(3) the Chief Operating Officer of the Armed Forces Retirement Home, in the case of an employee of the Armed Forces Retirement Home; and

(4) the Secretary of Defense, in all other cases.

(Added Pub. L. 94–464, §1(a), Oct. 8, 1976, 90 Stat. 1985; amended Pub. L. 97–124, §2, Dec. 29, 1981, 95 Stat. 1666; Pub. L. 98–94, title IX, §934(a)–(c), Sept. 24, 1983, 97 Stat. 651, 652; Pub. L. 100–180, div. A, title XII, §1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101–510, div. A, title XV, §1533(a)(1), Nov. 5, 1990, 104 Stat. 1733; Pub. L. 105–85, div. A, title VII, §736(b), Nov. 18, 1997, 111 Stat. 1814; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110–181, div. A, title IX, §931(b)(3), Jan. 28, 2008, 122 Stat. 285; Pub. L. 112–81, div. A, title V, §567(b)(2)(A), Dec. 31, 2011, 125 Stat. 1425; Pub. L. 112–239, div. A, title VII, §713(a), Jan. 2, 2013, 126 Stat. 1803.)

Editorial Notes

AMENDMENTS

2013—Subsec. (a). Pub. L. 112–239 substituted ''to such a physician, dentist, nurse, pharmacist, or paramedical'' for ''if the physician, dentist, nurse, pharmacist, or paramedical'', struck out ''involved is'' before ''serving under'', and inserted ''or a subcontract at any tier under such a contract that is authorized in accordance with the requirements of such section 1091'' after ''section 1091 of this title''.

2011—Subsec. (g)(3). Pub. L. 112–81 substituted ''Chief Operating Officer of the Armed Forces Retirement Home'' for ''Armed Forces Retirement Home Board''.

2008—Subsec. (g)(1). Pub. L. 110–181 substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

2002—Subsec. (g)(2). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1997—Subsec. (a). Pub. L. 105–85, §736(b)(1), inserted at end ''This subsection shall also apply if the physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) involved is serving under a personal services contract entered into under section 1091 of this title.''

Subsec. (f). Pub. L. 105–85, §736(b)(2), designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (a). Pub. L. 101–510, §1533(a)(1)(A), substituted ''Armed Forces Retirement Home'' for ''United States Soldiers' and Airmen's Home''.

Subsec. (g)(3). Pub. L. 101–510, §1533(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: ''the Board of Commissioners of the United States Soldiers' and Airmen's home, in the case of an employee of the United States Soldiers' and Airmen's Home; and''.

1987—Subsec. (g). Pub. L. 100–180 inserted ''the term'' after ''In this section,''.

1983—Subsec. (a). Pub. L. 98–94, §934(a), inserted ''the United States Soldiers' and Airmen's Home,''.

Subsec. (f). Pub. L. 98–94, §934(b), substituted ''may, to the extent that the head of the agency concerned considers'' for ''or his designee may, to the extent that he or his designee deems''.

Subsec. (g)(3), (4). Pub. L. 98–94, §934(c)(3), added par. (3) and redesignated former par. (3) as (4).

1981—Subsec. (a). Pub. L. 97–124 inserted ''the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32,'' after ''armed forces,''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–94, title IX, §934(d), Sept. 24, 1983, 97 Stat. 652, provided that: ''The amendments made by this section [amending this section] shall apply only to claims accruing on or after the date of the enactment of this Act [Sept. 24, 1983].''

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–124, §4, Dec. 29, 1981, 95 Stat. 1666, provided that: ''The amendments made by this Act [amending this section and section 2671 of Title 28, Judiciary and Judicial Procedure] and the repeal made by section 3 of this Act [repealing section 334 of Title 32, National Guard] shall apply only with respect to claims arising on or after the date of enactment of this Act [Dec. 29, 1981].''

EFFECTIVE DATE

Pub. L. 94–464, §4, Oct. 8, 1976, 90 Stat. 1989, provided that: ''This Act [enacting this section, section 334 of Title 32, National Guard, section 2458a of Title 42, The Public Health and Welfare, and provisions set out as notes under this section and section 334 of Title 32] shall become effective on the date of its enactment [Oct. 8, 1976] and shall apply only to those claims accruing on or after such date of enactment.''

CONGRESSIONAL FINDINGS

Pub. L. 94–464, §2(a), Oct. 8, 1976, 90 Stat. 1986, provided that: ''The Congress finds—

''(1) that the Army National Guard and the Air National Guard are critical components of the defense posture of the United States;

''(2) that a medical capability is essential to the performance of the mission of the National Guard when in Federal service;

''(3) that the current medical malpractice crisis poses a serious threat to the availability of sufficient medical personnel for the National Guard; and

''(4) that in order to insure that such medical personnel will continue to be available to the National Guard, it is necessary for the Federal Government to assume responsibility for the payment of malpractice claims made against such personnel arising out of actions or omissions on the part of such personnel while they are performing certain training exercises.''

§ 1090. Identifying and treating drug and alcohol dependence

The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol.

(Added Pub. L. 97–295, §1(15)(A), Oct. 12, 1982, 96 Stat. 1290; amended Pub. L. 98–94, title XII, §1268(7), Sept. 24, 1983, 97 Stat. 706; Pub. L. 101–510, div. A, title V, §553, Nov. 5, 1990, 104 Stat. 1567; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1090	10:1071 (note).	Sept. 28, 1971, Pub. L. 92–129, § 501(a)(1), 85 Stat. 361.

The word ''regulations'' is added for consistency. The word ''persons'' is omitted as surplus.

Editorial Notes

AMENDMENTS

2002—Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1990—Pub. L. 101–510 inserted '', and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy,'' after ''Secretary of Defense''.

1983—Pub. L. 98–94 struck out ''(a)'' before ''The Secretary of Defense''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

PILOT PROGRAM ON OPIOID MANAGEMENT IN THE MILITARY HEALTH SYSTEM

Pub. L. 115–232, div. A, title VII, § 716, Aug. 13, 2018, 132 Stat. 1814, provided that:

''(a) PILOT PROGRAM.—

''(1) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Director of the Defense Health Agency shall implement a comprehensive pilot program to assess the feasability and advisability of mechanisms to minimize early exposure of beneficiaries under the TRICARE program to opioids and to prevent the progression of beneficiaries to misuse or abuse of opioid medications.

''(2) OPIOID SAFETY ACROSS CONTINUUM OF CARE.—The pilot program shall include elements to maximize opioid safety across the entire continuum of care consisting of patient, physician or dentist, and pharmacist.

''(b) ELEMENTS OF PILOT PROGRAM.—The pilot program shall include the following:

''(1) Identification of potential misuse or abuse of opioid medications in pharmacies of military treatment facilities, retail network pharmacies, and the home delivery pharmacy, and the transmission of alerts regarding such potential misuse or abuse of opioids to prescribing physicians and dentists.

''(2) Direct engagement with, education for, and management of beneficiaries under the TRICARE program to help such beneficiaries avoid misuse or abuse of opioid medications.

''(3) Proactive outreach by specialist pharmacists to beneficiaries under the TRICARE program when identifying potential misuse or abuse of opioid medications.

''(4) Monitoring of beneficiaries under the TRICARE program through the use of predictive analytics to identify the potential for opioid abuse and addiction before beneficiaries begin an opioid prescription.

''(5) Detection of fraud, waste, and abuse in connection with opioids.

''(c) DURATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Director shall carry out the pilot program for a period of not more than three years.

''(2) EXPANSION.—The Director may carry out the pilot program on a permanent basis if the Director determines that the mechanisms under the pilot program successfully reduce early opioid exposure in beneficiaries under the TRICARE program and prevent the progression of beneficiaries to misuse or abuse of opioid medications.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than 180 days before completion of the pilot program, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program.

''(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

''(A) A description of the pilot program, including outcome measures developed to determine the overall effectiveness of the mechanisms under the pilot program.

''(B) A description of the ability of the mechanisms under the pilot program to identify misuse and abuse of opioid medications among beneficiaries under the TRICARE program in each pharmacy venue of the pharmacy program of the military health system.

''(C) A description of the impact of the use of predictive analytics to monitor beneficiaries under the TRICARE program in order to identify the potential for opioid abuse and addiction before beneficiaries begin an opioid prescription.

''(D) A description of any reduction in the misuse or abuse of opioid medications among beneficiaries under the TRICARE program as a result of the pilot program.

''(e) TRICARE PROGRAM DEFINED.—In this section, the term 'TRICARE program' has the meaning given that term in section 1072 of title 10, United States Code.''

§ 1090a. Commanding officer and supervisor referrals of members for mental health evaluations

(a) REGULATIONS.—The Secretary of Defense shall prescribe and maintain regulations relating to commanding officer and supervisor referrals of members of the armed forces for mental health evaluations. The regulations shall incorporate the requirements set forth in subsections (b), (c), and (d) and such other matters as the Secretary considers appropriate.

(b) REDUCTION OF PERCEIVED STIGMA.—The regulations required by subsection (a) shall, to the greatest extent possible—

(1) seek to eliminate perceived stigma associated with seeking and receiving mental health services, promoting the use of mental health services on a basis comparable to the use of other medical and health services; and

(2) clarify the appropriate action to be taken by commanders or supervisory personnel who, in good faith, believe that a subordinate may require a mental health evaluation.

(c) PROCEDURES FOR INPATIENT EVALUATIONS.—The regulations required by subsection (a) shall provide that, when a commander or supervisor determines that it is necessary to refer a member of the armed forces for a mental health evaluation or is required to make such a referral pursuant to the process described in subsection (e)(1)(A)—

(1) the health evaluation shall only be conducted in the most appropriate clinical setting, in accordance with the least restrictive alternative principle; and

(2) only a psychiatrist, or, in cases in which a psychiatrist is not available, another mental