L. 94–437 as sections 801 to 820 of Pub. L. 94–437, which are classified to sections 1671 to 1680j of this title] shall be deemed to refer to the section as so redesignated.''

§ 1672. Regulations

Prior to any revision of or amendment to rules or regulations promulgated pursuant to this chapter, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

(Pub. L. 94–437, title VIII, § 802, formerly title VII, § 702, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 802, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 802, Oct. 29, 1992, 106 Stat. 4572, 4585.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, known as the Indian Health Care Improvement Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573, § 802, amended section generally, substituting present provisions for former provisions relating in subsec. (a) to consideration, formulation, proposal, and promulgation of regulations and in subsec. (b) to revision and amendment of regulations.

§ 1673. Repealed. Pub. L. 102–573, title IX, § 901(4), Oct. 29, 1992, 106 Stat. 4591

Section, Pub. L. 94–437, title VIII, § 803, formerly title VII, § 703, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 803, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572, related to submission by Secretary to Congress of plan to implement provisions of this chapter.

§ 1674. Leases with Indian tribes

(a) Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this chapter, to enter into leases with Indian tribes for periods not in excess of twenty years. Property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

(1) title to;

(2) a leasehold interest in; or

(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.

(Pub. L. 94–437, title VIII, § 804, formerly title VII, § 704, Sept. 30, 1976, 90 Stat. 1414; Pub. L. 96–537, § 8(a), Dec. 17, 1980, 94 Stat. 3179; Pub. L. 100–713, title VII, § 701, Nov. 23, 1988, 102 Stat. 4826; renumbered title VIII, § 804, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, known as the Indian Health Care Improvement Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

AMENDMENTS

1988—Pub. L. 100–713 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96–537 inserted provision that property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

§ 1675. Confidentiality of medical quality assurance records; qualified immunity for participants

(a) Definitions

In this section:

(1) Health care provider

The term ''health care provider'' means any health care professional, including community health aides and practitioners certified under section 1616*l* of this title, who is—

(A) granted clinical practice privileges or employed to provide health care services at—

(i) an Indian health program; or

(ii) a health program of an urban Indian organization; and

(B) licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(2) Medical quality assurance program

The term ''medical quality assurance program'' means any activity carried out before, on, or after March 23, 2010, by or for any Indian health program or urban Indian organization to assess the quality of medical care, including activities conducted by or on behalf of individuals, Indian health program or urban Indian organization medical or dental treatment review committees, or other review bodies responsible for quality assurance, credentials, infection control, patient safety, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review, and identification and prevention of medical or dental incidents and risks.

(3) Medical quality assurance record

The term ''medical quality assurance record'' means the proceedings, records, minutes, and reports that—

(A) emanate from quality assurance program activities described in paragraph (2); and

(B) are produced or compiled by or for an Indian health program or urban Indian organization as part of a medical quality assurance program.

(b) Confidentiality of records

Medical quality assurance records created by or for any Indian health program or a health program of an urban Indian organization as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (d).

(c) Prohibition on disclosure and testimony

(1) In general

No part of any medical quality assurance record described in subsection (b) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

(2) Testimony

An individual who reviews or creates medical quality assurance records for any Indian health program or urban Indian organization who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

(d) Authorized disclosure and testimony

(1) In general

Subject to paragraph (2), a medical quality assurance record described in subsection (b) may be disclosed, and an individual referred to in subsection (c) may give testimony in connection with such a record, only as follows:

(A) To a Federal agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to any Indian health program or to a health program of an urban Indian organization to perform monitoring, required by law, of such program or organization.

(B) To an administrative or judicial proceeding commenced by a present or former Indian health program or urban Indian organization provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was an employee of any Indian health program or urban Indian organization.

(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was an employee of any Indian health program or urban Indian organization and who has applied for or been granted authority or employment to provide health care services in or on behalf of such program or organization.

(E) To an officer, employee, or contractor of the Indian health program or urban Indian organization that created the records or for which the records were created. If[1] that officer, employee, or contractor has a need for such record or testimony to perform official duties.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

(2) Identity of participants

With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from any Indian health program or urban Indian organization or the identity of any other person associated with such program or organization for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (b) shall be deleted from that record or document before any disclosure of such record is made outside such program or organization.

(e) Disclosure for certain purposes

(1) In general

Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of any Indian health program or urban Indian organization's medical quality assurance programs.

(2) Withholding from Congress

Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if such record pertains to any matter within their respective jurisdictions.

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[1] So in original. Probably should be ''were created, if''.

(f) Prohibition on disclosure of record or testimony

An individual or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

(g) Exemption from Freedom of Information Act

Medical quality assurance records described in subsection (b) may not be made available to any person under section 552 of title 5.

(h) Limitation on civil liability

An individual who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (b) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(i) Application to information in certain other records

Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(j) Regulations

The Secretary, acting through the Service, shall promulgate regulations pursuant to section 1672 of this title.

(k) Continued protection

Disclosure under subsection (d) does not permit redisclosure except to the extent such further disclosure is authorized under subsection (d) or is otherwise authorized to be disclosed under this section.

(*l*) Inconsistencies

To the extent that the protections under part C of title IX of the Public Health Service Act (42 U.S.C. 229b–21 et seq.) [42 U.S.C. 299b–21 et seq.] (as amended by the Patient Safety and Quality Improvement Act of 2005 (Public Law 109–41; 119 Stat. 424)) and this section are inconsistent, the provisions of whichever is more protective shall control.

(m) Relationship to other law

This section shall continue in force and effect, except as otherwise specifically provided in any Federal law enacted after March 23, 2010.

(Pub. L. 94–437, title VIII, §805, as added Pub. L. 111–148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (*l*), is act July 1, 1944, ch. 373, 58 Stat. 682. Part C of title IX of the Act is classified generally to part C (§299b–21 et seq.) of subchapter VII of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

CODIFICATION

Section 805 of Pub. L. 94–437 is based on section 191 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111–148.

PRIOR PROVISIONS

A prior section 1675, Pub. L. 94–437, title VIII, §805, formerly title VII, §705, Sept. 30, 1976, 90 Stat. 1414; renumbered title VIII, §805, Pub. L. 102–573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572, provided that funds appropriated pursuant to this chapter were to remain available until expended, prior to repeal by Pub. L. 111–148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935. The repeal is based on section 101(b)(11) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111–148.

§1676. Limitation on use of funds appropriated to Indian Health Service

(a) HHS appropriations

Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.

(b) Limitations pursuant to other Federal law

Any limitation pursuant to other Federal laws on the use of Federal funds appropriated to the Service shall apply with respect to the performance or coverage of abortions.

(Pub. L. 94–437, title VIII, §806, formerly title VII, §706, as added Pub. L. 96–537, §8(b), Dec. 17, 1980, 94 Stat. 3179; amended Pub. L. 100–713, title VII, §718, Nov. 23, 1988, 102 Stat. 4837; renumbered title VIII, §806, Pub. L. 102–573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572; Pub. L. 111–148, title X, §10221(b)(3), Mar. 23, 2010, 124 Stat. 936.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111–148 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1988—Pub. L. 100–713 inserted section catchline and amended text generally. Prior to amendment, text read as follows: ''Within one year from December 17, 1980, the Secretary shall submit to the Congress a resource allocation plan. Such plan shall explain the future allocation of services and funds among the service population of the Service and shall provide a schedule for reducing deficiencies in resources of tribes and nontribal specific entities.''

§1677. Nuclear resource development health hazards

(a) Study

The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and organizations, a study of the