

–CITE–

38 USC CHAPTER 73 – VETERANS HEALTH ADMINISTRATION –
ORGANIZATION AND FUNCTIONS 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

–HEAD–

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

–MISC1–

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AMENDMENTS

2002 – Pub. L. 107–287, Secs. 2(a)(2), 3(a)(2), Nov. 7, 2002, 116

Stat. 2027, 2028, added items 7325 and 7326.

Pub. L. 107–135, title I, Sec. 125(a)(2), Jan. 23, 2002, 115

Stat. 2453, added item 7324.

2001 – Pub. L. 107–14, Sec. 8(a)(14)(B), June 5, 2001, 115 Stat.

35, struck out item 7367 "Report to Congress".

2000 – Pub. L. 106–419, title II, Sec. 201(b)(2), Nov. 1, 2000,

114 Stat. 1840, added item 7323.

1997 – Pub. L. 105–114, title II, Sec. 208(a)(2), Nov. 21, 1997,

111 Stat. 2289, added item 7322.

1996 – Pub. L. 104–262, title III, Secs. 321(a)(2), 334(a)(2),

335(b), Oct. 9, 1996, 110 Stat. 3195, 3203, 3205, added items 7319

to 7321.

1994 – Pub. L. 103–446, title XII, Sec. 1201(h)(3), Nov. 2, 1994,

108 Stat. 4688, inserted "PROTECTION OF" before "PATIENT" in heading for subchapter III.

1992 – Pub. L. 102–585, title V, Sec. 511(a)(2), Nov. 4, 1992, 106 Stat. 4956, added item 7318.

Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984, substituted "Under Secretary for Health" for "Chief Medical Director" in item 7306.

1991 – Pub. L. 102–40, title IV, Sec. 401(a)(1), (3), May 7, 1991, 105 Stat. 210, substituted "VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS" for "DEPARTMENT OF MEDICINE AND SURGERY" as chapter heading, added analysis for subchapters I to IV, and struck out former analysis consisting of subchapter I containing items 4101 to 4119 and 4210, subchapter II containing items 4121 to 4124, subchapter III containing items 4131 to 4134, subchapter IV containing items 4141 and 4142, subchapter V containing items 4151 and 4152, and subchapter VI containing items 4161 to 4168.

1990 – Pub. L. 101–366, title I, Sec. 102(d), Aug. 15, 1990, 104 Stat. 436, added heading for subchapter IV and items 4141 and 4142.

1988 – Pub. L. 100–322, title I, Sec. 122(b), title II, Secs. 204(b), 212(a)(2), 216(e)(1), May 20, 1988, 102 Stat. 504, 512, 516, 530, added item 4210 [4120] after item 4119, substituted "Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus" for "Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities" in item 4133, substituted

"Regulations" for "Coordination; reports" in item 4134, struck out heading for Subchapter IV, "VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM" and items 4141 "Establishment of program; purpose; duration", 4142 "Eligibility; application; written contract", 4143 "Obligated service", 4144 "Breach of contract; liability; waiver", 4145 "Exemption of scholarship payments from taxation", and 4146 "Program subject to availability of appropriations", and added heading for subchapter VI and items 4161 to 4168.

1986 – Pub. L. 99–576, title VII, Sec. 702(12), Oct. 28, 1986, 100 Stat. 3302, substituted "appointments" for "appointment" in item 4106.

1985 – Pub. L. 99–166, title II, Sec. 204(a)(2), Dec. 3, 1985, 99 Stat. 952, added heading for subchapter V and items 4151 and 4152.

1980 – Pub. L. 96–330, title I, Sec. 116(a)(2), title II, Sec. 201(a)(2), Aug. 26, 1980, 94 Stat. 1039, 1047, added item 4119, heading for subchapter IV and items 4141 to 4146.

1976 – Pub. L. 94–581, title I, Sec. 111(a)(2), Oct. 21, 1976, 90 Stat. 2852, added analysis for subchapter III consisting of items 4131 to 4134.

1975 – Pub. L. 94–123, Sec. 2(d)(2), Oct. 22, 1975, 89 Stat. 673, added item 4118.

1973 – Pub. L. 93–82, title II, Sec. 204(b), Aug. 2, 1973, 87 Stat. 192, substituted "Personnel administration" for "Administration" in item 4108.

1972 – Pub. L. 92–541, Sec. 3(b), Oct. 24, 1972, 86 Stat. 1108,

designated existing sections as subchapter I and added subchapter

II.

1966 – Pub. L. 89–785, title I, Secs. 109(b), 111(d), 112(b),

Nov. 7, 1966, 80 Stat. 1371, 1372, substituted "Special Medical
Advisory group; other advisory bodies" for "Medical advisory Group"
in item 4112, and "Temporary full–time, part–time, and without
compensation appointments" for "Temporary and part–time
appointments" in item 4114, and added item 4117.

1965 – Pub. L. 89–311, Sec. 6(b), Oct. 31, 1965, 79 Stat. 1157,
added item 4116.

1964 – Pub. L. 88–426, title I, Sec. 117(b), Aug. 14, 1964, 78
Stat. 410, substituted "Office of the Chief Medical Director" for
"Appointments and compensation" in item 4103.

1962 – Pub. L. 87–793, Sec. 803(b), Oct. 11, 1962, 76 Stat. 861,
substituted "Administration" for "Specialist ratings" in item 4108.

Pub. L. 87–574, Sec. 4(3), Aug. 6, 1962, 76 Stat. 309, inserted
"; residencies and internships" in item 4114.

–SECRET–

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 sections 2105, 4301, 5102,
5355; title 42 section 284c.

–End–

–CITE–

38 USC SUBCHAPTER I – ORGANIZATION 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

SUBCHAPTER I – ORGANIZATION

–MISC1–

PRIOR PROVISIONS

A prior subchapter I of this chapter consisting of sections 4101 to 4120, related to organization of Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 210. See Prior Provisions notes set out under sections 4101 to 4110A of this title.

–End–

–CITE–

38 USC Sec. 7301 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 7301. Functions of Veterans Health Administration: in general

–STATUTE–

(a) There is in the Department of Veterans Affairs a Veterans

Health Administration. The Under Secretary for Health is the head of the Administration. The Under Secretary for Health may be referred to as the Chief Medical Director.

(b) The primary function of the Administration is to provide a complete medical and hospital service for the medical care and treatment of veterans, as provided in this title and in regulations prescribed by the Secretary pursuant to this title.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 211; amended Pub. L. 102–405, title III, Sec. 302(c)(1), (2), Oct. 9, 1992, 106 Stat. 1984.)

–MISC1–

AMENDMENTS

1992 – Subsec. (a). Pub. L. 102–405 substituted "Under Secretary for Health is" for "Chief Medical Director is" and inserted at end "The Under Secretary for Health may be referred to as the Chief Medical Director."

–End–

–CITE–

38 USC Sec. 7302 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 7302. Functions of Veterans Health Administration: health–care
personnel education and training programs

–STATUTE–

(a) In order to carry out more effectively the primary function
of the Veterans Health Administration and in order to assist in
providing an adequate supply of health personnel to the Nation, the
Secretary –

(1) to the extent feasible without interfering with the medical
care and treatment of veterans, shall develop and carry out a
program of education and training of health personnel; and

(2) shall carry out a major program for the recruitment,
training, and employment of veterans with medical military
occupation specialties as –

(A) physician assistants;

(B) expanded–function dental auxiliaries; and

(C) other medical technicians.

(b) In carrying out subsection (a)(1), the Secretary shall
include in the program of education and training under that
subsection the developing and evaluating of new health careers,
interdisciplinary approaches, and career advancement opportunities.

(c) In carrying out subsection (a)(2), the Secretary shall
include in the program of recruitment, training, and employment
under that subsection measures to advise all qualified veterans
with military occupation specialties referred to in that
subsection, and all members of the armed forces about to be

discharged or released from active duty who have such military occupation specialties, of employment opportunities with the Administration.

(d) The Secretary shall carry out subsection (a) in cooperation with the following institutions and organizations:

(1) Schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions.

(2) Other institutions of higher learning.

(3) Medical centers.

(4) Academic health centers.

(5) Hospitals.

(6) Such other public or nonprofit agencies, institutions, or organizations as the Secretary considers appropriate.

~~–SOURCE–~~

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 211.)

~~–SECRET–~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7303, 7362, 7471, 8153, 8201, 8241 of this title.

~~–End–~~

~~–CITE–~~

38 USC Sec. 7303 01/06/03

~~–EXPCITE–~~

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 7303. Functions of Veterans Health Administration: research
programs

–STATUTE–

(a)(1) In order to carry out more effectively the primary
function of the Administration and in order to contribute to the
Nation's knowledge about disease and disability, the Secretary
shall carry out a program of medical research in connection with
the provision of medical care and treatment to veterans. Funds
appropriated to carry out this section shall remain available until
expended.

(2) Such program of medical research shall include biomedical
research, mental illness research, prosthetic and other
rehabilitative research, and health–care–services research.

(3) Such program shall stress –

(A) research into spinal–cord injuries and other diseases that
lead to paralysis of the lower extremities; and

(B) research into injuries and illnesses particularly related
to service.

(4) In carrying out such research program, the Secretary shall
act in cooperation with the entities described in section 7302(d)
of this title.

(b) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Secretary (through the Under Secretary for Health) shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers).

(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate –

(A) women who are veterans are included as subjects in each project of such research; and

(B) members of minority groups who are veterans are included as subjects of such research.

(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.

(d)(1) The Secretary, in carrying out the Secretary's

responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

(B) The members of the Advisory Committee on Women Veterans.

(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).

(e) Amounts for the activities of the field offices of the Office of Research Compliance and Assurance of the Department shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care (rather than from amounts appropriated for the Veterans Health Administration for Medical and Prosthetic Research).

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 211; amended Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–452, title I, Sec. 102(a), (b)(1), Nov. 2, 1994, 108 Stat. 4785, 4786; Pub. L. 105–220, title IV, Sec. 414(c), Aug. 7, 1998, 112 Stat. 1242; Pub. L. 107–135, title II, Sec. 205(a), Jan. 23, 2002, 115 Stat. 2460.)

–REFTEXT–

REFERENCES IN TEXT

Section 204(b)(3) of the Rehabilitation Act of 1973, referred to in subsec. (b), is classified to section 764(b)(3) of Title 29, Labor.

–MISC1–

AMENDMENTS

2002 – Subsec. (e). Pub. L. 107–135 added subsec. (e).

1998 – Subsec. (b). Pub. L. 105–220 substituted "section 204(b)(3) of the Rehabilitation Act of 1973" for "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))".

1994 – Pub. L. 103–452 transferred text of subsec. (c) to the end of subsec. (a)(1), struck out subsec. (c) designation, and added new subsecs. (c) and (d).

1992 – Subsec. (b). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

APPLICABILITY TO FISCAL YEAR 2002

Pub. L. 107–135, title II, Sec. 205(b), Jan. 23, 2002, 115 Stat. 2460, provided that: "In order to carry out subsection (e) of section 7303 of title 38, United States Code, as added by subsection (a), for fiscal year 2002, the Secretary of Veterans Affairs shall transfer such sums as necessary for that purpose from amounts appropriated for the Veterans Health Administration for Medical and Prosthetic Research for fiscal year 2002 to amounts appropriated for the Veterans Health Administration for Medical Care for that fiscal year."

POST-TRAUMATIC STRESS DISORDER RESEARCH

Section 122(a) of Pub. L. 102-405 provided that: "In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) post-traumatic stress disorder, (2) post-traumatic stress disorder in association with substance abuse, and (3) the treatment of those disorders."

RESEARCH RELATING TO WOMEN VETERANS' HEALTH

Pub. L. 102-585, title I, Sec. 109, Nov. 4, 1992, 106 Stat. 4948, provided for initiation and expansion of research relating to health of women veterans and authorization of appropriations for fiscal years 1993 through 1995 to carry out such studies, prior to repeal by Pub. L. 103-452, title I, Sec. 102(b)(2), Nov. 2, 1994, 108 Stat. 4786.

-SECFEF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3904, 7317, 7362 of this title.

-End-

-CITE-

38 USC Sec. 7304 01/06/03

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART V - BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 - VETERANS HEALTH ADMINISTRATION - ORGANIZATION AND

FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 7304. Regulations

–STATUTE–

(a) Unless specifically otherwise provided, the Under Secretary for Health shall prescribe all regulations necessary to the administration of the Veterans Health Administration, including regulations relating to –

(1) travel, transportation of household goods and effects, and deductions from pay for quarters and subsistence; and

(2) the custody, use, and preservation of the records, papers, and property of the Administration.

(b) Regulations prescribed by the Under Secretary for Health are subject to the approval of the Secretary.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 212; amended Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

–MISC1–

AMENDMENTS

1992 – Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" in subsecs. (a) and (b).

–End–

–CITE–

38 USC Sec. 7305 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 7305. Divisions of Veterans Health Administration

–STATUTE–

The Veterans Health Administration shall include the following:

- (1) The Office of the Under Secretary for Health.
- (2) A Medical Service.
- (3) A Dental Service.
- (4) A Podiatric Service.
- (5) An Optometric Service.
- (6) A Nursing Service.
- (7) Such other professional and auxiliary services as the

Secretary may find to be necessary to carry out the functions of
the Administration.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105
Stat. 212; amended Pub. L. 102–405, title III, Sec. 302(c)(1), Oct.
9, 1992, 106 Stat. 1984.)

–MISC1–

AMENDMENTS

1992 – Par. (1). Pub. L. 102–405 substituted "Under Secretary for

Health" for "Chief Medical Director".

–End–

–CITE–

38 USC Sec. 7306 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER I – ORGANIZATION

–HEAD–

Sec. 7306. Office of the Under Secretary for Health

–STATUTE–

(a) The Office of the Under Secretary for Health shall consist of
the following:

- (1) The Deputy Under Secretary for Health, who shall be the principal assistant of the Under Secretary for Health and who shall be a qualified doctor of medicine.
- (2) The Associate Deputy Under Secretary for Health, who shall be an assistant to the Under Secretary for Health and the Deputy Under Secretary for Health and who shall be a qualified doctor of medicine.
- (3) Not to exceed eight Assistant Under Secretaries for Health.
- (4) Such Medical Directors as may be appointed to suit the needs of the Department, who shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental

medicine.

(5) A Director of Nursing Service, who shall be a qualified registered nurse and who shall be responsible to, and report directly to, the Under Secretary for Health for the operation of the Nursing Service.

(6) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, who shall be responsible to the Under Secretary for Health for the operation of their respective Services.

(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.

(8) The Director of the National Center for Preventive Health, who shall be responsible to the Under Secretary for Health for the operation of the Center.

(9) The Advisor on Physician Assistants, who shall be a physician assistant with appropriate experience and who shall advise the Under Secretary for Health on all matters relating to the utilization and employment of physician assistants in the Administration.

(10) Such other personnel as may be authorized by this chapter.

(b) Of the Assistant Under Secretaries for Health appointed under subsection (a)(3) –

(1) not more than two may be persons qualified in the

administration of health services who are not doctors of medicine, dental surgery, or dental medicines;

(2) one shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Under Secretary for Health for the operation of the Dental Service; and

(3) one shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Under Secretary for Health for evaluating all research, educational, and clinical health-care programs carried out in the Administration in the field of geriatrics and who shall serve as the principal advisor to the Under Secretary for Health with respect to such programs.

(c) Appointments under subsection (a) shall be made by the Secretary. In the case of appointments under paragraphs (1), (2), (3), (4), and (8) of that subsection, such appointments shall be made upon the recommendation of the Under Secretary for Health.

(d) Except as provided in subsection (e) –

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Secretary for a period not in excess of three years, and

(3) any person so appointed or reappointed or whose appointment or reappointment is extended shall be subject to removal by the Secretary for cause.

(e)(1) The Secretary may designate a member of the Chaplain

Service of the Department as Director, Chaplain Service, for a period of two years, subject to removal by the Secretary for cause.

Redesignation under this subsection may be made for successive like periods or for any period not exceeding two years.

(2) A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately before being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

(f) In organizing the Office and appointing persons to positions in the Office, the Under Secretary shall ensure that –

(1) the Office is staffed so as to provide the Under Secretary, through a designated clinician in the appropriate discipline in each instance, with expertise and direct policy guidance on –

(A) unique programs operated by the Administration to provide for the specialized treatment and rehabilitation of disabled veterans (including blind rehabilitation, care of spinal cord dysfunction, mental illness, and long-term care); and

(B) the programs established under section 1712A of this title; and

(2) with respect to the programs established under section 1712A of this title, a clinician with appropriate expertise in those programs is responsible to the Under Secretary for the management of those programs.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 212; amended Pub. L. 102–405, title II, Sec. 205, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984; Pub. L. 102–585, title V, Sec. 511(b), Nov. 4, 1992, 106 Stat. 4956; Pub. L. 103–446, title XII, Sec. 1201(c)(3), Nov. 2, 1994, 108 Stat. 4683; Pub. L. 104–262, title III, Sec. 344, Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–419, title II, Sec. 206, Nov. 1, 2000, 114 Stat. 1842; Pub. L. 107–135, title I, Sec. 131, Jan. 23, 2002, 115 Stat. 2454.)

–MISC1–

AMENDMENTS

2002 – Subsec. (a)(5). Pub. L. 107–135 inserted ", and report directly to," after "responsible to".

2000 – Subsec. (a)(9), (10). Pub. L. 106–419 added par. (9) and redesignated former par. (9) as (10).

1996 – Subsec. (f). Pub. L. 104–262 added subsec. (f).

1994 – Subsec. (a)(3). Pub. L. 103–446, Sec. 1201(c)(3)(A)(i), substituted "Assistant Under Secretaries for Health" for "Assistant Chief Medical Directors".

Pars. (7) to (9). Pub. L. 103–446, Sec. 1201(c)(3)(A)(ii)–(iv), redesignated par. (8), relating to such directors, as (7), par. (7) as (8), and par. (8), relating to such other personnel, as (9), and in par. (8), as so redesignated, substituted "Under Secretary for Health" for "Chief Medical Director".

Subsec. (b). Pub. L. 103–446, Sec. 1201(c)(3)(B), substituted "Assistant Under Secretaries for Health" for "Assistant Chief

Medical Directors".

Subsec. (c). Pub. L. 103–446, Sec. 1201(c)(3)(C), substituted "and (8)" for "and (7)".

1992 – Pub. L. 102–405, Sec. 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" in section catchline.

Subsec. (a). Pub. L. 102–405, Sec. 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (a)(7). Pub. L. 102–585, Sec. 511(b)(1)(B), added par.

(7). Former par. (7), relating to such directors, redesignated (8).

Pub. L. 102–405, Sec. 205(2), added par. (7). Former par. (7), relating to such other personnel, redesignated (8).

Subsec. (a)(8). Pub. L. 102–585, Sec. 511(b)(1)(A), redesignated par. (7), relating to such directors, as (8).

Pub. L. 102–405, Sec. 205(1), redesignated par. (7), relating to such other personnel, as (8).

Subsec. (b)(2), (3). Pub. L. 102–405, Sec. 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (c). Pub. L. 102–585, Sec. 511(b)(2), substituted "(4), and (7)" for "and (4)".

Pub. L. 102–405, Sec. 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director".

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7314, 7401, 7404, 7405,
7408, 7424, 7425, 8107 of this title.

–End–

–CITE–

38 USC SUBCHAPTER II – GENERAL AUTHORITY AND
ADMINISTRATION 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–MISC1–

PRIOR PROVISIONS

A prior subchapter II of this chapter consisting of sections 4121
to 4124, related to Regional Medical Education Centers, prior to
repeal by Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991,
105 Stat. 210. See Prior Provisions notes set out under section
4110A of this title.

–End–

–CITE–

38 USC Sec. 7311 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7311. Quality assurance

–STATUTE–

(a) The Secretary shall –

(1) establish and conduct a comprehensive program to monitor and evaluate the quality of health care furnished by the Veterans Health Administration (hereinafter in this section referred to as the "quality–assurance program"); and

(2) delineate the responsibilities of the Under Secretary for Health with respect to the quality–assurance program, including the duties prescribed in this section.

(b)(1) As part of the quality–assurance program, the Under Secretary for Health shall periodically evaluate –

(A) whether there are significant deviations in mortality and morbidity rates for surgical procedures performed by the Administration from prevailing national mortality and morbidity standards for similar procedures; and

(B) if there are such deviations, whether they indicate deficiencies in the quality of health care provided by the Administration.

(2) The evaluation under paragraph (1)(A) shall be made using the information compiled under subsection (c)(1). The evaluation under

paragraph (1)(B) shall be made taking into account the factors described in subsection (c)(2)(B).

(3) If, based upon an evaluation under paragraph (1)(A), the Under Secretary for Health determines that there is a deviation referred to in that paragraph, the Under Secretary for Health shall explain the deviation in the report submitted under subsection (f).(1)

(c)(1) The Under Secretary for Health shall –

(A) determine the prevailing national mortality and morbidity standards for each type of surgical procedure performed by the Administration; and

(B) collect data and other information on mortality and morbidity rates in the Administration for each type of surgical procedure performed by the Administration and (with respect to each such procedure) compile the data and other information so collected –

(i) for each medical facility of the Department, in the case of cardiac surgery, heart transplant, and renal transplant programs; and

(ii) in the aggregate, for each other type of surgical procedure.

(2) The Under Secretary for Health shall –

(A) compare the mortality and morbidity rates compiled under paragraph (1)(B) with the national mortality and morbidity standards determined under paragraph (1)(A); and

(B) analyze any deviation between such rates and such standards

in terms of the following:

(i) The characteristics of the respective patient

populations.

(ii) The level of risk for the procedure involved, based on –

(I) patient age;

(II) the type and severity of the disease;

(III) the effect of any complicating diseases; and

(IV) the degree of difficulty of the procedure.

(iii) Any other factor that the Under Secretary for Health

considers appropriate.

(d) Based on the information compiled and the comparisons,

analyses, evaluations, and explanations made under subsections (b)

and (c), the Under Secretary for Health, in the report under

subsection (f),(!1) shall make such recommendations with respect to

quality assurance as the Under Secretary for Health considers

appropriate.

(e)(1) The Secretary shall allocate sufficient resources

(including sufficient personnel with the necessary skills and

qualifications) to enable the Administration to carry out its

responsibilities under this section.

(2) The Inspector General of the Department shall allocate

sufficient resources (including sufficient personnel with the

necessary skills and qualifications) to enable the Inspector

General to monitor the quality–assurance program.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105

Stat. 214; amended Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, Sec. 1201(g)(5), Nov. 2, 1994, 108 Stat. 4687.)

–REFTEXT–

REFERENCES IN TEXT

Subsection (f), referred to in subsecs. (b)(3) and (d), was repealed by Pub. L. 103–446, title XII, Sec. 1201(g)(5), Nov. 2, 1994, 108 Stat. 4687.

–MISC1–

AMENDMENTS

1994 – Subsecs. (f), (g). Pub. L. 103–446 struck out subsecs. (f) and (g) which read as follows:

"(f)(1) Not later than February 1, 1991, the Under Secretary for Health shall submit to the Secretary a report on the experience through the end of the preceding fiscal year under the quality–assurance program carried out under this section.

"(2) Such report shall include –

"(A) the data and other information compiled and the comparisons, analyses, and evaluations made under subsections (b) and (c) with respect to the period covered by the report; and

"(B) recommendations under subsection (d).

"(g)(1) Not later than 60 days after receiving such report, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comment concerning the report that the Secretary considers appropriate.

"(2) A report submitted under paragraph (1) shall not be considered to be a record or document as described in section 5705(a) of this title."

1992 – Subsecs. (a) to (d), (f). Pub. L. 102–405 substituted

"Under Secretary for Health" for "Chief Medical Director" wherever appearing.

EVALUATION OF DEPARTMENT OF VETERANS AFFAIRS NURSE MANAGED CLINICS

Pub. L. 107–135, title I, Sec. 123, Jan. 23, 2002, 115 Stat.

2451, provided that:

"(a) Evaluation. – The Secretary of Veterans Affairs shall carry out an evaluation of the efficacy of the nurse managed health care clinics of the Department of Veterans Affairs. The Secretary shall complete the evaluation not later than 18 months after the date of the enactment of this Act [Jan. 23, 2002].

"(b) Clinics To Be Evaluated. – (1) In carrying out the evaluation under subsection (a), the Secretary shall consider nurse managed health care clinics, including primary care clinics and geriatric care clinics, located in three different geographic service areas of the Department.

"(2) If there are not nurse managed health care clinics located in three different geographic service areas as of the commencement of the evaluation, the Secretary shall –

"(A) establish nurse managed health care clinics in additional geographic service areas such that there are nurse managed health care clinics in three different geographic service areas for purposes of the evaluation; and

"(B) include such clinics, as so established, in the evaluation.

"(c) Matters To Be Evaluated. – In carrying out the evaluation under subsection (a), the Secretary shall address the following:

"(1) Patient satisfaction.

"(2) Provider experiences.

"(3) Cost of care.

"(4) Access to care, including waiting time for care.

"(5) The functional status of patients receiving care.

"(6) Any other matters the Secretary considers appropriate.

"(d) Report. – Not later than 18 months after the date of the enactment of this Act [Jan. 23, 2002], the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation carried out under subsection (a). The report shall address the matters specified in subsection (c) and include any other information, and any recommendations, that the Secretary considers appropriate. The Secretary shall provide a copy of the report to the National Commission on VA Nursing established under subtitle D [set out as a note under section 7451 of this title]."

QUALITY ASSURANCE ACTIVITIES

Section 104 of Pub. L. 102–405 provided that: "Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in sections 201(a)(1) and 201(a)(3) of Public Law 100–322 [formerly set out as a note under former section

4151 of this title] (102 Stat. 508) shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities."

REGULATIONS FOR STANDARDS OF PERFORMANCE IN LABORATORIES

Pub. L. 102-139, title I, Sec. 101, Oct. 28, 1991, 105 Stat. 742, provided that:

"(a) Regulations for Standards of Performance in Department of Veterans Affairs Laboratories. – (1) Within the 120-day period beginning on the date on which the Secretary of Health and Human Services promulgates final regulations to implement the standards required by section 353 of the Public Health Service Act (42 U.S.C. 263a), the Secretary of Veterans Affairs, in accordance with the Secretary's authority under title 38, United States Code, shall prescribe regulations to assure consistent performance by medical facility laboratories under the jurisdiction of the Secretary of valid and reliable laboratory examinations and other procedures. Such regulations shall be prescribed in consultation with the Secretary of Health and Human Services and shall establish standards equal to that applicable to other medical facility laboratories in accordance with the requirements of section 353(f) of the Public Health Service Act.

"(2) Such regulations –

"(A) may include appropriate provisions respecting waivers described in section 353(d) of such Act and accreditations

described in section 353(e) of such Act; and

"(B) shall include appropriate provisions respecting compliance with such requirements.

"(b) Report. – Within the 180–day period beginning on the date on which the Secretary of Veterans Affairs prescribes regulations required by subsection (a), the Secretary shall submit to the appropriate committees of the Congress a report on those regulations.

"(c) Definition. – As used in this section, the term 'medical facility laboratories' means facilities for the biological, micro–biological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other physical examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings."

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5705 of this title.

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

38 USC Sec. 7312 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7312. Special medical advisory group

–STATUTE–

(a) The Secretary shall establish an advisory committee to be known as the special medical advisory group. The advisory group shall advise the Secretary, through the Under Secretary for Health, and the Under Secretary for Health directly, relative to the care and treatment of disabled veterans and other matters pertinent to the Administration.

(b) Members of the special medical advisory group shall be appointed by the Secretary upon the recommendation of the Under Secretary for Health. The special medical advisory group shall be composed of –

(1) members of the medical, dental, podiatric, optometric, and allied scientific professions;

(2) other individuals considered by the Under Secretary for Health to have experience pertinent to the mission of the Administration; and

(3) a disabled veteran.

(c) The special medical advisory group shall meet on a regular basis as prescribed by the Secretary. The number, terms of service, pay, and allowances of members of the advisory group shall be

prescribed in accordance with existing law and regulations.

(d) Not later than February 1 of each year, the special medical advisory group shall submit to the Secretary and the Congress a report on the activities of the advisory group during the preceding fiscal year. No report shall be required under this subsection after December 31, 2004.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 215; amended Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, Sec. 1201(e)(20), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 106–419, title IV, Sec. 403(c)(5), Nov. 1, 2000, 114 Stat. 1864.)

–MISC1–

AMENDMENTS

2000 – Subsec. (d). Pub. L. 106–419 inserted at end "No report shall be required under this subsection after December 31, 2004."

1994 – Subsec. (d). Pub. L. 103–446 substituted "the activities of the advisory group" for "the advisory groups activities".

1992 – Subsecs. (a), (b). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 305, 7474, 8155, 8201 of this title.

–End–

–CITE–

38 USC Sec. 7313 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7313. Advisory committees: affiliated institutions

–STATUTE–

(a) In each case where the Secretary has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization for the training or education of health personnel, the Secretary shall establish an advisory committee to advise the Secretary and the Under Secretary for Health with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed. Such a committee may be a dean's committee, a medical advisory committee, or the like.

(b) Any such advisory committee may be established on an institution-wide, multi-disciplinary basis or on a regional basis whenever establishment on such a basis is found to be feasible.

(c) Members of each such advisory committee shall be appointed by the Secretary and shall include personnel of the Department

(including appropriate representation from the full-time staff) and of the entity with which the Secretary has entered into the contract or agreement. The number of members, and terms of members, of each advisory committee shall be prescribed by the Secretary.

(d) The Secretary shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Department health-care facility be included in the membership of each policymaking committee at that facility. Such committees include:

(1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (a).

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 216; amended Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

–MISC1–

AMENDMENTS

1992 – Subsec. (a). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

–SECREP–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7423 of this title.

–End–

–CITE–

38 USC Sec. 7314 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7314. Geriatric research, education, and clinical centers

–STATUTE–

(a) The Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of this section, shall designate not more than 25 Department health–care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

(b) In designating locations for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall –

(1) designate each Department health–care facility that as of August 26, 1980, was operating a geriatric research, education, and clinical center unless (on the recommendation of the Under Secretary for Health) the Secretary determines that such facility does not meet the requirements of subsection (c) or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the

Veterans' Administration Health–Care Amendments of 1980 (Public Law 96–330; 94 Stat. 1048) or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

(2) assure appropriate geographic distribution of such facilities.

(c) The Secretary may not designate a health–care facility as a location for a center under subsection (a) unless the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and the Secretary (upon the recommendation of the Under Secretary for Health) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

(1) An arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders.

(2) An arrangement under which nursing or allied health personnel receive training and education in geriatrics through

regular rotation through nursing home, extended care, or domiciliary units of such facility.

(3) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health–care research efforts.

(4) A policymaking advisory committee composed of appropriate health–care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center.

(5) The capability to conduct effectively evaluations of the activities of such center.

(d)(1) In order to provide advice to assist the Secretary and the Under Secretary for Health in carrying out their responsibilities under this section, the Assistant Under Secretary for Health described in section 7306(b)(3) of this title shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this section.

(2) The membership of the panel shall consist of experts in the fields of geriatric and gerontological research, education, and clinical care. Members of the panel shall serve as consultants to the Department for a period of no longer than six months.

(3) The panel shall review each proposal submitted to the panel by the Assistant Under Secretary and shall submit its views on the

relative scientific and clinical merit of each such proposal to the Assistant Under Secretary.

(4) The panel shall not be subject to the Federal Advisory Committee Act.

(e) Before providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subsection (b)(1), the Secretary shall assure that the center at each facility designated under such subsection is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

(f) There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department medical care account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

(g) Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 216; amended Pub. L. 102–83, Sec. 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 102–585, title V, Sec. 521, Nov. 4, 1992, 106 Stat. 4958; Pub. L. 103–446, title XII, Secs. 1201(c)(4), 1202(b)(2), Nov. 2, 1994, 108 Stat. 4683, 4689.)

–REFTEXT–

REFERENCES IN TEXT

The Veterans' Administration Health–Care Amendments of 1980, referred to in subsec. (b)(1), is Pub. L. 96–330, Aug. 26, 1980, 94 Stat. 1030. Title III of the Act amended former sections 4101 and 4103 of this title and enacted provisions set out as notes below and under former section 4101 of this title. For the purposes of title III, see section 301 of Pub. L. 96–330, set out below. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (d)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

–MISC1–

AMENDMENTS

1994 – Subsec. (b)(1). Pub. L. 103–446, Sec. 1202(b)(2), amended Pub. L. 102–83, Sec. 4(a)(3), (4), to make it inapplicable to this

section. See 1991 Amendment note below.

Subsec. (d)(1). Pub. L. 103–446, Sec. 1201(c)(4)(A), substituted "the Secretary and the Under Secretary for Health in carrying out" for "the Chief Medical Director and the Secretary to carry out" and "the Assistant Under Secretary for Health described in section 7306(b)(3)" for "the Assistant Chief Medical Director described in section 7306(b)(3)".

Subsec. (d)(3). Pub. L. 103–446, Sec. 1201(c)(4)(B), substituted "Assistant Under Secretary" for "Assistant Chief Medical Director" in two places.

1992 – Subsecs. (a), (b). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (c). Pub. L. 102–585, Sec. 521(1), inserted "the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and" after "unless" in introductory provisions.

Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" in introductory provisions.

Subsec. (d). Pub. L. 102–585, Sec. 521(3), added subsec. (d).

Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–585, Sec. 521(2), redesignated subsec.

(d) as (e). Former subsec. (e) redesignated (f).

Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" in two places.

Subsecs. (f), (g). Pub. L. 102–585, Sec. 521(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

1991 – Subsec. (b)(1). Pub. L. 102–83, Sec. 4(a)(3), (4), which directed substitution of "Department" for "Veterans' Administration", was amended by Pub. L. 103–446, Sec. 1202(b)(2), to make it inapplicable to this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(b) of Pub. L. 103–446 provided that the amendment made by that section is effective Aug. 6, 1991, and as if included in the enactment of Pub. L. 102–83.

CONGRESSIONAL DECLARATION OF PURPOSE IN CREATING CENTERS OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

Section 301 of title III of Pub. L. 96–330 provided that: "The purposes of this title [see Tables for classification] are (1) to improve and expand the capability of Veterans' Administration [now Department of Veterans Affairs] health–care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for

eligible older veterans."

~~–SECRET–~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7315 of this title.

~~–End–~~

~~–CITE–~~

38 USC Sec. 7315 01/06/03

~~–EXPCITE–~~

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

~~–HEAD–~~

Sec. 7315. Geriatrics and Gerontology Advisory Committee

~~–STATUTE–~~

(a) The Secretary shall establish in the Veterans Health Administration a Geriatrics and Gerontology Advisory Committee (hereinafter in this section referred to as the "Committee"). The membership of the Committee shall be appointed by the Secretary, upon the recommendation of the Under Secretary for Health, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans service organization. The Secretary, upon the recommendation of the Under

Secretary for Health, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this section.

(b) The Committee shall –

(1) advise the Under Secretary for Health on all matters pertaining to geriatrics and gerontology;

(2) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on August 26, 1980), the ability of each center established under section 7314 of this title to achieve its established purposes and the purposes of title III of the Veterans' Administration Health–Care Amendments of 1980 (Public Law 96–330; 94 Stat. 1048);

(3) assess the capability of the Department to provide high quality geriatric services, extended services, and other health–care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

(4) assess the current and projected needs of eligible older veterans for geriatric services, extended–care services, and other health–care services from the Department and its activities

and plans designed to meet such needs; and

(5) perform such additional functions as the Secretary or Under Secretary for Health may direct.

(c)(1) The Committee shall submit to the Secretary, through the Under Secretary for Health, such reports as the Committee considers appropriate with respect to its findings and conclusions under subsection (b). Such reports shall include the following:

(A) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to section 7314 of this title.

(B) Assessments of the quality of the operations of such centers.

(C) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric services, extended-care services, and other health-care services.

(D) Assessments of and recommendations for correcting any deficiencies in the operations of such centers.

(E) Recommendations for such other geriatric services, extended-care services, and other health-care services as may be needed to meet the needs of older veterans.

(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under

that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 217; amended Pub. L. 102–83, Sec. 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 102–405, title I, Sec. 102, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1973, 1984; Pub. L. 103–446, title XII, Secs. 1201(i)(9), 1202(b)(2), Nov. 2, 1994, 108 Stat. 4688, 4689; Pub. L. 107–330, title III, Sec. 308(g)(13), Dec. 6, 2002, 116 Stat. 2829.)

–REFTEXT–

REFERENCES IN TEXT

The Veterans' Administration Health–Care Amendments of 1980, referred to in subsec. (b)(2), is Pub. L. 96–330, Aug. 26, 1980, 94 Stat. 1030. Title III of the Act amended former sections 4101 and 4103 of this title and enacted provisions set out as notes under former section 4101 of this title. For the purposes of title III, see section 301 of Pub. L. 96–330, set out as a note under section 7314 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of this title and Tables.

–MISC1–

AMENDMENTS

2002 – Subsec. (a). Pub. L. 107–330 inserted "Veterans Health"

before "Administration" in first sentence.

1994 – Subsec. (b)(2). Pub. L. 103–446, Sec. 1201(i)(9), which directed substitution of "Veterans' Administration" for "Department", could not be executed because "Department" did not appear subsequent to execution of amendment by Pub. L. 103–446, Sec. 1202(b)(2). See below.

Pub. L. 103–446, Sec. 1202(b)(2), amended Pub. L. 102–83, Sec. 4(a)(3), (4), to make it inapplicable to this section. See 1991 Amendment note below.

1992 – Subsecs. (a), (b)(1), (5), (c)(1). Pub. L. 102–405, Sec. 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (c)(2). Pub. L. 102–405, Sec. 102, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Not later than 90 days after receipt of a report submitted under paragraph (1), the Secretary shall transmit the report, together with the Secretary's comments and recommendations thereon, to the appropriate committees of the Congress."

1991 – Subsec. (b)(2). Pub. L. 102–83, Sec. 4(a)(3), (4), which directed substitution of "Department" for "Veterans' Administration", was amended by Pub. L. 103–446, Sec. 1202(b)(2), to make it inapplicable to this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(b) of Pub. L. 103–446 provided that the amendment made by that section is effective Aug. 6, 1991, and as if included in the enactment of Pub. L. 102–83.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

–End–

–CITE–

38 USC Sec. 7316 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7316. Malpractice and negligence suits: defense by United States

–STATUTE–

(a)(1) The remedy –

(A) against the United States provided by sections 1346(b) and

2672 of title 28, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28, for damages for personal injury, including death, allegedly arising from malpractice or negligence of a medical care employee of the Administration in furnishing medical care or treatment while in the exercise of that employee's duties in or for the Administration shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the medical care employee (or employee's estate) whose act or omission gave rise to such claim.

(2) For purposes of paragraph (1), the term "medical care employee of the Administration" means a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true

copy thereof to such person's immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's employment in or for the Administration at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of such person's office or employment, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) The Secretary may, to the extent the Secretary considers appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a)), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of such person's duties in or for the Administration, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Administration.

~~—SOURCE—~~

(Added Pub. L. 102-40, title IV, Sec. 401(a)(3), May 7, 1991, 105 Stat. 219.)

~~—SECRET—~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 515, 1712 of this title.

–End–

–CITE–

38 USC Sec. 7317 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7317. Hazardous research projects: indemnification of
contractors

–STATUTE–

(a)(1) With the approval of the Secretary, any contract or
research authorized by section 7303 of this title, the performance
of which involves a risk of an unusually hazardous nature, may
provide that the United States will indemnify the contractor as
provided in paragraph (2), but only to the extent that the
liability, loss, or damage concerned arises out of the direct
performance of the contract and to the extent not covered by the
financial protection required under subsection (e).

(2) Indemnity under paragraph (1) is indemnity against either or
both of the following:

(A) Liability (including reasonable expenses of litigation or
settlement) to third persons, except liability under State or
Federal workers' injury compensation laws to employees of the

contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(B) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract that provides for indemnification in accordance with subsection (a) must also provide for –

(1) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

(c) A payment may not be made under subsection (a) unless the Secretary certifies that the amount is just and reasonable.

(d) Upon approval by the Secretary, payments under subsection (a) may be made from –

(1) funds obligated for the performance of the contract concerned;

(2) funds available for research or development or both, and not otherwise obligated; or

(3) funds appropriated for those payments.

(e) Each contractor which is a party to an indemnification agreement under subsection (a) shall have and maintain financial protection of such type and in such amounts as the Secretary shall

require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Secretary may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

(f) In administering the provisions of this section, the Secretary may use the facilities and services of private insurance organizations and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this section may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made under any such contract.

(g) The authority to indemnify contractors under this section does not create any rights in third persons which would not otherwise exist by law.

(h) Funds appropriated to carry out this section shall remain available until expended.

(i) In this section, the term "contractor" includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subsection (a).

–SOURCE–

(Added Pub. L. 102–40, title IV, Sec. 401(a)(3), May 7, 1991, 105

Stat. 220.)

–End–

–CITE–

38 USC Sec. 7318 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7318. National Center for Preventive Health

–STATUTE–

(a)(1) The Under Secretary for Health shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereinafter in this section referred to as the "Center"). The Center shall be located at a Department health care facility.

(2) The head of the Center is the Director of Preventive Health (hereinafter in this section referred to as the "Director").

(3) The Under Secretary for Health shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

(b) The purposes of the Center are the following:

(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect

to the provision, evaluation, and improvement of preventive health services.

(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

(c) In carrying out the purposes of the Center, the Director shall do the following:

(1) Develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to –

(A) the on-going provision of regularly-furnished services; and

(B) patient education and screening programs carried out throughout the Administration.

(2) Develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services.

(3) In order to encourage the effective provision of preventive health services by Veterans Health Administration personnel –

(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the

Administration.

(4) Facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Under Secretary for Health and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services.

(5) Provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

(d) There is authorized to be appropriated \$1,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year for the purpose of permitting the National Center for Preventive Health to carry out research, clinical, educational, and administrative activities under this section. Such activities shall be considered to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

(e) In this section, the term "preventive health services" has the meaning given such term in section 1701(9) of this title.

–SOURCE–

(Added Pub. L. 102–585, title V, Sec. 511(a)(1), Nov. 4, 1992, 106 Stat. 4955; amended Pub. L. 103–446, title XII, Sec. 1201(c)(5), Nov. 2, 1994, 108 Stat. 4683.)

–MISC1–

AMENDMENTS

1994 – Subsecs. (a)(1), (3), (c)(4). Pub. L. 103–446 substituted

"Under Secretary for Health" for "Chief Medical Director".

SELECTION OF FACILITY AT WHICH CENTER TO BE ESTABLISHED

Section 511(c) of Pub. L. 102–585, as amended by Pub. L. 103–446, title XII, Sec. 1202(e)(2), Nov. 2, 1994, 108 Stat. 4689, provided that: "In order to establish the National Center for Preventive Health pursuant to section 7318 of title 38, United States Code, as added by subsection (a), the Under Secretary for Health of the Department of Veterans Affairs shall solicit proposals from Department health care facilities to establish the center. The Under Secretary for Health shall establish such center at the facility or facilities which the Under Secretary for Health determines, on the basis of a review and analysis of such proposals, would most effectively carry out the purposes set forth in subsection (b) of such section."

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1704 of this title.

–End–

–CITE–

38 USC Sec. 7319 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7319. Mammography quality standards

–STATUTE–

(a) A mammogram may not be performed at a Department facility unless that facility is accredited for that purpose by a private nonprofit organization designated by the Secretary. An organization designated by the Secretary under this subsection shall meet the standards for accrediting bodies established under subsection (e) of section 354 of the Public Health Service Act (42 U.S.C. 263b).

(b) The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe quality assurance and quality control standards relating to the performance and interpretation of mammograms and use of mammogram equipment and facilities of the Department of Veterans Affairs consistent with the requirements of section 354(f)(1) of the Public Health Service Act. Such standards shall be no less stringent than the standards prescribed by the Secretary of Health and Human Services under section 354(f) of the Public Health Service Act.

(c)(1) The Secretary, to ensure compliance with the standards prescribed under subsection (b), shall provide for an annual inspection of the equipment and facilities used by and in Department health care facilities for the performance of mammograms. Such inspections shall be carried out in a manner consistent with the inspection of certified facilities by the Secretary of Health and Human Services under section 354(g) of the

Public Health Service Act.

(2) The Secretary may not provide for an inspection under paragraph (1) to be performed by a State agency.

(d) The Secretary shall ensure that mammograms performed for the Department under contract with any non-Department facility or provider conform to the quality standards prescribed by the Secretary of Health and Human Services under section 354 of the Public Health Service Act.

(e) For the purposes of this section, the term "mammogram" has the meaning given such term in paragraph (5) of section 354(a) of the Public Health Service Act.

–SOURCE–

(Added Pub. L. 104–262, title III, Sec. 321(a)(1), Oct. 9, 1996, 110 Stat. 3195.)

–REFTEXT–

REFERENCES IN TEXT

Section 354 of the Public Health Service Act, referred to in text, is section 354 of act July 1, 1944, ch. 373, which is classified to section 263b of Title 42, The Public Health and Welfare.

–MISC1–

DEADLINE FOR PRESCRIBING STANDARDS

Section 321(b) of Pub. L. 104–262 provided that: "The Secretary of Veterans Affairs shall prescribe standards under subsection (b) of section 7319 of title 38, United States Code, as added by subsection (a), not later than the end of the 120-day period

beginning on the date of the enactment of this Act [Oct. 9, 1996]."

IMPLEMENTATION REPORT

Section 321(c) of Pub. L. 104–262 provided that: "The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's implementation of section 7319 of title 38, United States Code, as added by subsection (a). The report shall be submitted not later than 120 days after the date of the enactment of this Act [Oct. 9, 1996]."

–End–

–CITE–

38 USC Sec. 7320 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7320. Centers for mental illness research, education, and clinical activities

–STATUTE–

(a) The purpose of this section is to provide for the improvement of the provision of health–care services and related counseling services to eligible veterans suffering from mental illness (especially mental illness related to service–related conditions)

through –

(1) the conduct of research (including research on improving mental health service facilities of the Department and on improving the delivery of mental health services by the

Department);

(2) the education and training of health care personnel of the Department; and

(3) the development of improved models and systems for the furnishing of mental health services by the Department.

(b)(1) The Secretary shall establish and operate centers for mental illness research, education, and clinical activities. Such centers shall be established and operated by collaborating Department facilities as provided in subsection (c)(1). Each such center shall function as a center for –

(A) research on mental health services;

(B) the use by the Department of specific models for furnishing services to treat serious mental illness;

(C) education and training of health–care professionals of the Department; and

(D) the development and implementation of innovative clinical activities and systems of care with respect to the delivery of such services by the Department.

(2) The Secretary shall, upon the recommendation of the Under Secretary for Health, designate the centers under this section. In making such designations, the Secretary shall ensure that the centers designated are located in various geographic regions of the

United States. The Secretary may designate a center under this section only if –

(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

(B) the Secretary makes the finding described in subsection (d); and

(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

(3) Not more than five centers may be designated under this section.

(4) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

(c) A proposal submitted for the designation of a center under this section shall –

(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities in the same geographic area which have a mission centered on care of the mentally ill and a Department facility in that area which has a mission of providing tertiary medical care;

(2) provide that no less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating

facility or facilities that have a mission centered on care of the mentally ill; and

(3) provide for a governance arrangement between the collaborating Department facilities which ensures that the center will be established and operated in a manner aimed at improving the quality of mental health care at the collaborating facility or facilities which have a mission centered on care of the mentally ill.

(d) The finding referred to in subsection (b)(2)(B) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

(1) An arrangement with an accredited medical school that provides education and training in psychiatry and with which one or more of the participating Department facilities is affiliated under which medical residents receive education and training in psychiatry through regular rotation through the participating Department facilities so as to provide such residents with training in the diagnosis and treatment of mental illness.

(2) An arrangement with an accredited graduate program of psychology under which students receive education and training in clinical, counseling, or professional psychology through regular rotation through the participating Department facilities so as to provide such students with training in the diagnosis and

treatment of mental illness.

(3) An arrangement under which nursing, social work, counseling, or allied health personnel receive training and education in mental health care through regular rotation through the participating Department facilities.

(4) The ability to attract scientists who have demonstrated achievement in research –

(A) into the evaluation of innovative approaches to the design of mental health services; or

(B) into the causes, prevention, and treatment of mental illness.

(5) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of mental health services provided by the Department at or through individual facilities.

(e)(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

(2) The panel shall consist of experts in the fields of mental health research, education and training, and clinical care. Members

of the panel shall serve as consultants to the Department.

(3) The panel shall review each proposal submitted to the panel by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) Clinical and scientific investigation activities at each center established under this section –

(1) may compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account; and

(2) shall receive priority in the award of funding from such account insofar as funds are awarded to projects and activities relating to mental illness.

(g) The Under Secretary for Health shall ensure that at least three centers designated under this section emphasize research into means of improving the quality of care for veterans suffering from mental illness through the development of community-based alternatives to institutional treatment for such illness.

(h) The Under Secretary for Health shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section that may be

useful for other activities of the Veterans Health Administration is disseminated throughout the Veterans Health Administration. Such dissemination shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

(i) The official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for supervising the operation of the centers established pursuant to this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

(j)(1) There are authorized to be appropriated to the Department of Veterans Affairs for the basic support of the research and education and training activities of centers established pursuant to this section amounts as follows:

(A) \$3,125,000 for fiscal year 1998.

(B) \$6,250,000 for each of fiscal years 1999 through 2001.

(2) In addition to funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department of Veterans Affairs medical care account and the Department of Veterans Affairs medical and prosthetics research

account such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.

–SOURCE–

(Added Pub. L. 104–262, title III, Sec. 334(a)(1), Oct. 9, 1996, 110 Stat. 3200.)

–REFTEXT–

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec.

(e)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

–MISC1–

ANNUAL REPORTS ON AND DESIGNATION OF CENTERS

Section 334(b), (c) of Pub. L. 104–262 provided that:

"(b) Annual Reports. – Not later than February 1 of each of 1999, 2000, 2001, and 2002, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the centers for mental illness research, education, and clinical activities established pursuant to section 7320 of title 38, United States Code (as added by subsection (a)). Each such report shall include the following:

"(1) A description of the activities carried out at each center and the funding provided for such activities.

"(2) A description of the advances made at each of the participating facilities of the center in research, education and

training, and clinical activities relating to mental illness in veterans.

"(3) A description of the actions taken by the Under Secretary for Health pursuant to subsection (h) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

"(4) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

"(c) Implementation. – The Secretary of Veterans Affairs shall designate at least one center under section 7320 of title 38, United States Code, not later than January 1, 1998."

–End–

–CITE–

38 USC Sec. 7321 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7321. Committee on Care of Severely Chronically Mentally Ill Veterans

–STATUTE–

(a) The Secretary, acting through the Under Secretary for Health, shall establish in the Veterans Health Administration a Committee

on Care of Severely Chronically Mentally Ill Veterans. The Under Secretary shall appoint employees of the Department with expertise in the care of the chronically mentally ill to serve on the committee.

(b) The committee shall assess, and carry out a continuing assessment of, the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of mentally ill veterans whose mental illness is severe and chronic and who are eligible for health care furnished by the Department, including the needs of such veterans who are women. In carrying out that responsibility, the committee shall –

- (1) evaluate the care provided to such veterans through the Veterans Health Administration;
- (2) identify systemwide problems in caring for such veterans in facilities of the Veterans Health Administration;
- (3) identify specific facilities within the Veterans Health Administration at which program enrichment is needed to improve treatment and rehabilitation of such veterans; and
- (4) identify model programs which the committee considers to have been successful in the treatment and rehabilitation of such veterans and which should be implemented more widely in or through facilities of the Veterans Health Administration.

(c) The committee shall –

- (1) advise the Under Secretary regarding the development of policies for the care and rehabilitation of severely chronically mentally ill veterans; and

(2) make recommendations to the Under Secretary –

(A) for improving programs of care of such veterans at specific facilities and throughout the Veterans Health Administration;

(B) for establishing special programs of education and training relevant to the care of such veterans for employees of the Veterans Health Administration;

(C) regarding research needs and priorities relevant to the care of such veterans; and

(D) regarding the appropriate allocation of resources for all such activities.

(d)(1) Not later than April 1, 1997, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(A) A list of the members of the committee.

(B) The assessment of the Under Secretary for Health, after review of the initial findings of the committee, regarding the capability of the Veterans Health Administration, on a systemwide and facility-by-facility basis, to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

(C) The plans of the committee for further assessments.

(D) The findings and recommendations made by the committee to the Under Secretary for Health and the views of the Under Secretary on such findings and recommendations.

(E) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied toward improving the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

(2) Not later than February 1, 1998, and February 1 of each of the six following years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.

–SOURCE–

(Added Pub. L. 104–262, title III, Sec. 335(a), Oct. 9, 1996, 110 Stat. 3204; amended Pub. L. 106–419, title IV, Sec. 402(f), Nov. 1, 2000, 114 Stat. 1863.)

–MISC1–

AMENDMENTS

2000 – Subsec. (d)(2). Pub. L. 106–419, substituted "six following years" for "three following years".

–End–

–CITE–

38 USC Sec. 7322 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

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CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7322. Breast cancer mammography policy

–STATUTE–

(a) The Under Secretary for Health shall develop a national policy for the Veterans Health Administration on mammography screening for veterans.

(b) The policy developed under subsection (a) shall –

(1) specify standards of mammography screening;

(2) provide recommendations with respect to screening, and the frequency of screening, for –

(A) women veterans who are over the age of 39; and

(B) veterans, without regard to age, who have clinical symptoms, risk factors, or family history of breast cancer; and

(3) provide for clinician discretion.

–SOURCE–

(Added Pub. L. 105–114, title II, Sec. 208(a)(1), Nov. 21, 1997, 111 Stat. 2289.)

–MISC1–

EFFECTIVE DATE

Section 208(b) of Pub. L. 105–114 provided that: "The Secretary of Veterans Affairs shall develop the national policy on mammography screening required by section 7322 of title 38, United States Code, as added by subsection (a), and shall furnish such

policy in a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 60 days after the date of the enactment of this Act [Nov. 21, 1997]. Such policy shall not take effect before the expiration of 30 days after the date of its submission to those committees."

SENSE OF CONGRESS

Section 208(c) of Pub. L. 105–114 provided that: "It is the sense of Congress that the policy developed under section 7322 of title 38, United States Code, as added by subsection (a), shall be in accordance with the guidelines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health."

–End–

–CITE–

38 USC Sec. 7323 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7323. Required consultations with nurses

–STATUTE–

The Under Secretary for Health shall ensure that –

(1) the director of a geographic service area, in formulating

policy relating to the provision of patient care, shall consult regularly with a senior nurse executive or senior nurse executives; and

(2) the director of a medical center shall include a registered nurse as a member of any committee used at that medical center to provide recommendations or decisions on medical center operations or policy affecting clinical services, clinical outcomes, budget, or resources.

–SOURCE–

(Added Pub. L. 106–419, title II, Sec. 201(b)(1), Nov. 1, 2000, 114 Stat. 1840.)

–End–

–CITE–

38 USC Sec. 7324 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7324. Annual report on use of authorities to enhance retention of experienced nurses

–STATUTE–

(a) Annual Report. – Not later than January 31 each year, the Secretary, acting through the Under Secretary for Health, shall

submit to Congress a report on the use during the preceding year of authorities for purposes of retaining experienced nurses in the Veterans Health Administration, as follows:

- (1) The authorities under chapter 76 of this title.
- (2) The authority under VA Directive 5102.1, relating to the Department of Veterans Affairs nurse qualification standard, dated November 10, 1999, or any successor directive.
- (3) Any other authorities available to the Secretary for those purposes.

(b) Report Elements. – Each report under subsection (a) shall specify for the period covered by such report, for each Department medical facility and for each geographic service area of the Department, the following:

- (1) The number of waivers requested under the authority referred to in subsection (a)(2), and the number of waivers granted under that authority, to promote to the Nurse II grade or Nurse III grade under the Nurse Schedule under section 7404(b)(1) of this title any nurse who has not completed a baccalaureate degree in nursing in a recognized school of nursing, set forth by age, race, and years of experience of the individuals subject to such waiver requests and waivers, as the case may be.
- (2) The programs carried out to facilitate the use of nursing education programs by experienced nurses, including programs for flexible scheduling, scholarships, salary replacement pay, and on-site classes.

–SOURCE–

(Added Pub. L. 107–135, title I, Sec. 125(a)(1), Jan. 23, 2002, 115

Stat. 2452.)

–MISC1–

INITIAL REPORT

Pub. L. 107–135, title I, Sec. 125(b), Jan. 23, 2002, 115 Stat.

2453, provided that: "The initial report required under section 7324 of title 38, United States Code, as added by subsection (a), shall be submitted to the National Commission on VA Nursing established under subtitle D [set out as a note under section 7451 of this title] as well as to Congress."

–End–

–CITE–

38 USC Sec. 7325 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7325. Medical emergency preparedness centers

–STATUTE–

(a) Establishment of Centers. – (1) The Secretary shall establish four medical emergency preparedness centers in accordance with this section. Each such center shall be established at a Department medical center and shall be staffed by Department employees.

(2) The Under Secretary for Health shall be responsible for supervising the operation of the centers established under this section. The Under Secretary shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

(3) The Under Secretary shall carry out the Under Secretary's functions under paragraph (2) in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(b) Mission. – The mission of the centers shall be as follows:

(1) To carry out research on, and to develop methods of detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(2) To provide education, training, and advice to health care professionals, including health care professionals outside the Veterans Health Administration, through the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) or through interagency agreements entered into by the Secretary for that purpose.

(3) In the event of a disaster or emergency referred to in section 1785(b) of this title, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care

agencies and personnel involved in or responding to the disaster or emergency.

(c) Selection of Centers. – (1) The Secretary shall select the sites for the centers on the basis of a competitive selection process. The Secretary may not designate a site as a location for a center under this section unless the Secretary makes a finding under paragraph (2) with respect to the proposal for the designation of such site. To the maximum extent practicable, the Secretary shall ensure the geographic dispersal of the sites throughout the United States. Any such center may be a consortium of efforts of more than one medical center.

(2) A finding by the Secretary referred to in paragraph (1) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendations of the Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions, that the facility or facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

(A) An arrangement with a qualifying medical school and a qualifying school of public health (or a consortium of such schools) under which physicians and other persons in the health field receive education and training through the participating Department medical facilities so as to provide those persons with training in the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses induced by exposures to

chemical and biological substances, radiation, and incendiary or other explosive weapons or devices.

(B) An arrangement with a graduate school specializing in epidemiology under which students receive education and training in epidemiology through the participating Department facilities so as to provide such students with training in the epidemiology of contagious and infectious diseases and chemical and radiation poisoning in an exposed population.

(C) An arrangement under which nursing, social work, counseling, or allied health personnel and students receive training and education in recognizing and caring for conditions associated with exposures to toxins through the participating Department facilities.

(D) The ability to attract scientists who have made significant contributions to the development of innovative approaches to the detection, diagnosis, prevention, or treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(3) For purposes of paragraph (2)(A) –

(A) a qualifying medical school is an accredited medical school that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated; and

(B) a qualifying school of public health is an accredited school of public health that provides education and training in

toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated.

(d) Research Activities. – Each center shall conduct research on improved medical preparedness to protect the Nation from threats in the area of that center's expertise. Each center may seek research funds from public and private sources for such purpose.

(e) Dissemination of Research Products. – (1) The Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section is made available, as appropriate, to health–care providers in the United States. Dissemination of such information shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

(2) The Secretary shall ensure that the work of the centers is conducted in close coordination with other Federal departments and agencies and that research products or other information of the centers shall be coordinated and shared with other Federal departments and agencies.

(f) Coordination of Activities. – The Secretary shall take appropriate actions to ensure that the work of each center is

carried out –

(1) in close coordination with the Department of Defense, the Department of Health and Human Services, and other departments, agencies, and elements of the Government charged with

coordination of plans for United States homeland security; and

(2) after taking into consideration applicable recommendations

of the working group on the prevention, preparedness, and

response to bioterrorism and other public health emergencies

established under section 319F(a) of the Public Health Service

Act (42 U.S.C. 247d–6(a)) or any other joint interagency advisory

group or committee designated by the President or the President's

designee to coordinate Federal research on weapons of mass

destruction.

(g) Assistance to Other Agencies. – The Secretary may provide assistance requested by appropriate Federal, State, and local civil and criminal authorities in investigations, inquiries, and data analyses as necessary to protect the public safety and prevent or obviate biological, chemical, or radiological threats.

(h) Detail of Employees From Other Agencies. – Upon approval by the Secretary, the Director of a center may request the temporary assignment or detail to the center, on a nonreimbursable basis, of employees from other departments and agencies of the United States who have expertise that would further the mission of the center.

Any such employee may be so assigned or detailed on a nonreimbursable basis pursuant to such a request.

(i) Funding. – (1) Amounts appropriated for the activities of the

centers under this section shall be appropriated separately from amounts appropriated for the Department for medical care.

(2) In addition to funds appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines appropriate to carry out the purposes of this section. Any determination by the Under Secretary under the preceding sentence shall be made in consultation with the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions.

(3) There are authorized to be appropriated for the centers under this section \$20,000,000 for each of fiscal years 2003 through 2007.

–SOURCE–

(Added Pub. L. 107–287, Sec. 2(a)(1), Nov. 7, 2002, 116 Stat. 2024.)

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto, to the Secretary of

Homeland Security, and for treatment of related references, see sections 313(5), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

–MISC1–

PEER REVIEW FOR DESIGNATION OF CENTERS

Pub. L. 107–287, Sec. 2(b), Nov. 7, 2002, 116 Stat. 2027, provided that:

"(1) In order to assist the Secretary of Veterans Affairs and the Under Secretary of Veterans Affairs for Health in selecting sites for centers under section 7325 of title 38, United States Code, as added by subsection (a), the Under Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of such centers. The peer review panel shall be established in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

"(2) The peer review panel shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of patients exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs.

"(3) The panel shall review each proposal submitted to the panel by the officials referred to in paragraph (1) and shall submit to

the Under Secretary for Health its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

"(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.)."

–End–

–CITE–

38 USC Sec. 7326 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER II – GENERAL AUTHORITY AND ADMINISTRATION

–HEAD–

Sec. 7326. Education and training programs on medical response to consequences of terrorist activities

–STATUTE–

(a) Education Program. – The Secretary shall carry out a program to develop and disseminate a series of model education and training programs on the medical responses to the consequences of terrorist activities.

(b) Implementing Official. – The program shall be carried out through the Under Secretary for Health, in consultation with the

Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(c) Content of Programs. – The education and training programs developed under the program shall be modelled after programs established at the F. Edward Heber School of Medicine of the Uniformed Services University of the Health Sciences and shall include, at a minimum, training for health care professionals in the following:

(1) Recognition of chemical, biological, radiological, incendiary, or other explosive agents, weapons, or devices that may be used in terrorist activities.

(2) Identification of the potential symptoms of exposure to those agents.

(3) Understanding of the potential long-term health consequences, including psychological effects, resulting from exposure to those agents, weapons, or devices.

(4) Emergency treatment for exposure to those agents, weapons, or devices.

(5) An appropriate course of followup treatment, supportive care, and referral.

(6) Actions that can be taken while providing care for exposure to those agents, weapons, or devices to protect against contamination, injury, or other hazards from such exposure.

(7) Information on how to seek consultative support and to report suspected or actual use of those agents.

(d) Potential Trainees. – In designing the education and training

programs under this section, the Secretary shall ensure that different programs are designed for health-care professionals in Department medical centers. The programs shall be designed to be disseminated to health professions students, graduate health and medical education trainees, and health practitioners in a variety of fields.

(e) Consultation. – In establishing education and training programs under this section, the Secretary shall consult with appropriate representatives of accrediting, certifying, and coordinating organizations in the field of health professions education.

–SOURCE–

(Added Pub. L. 107–287, Sec. 3(a)(1), Nov. 7, 2002, 116 Stat. 2027.)

–MISC1–

IMPLEMENTATION

Pub. L. 107–287, Sec. 3(b), Nov. 7, 2002, 116 Stat. 2028, provided that: "The Secretary of Veterans Affairs shall implement section 7326 of title 38, United States Code, as added by subsection (a), not later than the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 7, 2002]."

–End–

–CITE–

38 USC SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS

–HEAD–

SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS

–End–

–CITE–

38 USC Sec. 7331 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS

–HEAD–

Sec. 7331. Informed consent

–STATUTE–

The Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of section 7334 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

–SOURCE–

(Added Pub. L. 94–581, title I, Sec. 111(a)(1), Oct. 21, 1976, 90 Stat. 2849, Sec. 4131; renumbered Sec. 7331 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(A), 402(d)(1), 403(a)(1), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

–MISC1–

AMENDMENTS

1992 – Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

1991 – Pub. L. 102–40, Sec. 401(a)(4)(A), renumbered section 4131 of this title as this section.

Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

Pub. L. 102–40, Sec. 402(d)(1), substituted "7334" for "4134".

EFFECTIVE DATE

Subchapter effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7334 of this title.

–End–

–CITE–

38 USC Sec. 7332 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS

–HEAD–

Sec. 7332. Confidentiality of certain medical records

–STATUTE–

(a)(1) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia which is carried out by or for the Department under this title shall, except as provided in subsections (e) and (f), be confidential, and (section 5701 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b).

(2) Paragraph (1) prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.

(b)(1) The content of any record referred to in subsection (a) may be disclosed by the Secretary in accordance with the prior

written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Secretary.

(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) is maintained, gives written consent, the content of such record may be disclosed by the Secretary as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public–health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

(ii) A person to whom a record is disclosed under this

paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.

(D) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician–patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) is deceased, the content of any such record may be disclosed by the Secretary only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Secretary determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 7334 of this title.

(c) Except as authorized by a court order granted under subsection (b)(2)(D), no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

(e) The prohibitions of this section shall not prevent any interchange of records –

(1) within and among those components of the Department furnishing health care to veterans, or determining eligibility for benefits under this title; or

(2) between such components furnishing health care to veterans and the Armed Forces.

(f)(1) Notwithstanding subsection (a) but subject to paragraph

(2), a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

(2)(A) A disclosure under paragraph (1) may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(g) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined, in the case of a first offense, up to the maximum amount provided under section 5701(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 5701(f) of this title for a subsequent offense under that section.

–SOURCE–

(Added Pub. L. 94–581, title I, Sec. 111(a)(1), Oct. 21, 1976, 90 Stat. 2849, Sec. 4132; amended Pub. L. 100–322, title I, Sec. 121, May 20, 1988, 102 Stat. 502; renumbered Sec. 7332 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(A), 402(d)(1), 403(a)(1), (2), (4), (5), May 7, 1991, 105 Stat. 221, 239.)

–MISC1–

AMENDMENTS

1991 – Pub. L. 102–40, Sec. 401(a)(4)(A), renumbered section 4132 of this title as this section.

Subsec. (a)(1). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsections (e) and (f)" and after "subsection (b)".

Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for

"Veterans' Administration".

Pub. L. 102–40, Sec. 402(d)(1), substituted "5701" for "3301".

Subsec. (a)(2). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this subsection" after "Paragraph (1)".

Subsec. (b)(1). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (a)".

Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator" in two places.

Subsec. (b)(2). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (a)" in introductory provisions.

Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator" in introductory provisions.

Subsec. (b)(3). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (a)".

Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102–40, Sec. 402(d)(1), substituted "7334" for "4134".

Subsec. (c). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (b)(2)(D)" and after "subsection (a)".

Subsec. (e)(1). Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration".

Subsec. (f)(1). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (a)" and "of this subsection" after "paragraph (2)".

Subsec. (f)(2)(A). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this subsection" after "paragraph (1)".

Subsec. (f)(2)(B). Pub. L. 102–40, Sec. 403(a)(5), struck out "of this paragraph" after "subparagraph (A)".

Subsec. (g). Pub. L. 102–40, Sec. 402(d)(1), substituted "5701(f)" for "3301(f)" in two places.

1988 – Subsec. (a). Pub. L. 100–322, Sec. 121(a), (e)(1), designated existing provisions as par. (1), inserted "infection with the human immunodeficiency virus," after "alcohol abuse," substituted "subsections (e) and (f)" for "subsection (e)", and added par. (2).

Subsec. (b)(1). Pub. L. 100–322, Sec. 121(b)(1), struck out "pursuant to section 4134 of this title" before period at end.

Subsec. (b)(2)(C), (D). Pub. L. 100–322, Sec. 121(b)(2), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (c). Pub. L. 100–322, Sec. 121(e)(2), substituted "subsection (b)(2)(D)" for "subsection (b)(2)(C)".

Subsec. (f). Pub. L. 100–322, Sec. 121(c)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 100–322, Sec. 121(c)(1), (d), redesignated subsec. (f) as (g) and substituted "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section." for "shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1729, 1753, 7334, 7464 of this title.

–End–

–CITE–

38 USC Sec. 7333 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS

–HEAD–

Sec. 7333. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

–STATUTE–

(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Department health–care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

(b) The Secretary shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers,

shall be prescribed in accordance with section 7334 of this title.

–SOURCE–

(Added Pub. L. 94–581, title I, Sec. 111(a)(1), Oct. 21, 1976, 90 Stat. 2850, Sec. 4133; amended Pub. L. 100–322, title I, Sec. 122(a), May 20, 1988, 102 Stat. 503; renumbered Sec. 7333 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(A), 402(d)(1), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239.)

–MISC1–

AMENDMENTS

1991 – Pub. L. 102–40, Sec. 401(a)(4)(A), renumbered section 4133 of this title as this section.

Subsec. (a). Pub. L. 102–40, Sec. 403(a)(2), substituted

"Department" for "Veterans' Administration".

Subsec. (b). Pub. L. 102–40, Secs. 402(d)(1), 403(a)(1),

substituted "Secretary" for "Administrator" and "7334" for "4134".

1988 – Pub. L. 100–322 substituted "Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus" for "Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities" as section catchline, and amended text generally. Prior to amendment, text read as follows: "Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to

the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers."

RESTRICTION ON TESTING FOR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS

Section 124 of Pub. L. 100–322, as amended by Pub. L. 102–83, Sec. 6(j)(3), Aug. 6, 1991, 105 Stat. 409, provided that:

"(a) General Rule. – Except as provided in subsection (b), the Secretary of Veterans Affairs may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the Department of Veterans Affairs specifically for such a program during that fiscal year.

"(b) Voluntary Testing. – (1) The Secretary shall provide for a program under which the Department of Veterans Affairs offers each patient to whom the Department is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

"(2) Patients referred to in paragraph (1) are –

"(A) patients who are receiving treatment for intravenous drug abuse,

"(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and

"(C) patients who are otherwise at high risk for infection with

such virus.

"(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

"(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Secretary shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test."

~~–SECRET–~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7334 of this title.

~~–End–~~

~~–CITE–~~

38 USC Sec. 7334 01/06/03

~~–EXPCITE–~~

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER III – PROTECTION OF PATIENT RIGHTS

~~–HEAD–~~

Sec. 7334. Regulations

~~–STATUTE–~~

(a) Regulations prescribed by the Secretary under section 7331 of this title, section 7332 of this title with respect to the

confidentiality of alcohol and drug abuse medical records, and section 7333 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

(b) The regulations referred to in subsection (a) are –

(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93–348; 88 Stat. 348); and

(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

(c) Regulations prescribed by the Secretary under sections 7331, 7332, and 7333 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 7332(b)(2)(C) (!1) of this title), as are necessary to

prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

(d) In prescribing and implementing such regulations, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Secretary prescribe.

–SOURCE–

(Added Pub. L. 94–581, title I, Sec. 111(a)(1), Oct. 21, 1976, 90 Stat. 2851, Sec. 4134; amended Pub. L. 97–295, Sec. 4(87), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 100–322, title I, Sec. 122(a), May 20, 1988, 102 Stat. 504; renumbered Sec. 7334 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(A), 402(d)(1), 403(a)(1), (4), May 7, 1991, 105 Stat. 221, 239.)

–REFTEXT–

REFERENCES IN TEXT

Section 201 of the National Research Act, referred to in subsec. (b)(1), is section 201 of Pub. L. 93–348, title II, July 12, 1974, 88 Stat. 348, as amended, which was set out as a note under section 2891–1 of Title 42, The Public Health and Welfare, and was repealed by Pub. L. 95–622, title III, Sec. 302(b), Nov. 9, 1978, 92 Stat. 3442.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.), referred to in subsec. (b)(2), is Pub. L. 91–616, Dec. 31, 1970, 84

Stat. 1848, as amended, which is classified principally to chapter 60 (Sec. 4541 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of Title 42 and Tables.

The Drug Abuse Office and Treatment Act of 1972, referred to in subsec. (b)(2), which was redesignated the Drug Abuse Prevention, Treatment, and Rehabilitation Act, is Pub. L. 92–255, Mar. 21, 1972, 86 Stat. 65, as amended, which is classified principally to chapter 16 (Sec. 1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 21 and Tables.

Section 7332(b)(2)(C) of this title, referred to in subsec. (c), was formerly a reference to section 4132(b)(2)(C) of this title which was redesignated section 4132(b)(2)(D) by Pub. L. 100–322, title I, Sec. 121(b)(2)(A), May 20, 1988, 102 Stat. 502, and subsequently renumbered section 7332(b)(2)(D) by Pub. L. 102–40, title IV, Sec. 401(a)(4)(A), May 7, 1991, 105 Stat. 221. The reference to section 4132(b)(2)(C) in subsec. (c) was amended to reflect the renumbering by Pub. L. 102–40 but not the redesignation by Pub. L. 100–322.

–MISC1–

AMENDMENTS

1991 – Pub. L. 102–40, Sec. 401(a)(4)(A), renumbered section 4134 of this title as this section.

Subsec. (a). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (b)".

Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

Pub. L. 102–40, Sec. 402(d)(1), substituted "7331" for "4131", "7332" for "4132", and "7333" for "4133".

Subsec. (b). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (a)" in introductory provisions.

Subsec. (c). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

Pub. L. 102–40, Sec. 402(d)(1), substituted "7331, 7332, and 7333" for "4131, 4132, and 4133" and "7332(b)(2)(C)" for "4132(b)(2)(C)".

Subsec. (d). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator" in two places.

1988 – Pub. L. 100–322 amended section generally, substituting provisions consisting of subsecs. (a) to (d) for former provisions consisting of subsecs. (a) and (b).

1982 – Subsec. (a). Pub. L. 97–295 substituted "Health and Human Services" for "Health, Education, and Welfare" wherever appearing, and substituted "the President (or the delegate of the President)" for "the Director of the Office of Drug Abuse Policy (or any successor authority)".

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7331, 7332, 7333 of this title.

–FOOTNOTE–

(1) See References in Text note below.

–End–

–CITE–

38 USC SUBCHAPTER IV – RESEARCH CORPORATIONS 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

SUBCHAPTER IV – RESEARCH CORPORATIONS

–MISC1–

PRIOR PROVISIONS

A prior subchapter IV of this chapter consisted of sections 4141 and 4142 prior to amendment by Pub. L. 102–40, title IV, Sec. 401(c)(1), May 7, 1991, 105 Stat. 238, which struck out the subchapter heading "PAY FOR NURSES AND OTHER HEALTH–CARE PERSONNEL", renumbered sections 4141 and 4142 as sections 7451 and 7452 of this title, respectively, and transferred those sections to subchapter IV of chapter 74 of this title.

A prior subchapter V of this chapter consisting of sections 4151 and 4152, related to quality assurance, prior to repeal by Pub. L. 102–40, title IV, Sec. 401(a)(2)(A), May 7, 1991, 105 Stat. 210. See Prior Provisions notes set out under section 4110A of this title.

A prior subchapter VI of this chapter was redesignated as this subchapter.

AMENDMENTS

1991 – Pub. L. 102–40, title IV, Sec. 401(a)(2)(B), May 7, 1991, 105 Stat. 210, redesignated subchapter VI of this chapter as this subchapter. For disposition of former subchapter IV of this chapter, see Prior Provisions note above.

–End–

–CITE–

38 USC Sec. 7361 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7361. Authority to establish; status

–STATUTE–

(a) The Secretary may authorize the establishment at any Department medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research and education at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Secretary, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and

executive orders and directives which apply generally to private nonprofit corporations. Such a corporation may be established to facilitate either research or education or both research and education.

(b) If by the end of the four-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986, the Secretary shall dissolve the corporation.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102 Stat. 510, Sec. 4161; renumbered Sec. 7361 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(B), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–291, Sec. 3(a), May 20, 1992, 106 Stat. 179; Pub. L. 104–262, title III, Sec. 343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–117, title II, Sec. 204(a), Nov. 30, 1999, 113 Stat. 1562.)

–REFTEXT–

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b), is classified generally to Title 26, Internal Revenue Code.

–MISC1–

AMENDMENTS

1999 – Subsec. (a). Pub. L. 106–117 inserted "and education" after "research" and inserted at end "Such a corporation may be established to facilitate either research or education or both

research and education."

1996 – Subsec. (b). Pub. L. 104–262 struck out "section 501(c)(3) of" before "the Internal Revenue Code of 1986".

1992 – Subsec. (b). Pub. L. 102–291 substituted "four–year period" for "three–year period".

1991 – Pub. L. 102–40, Sec. 401(a)(4)(B), renumbered section 4161 of this title as this section.

Subsec. (a). Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration".

Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator" in two places.

Subsec. (b). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

EFFECTIVE DATE OF 1992 AMENDMENT

Section 3(c) of Pub. L. 102–291 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 7368 of this title] shall take effect as of October 1, 1991."

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Section 3(d) of Pub. L. 102–291 provided that: "The following actions of the Secretary of Veterans Affairs during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act [May 20, 1992] are hereby ratified:

"(1) A failure to dissolve a nonprofit corporation established under section 7361(a) of title 38, United States Code, that, within the three–year period beginning on the date of the

establishment of the corporation, was not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)].

"(2) The establishment of a nonprofit corporation for approved research under section 7361(a) of title 38, United States Code."

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7809 of this title.

–End–

–CITE–

38 USC Sec. 7362 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7362. Purpose of corporations

–STATUTE–

(a) Any corporation established under this subchapter shall be established solely to facilitate research as described in section 7303(a) of this title and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B) (!1) of this title in conjunction with the applicable Department medical center. Any

funds received by the Secretary for the conduct of research or education at the medical center other than funds appropriated to the Department may be transferred to and administered by the corporation for these purposes.

(b) For purposes of this section, the term "education and training" means the following:

(1) In the case of employees of the Veterans Health Administration, such term means work-related instruction or other learning experiences to –

- (A) improve performance of current duties;
- (B) assist employees in maintaining or gaining specialized proficiencies; and
- (C) expand understanding of advances and changes in patient care, technology, and health care administration.

Such term includes (in the case of such employees) education and training conducted as part of a residency or other program designed to prepare an individual for an occupation or profession.

(2) In the case of veterans under the care of the Veterans Health Administration, such term means instruction or other learning experiences related to improving and maintaining the health of veterans to patients and to the families and guardians of patients.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102 Stat. 510, Sec. 4162; renumbered Sec. 7362 and amended Pub. L.

102–40, title IV, Secs. 401(a)(4)(B), 403(a)(1)–(3), May 7, 1991, 105 Stat. 221, 239; Pub. L. 106–117, title II, Sec. 204(b), Nov. 30, 1999, 113 Stat. 1562.)

–REFTEXT–

REFERENCES IN TEXT

Section 1701(6)(B) of this title, referred to in subsec. (a), which related to inclusion of consultation, professional counseling, training, and mental health services in definition of "medical services", was repealed and a new section 1701(6)(B) relating to dental services and appliances was enacted, by Pub. L. 107–135, title II, Sec. 208(a)(1)(A), (C), Jan. 23, 2002, 115 Stat. 2461.

–MISC1–

AMENDMENTS

1999 – Pub. L. 106–117 designated existing provisions as subsec. (a), in first sentence, inserted "and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B) of this title" after "7303(a) of this title", in second sentence, inserted "or education" after "research" and substituted "these purposes" for "that purpose", and added subsec. (b).

1991 – Pub. L. 102–40, Sec. 401(a)(4)(B), renumbered section 4162 of this title as this section.

Pub. L. 102–40, Sec. 403(a)(3), substituted "7303(a)" for "4101(c)(1)".

Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration" in two places.

Pub. L. 102-40, Sec. 403(a)(1), substituted "Secretary" for

"Administrator".

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

38 USC Sec. 7363 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7363. Board of directors; executive director

–STATUTE–

(a) The Secretary shall provide for the appointment of a board of
directors for any corporation established under this subchapter.

The board shall include –

(1) the director of the medical center, the chief of staff of
the medical center, and as appropriate, the assistant chief of
staff for research for the medical center and the assistant chief
of staff for education for the medical center, or, in the case of
a facility at which such positions do not exist, those officials
who are responsible for carrying out the responsibilities of the
medical center director, chief of staff, and, as appropriate, the

assistant chief of staff for research and the assistant chief of staff for education; and

(2) subject to subsection (c), members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research or education, as appropriate.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Under Secretary for Health of the Department. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research or education by the Department unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102 Stat. 510, Sec. 4163; renumbered Sec. 7363 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(B), 403(a)(1), (2), (4), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title III, Sec. 343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–117,

title II, Sec. 204(c), Nov. 30, 1999, 113 Stat. 1562.)

–REFTEXT–

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

–MISC1–

AMENDMENTS

1999 – Subsec. (a)(1). Pub. L. 106–117, Sec. 204(c)(1), substituted "as appropriate, the assistant chief of staff for research for the medical center and the assistant chief of staff for education for the medical center, or, in the case of a facility at which such positions do not exist, those officials who are responsible for carrying out the responsibilities of the medical center director, chief of staff, and, as appropriate, the assistant chief of staff for research and the assistant chief of staff for education; and" for "the assistant chief of staff for research of the medical center; and".

Subsec. (a)(2). Pub. L. 106–117, Sec. 204(c)(2), inserted "or education, as appropriate" after "research".

Subsec. (c). Pub. L. 106–117, Sec. 204(c)(3), inserted "or education" after "research".

1996 – Subsec. (c). Pub. L. 104–262 struck out "section 501(c)(3) of" before "the Internal Revenue Code of 1986".

1992 – Subsec. (b). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

1991 – Pub. L. 102–40, Sec. 401(a)(4)(B), renumbered section 4163

of this title as this section.

Subsec. (a). Pub. L. 102–40, Sec. 403(a)(1), substituted

"Secretary" for "Administrator" in introductory provisions.

Subsec. (a)(2). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (c)".

Subsec. (b). Pub. L. 102–40, Sec. 403(a)(2), substituted

"Department" for "Veterans' Administration".

Subsec. (c). Pub. L. 102–40, Sec. 403(a)(4), struck out "of this section" after "subsection (a)(2)".

Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration".

–End–

–CITE–

38 USC Sec. 7364 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7364. General powers

–STATUTE–

(a) A corporation established under this subchapter may –

(1) accept gifts and grants from, and enter into contracts

with, individuals and public and private entities solely to carry

out the purposes of this subchapter; and

(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Under Secretary for Health for research carried out with Department funds. Such procedures shall include a peer review process.

(c)(1) A corporation established under this subchapter may not spend funds for an education activity unless the activity is approved in accordance with procedures prescribed by the Under Secretary for Health.

(2) The Under Secretary for Health shall prescribe policies and procedures to guide the expenditure of funds by corporations under paragraph (1) consistent with the purpose of such corporations as flexible funding mechanisms.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102 Stat. 511, Sec. 4164; renumbered Sec. 7364 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(B), 403(a)(2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–405, title III, Sec. 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106–117, title II, Sec. 204(d), Nov. 30, 1999, 113 Stat. 1562.)

–MISC1–

AMENDMENTS

1999 – Subsec. (c). Pub. L. 106–117 added subsec. (c).

1992 – Subsec. (b). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director".

1991 – Pub. L. 102–40, Sec. 401(a)(4)(B), renumbered section 4164 of this title as this section.

Subsec. (b). Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration".

–End–

–CITE–

38 USC Sec. 7365 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7365. Applicable State law

–STATUTE–

Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102 Stat. 511, Sec. 4165; renumbered Sec. 7365, Pub. L. 102–40, title

IV, Sec. 401(a)(4)(B), May 7, 1991, 105 Stat. 221.)

–MISC1–

AMENDMENTS

1991 – Pub. L. 102–40 renumbered section 4165 of this title as this section.

–End–

–CITE–

38 USC Sec. 7366 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7366. Accountability and oversight

–STATUTE–

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Secretary.

(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under such Act.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of

information and inspection of records by the Comptroller General).

(b) Each such corporation shall submit to the Secretary an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. A corporation with revenues in excess of \$300,000 for any year shall obtain an audit of the corporation for that year. A corporation with annual revenues between \$10,000 and \$300,000 shall obtain an independent audit of the corporation at least once every three years. Any audit under the preceding sentences shall be performed by an independent auditor. The corporation shall include the most recent such audit in the corporation's report to the Secretary for that year.

(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Department who is involved in the functions of the corporation during any year –

(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

(2) shall submit to the Secretary a statement signed by the executive director of the corporation certifying that each director and employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the corporations established under this subchapter. The report

shall set forth the following information:

- (1) The location of each corporation.
- (2) The amount received by each corporation during the previous year, including –
 - (A) the total amount received;
 - (B) the amount received from governmental entities for research and the amount received from governmental entities for education;
 - (C) the amount received from all other sources for research and the amount received from all other sources for education;and
 - (D) if an amount received from a source referred to in subparagraph (C) exceeded \$25,000, information that identifies the source.
- (3) The amount expended by each corporation during the year, including –
 - (A) the amount expended for salary for research staff, the amount expended for salary for education staff, and the amount expended for salary for support staff;
 - (B) the amount expended for direct support of research and the amount expended for direct support of education; and
 - (C) if the amount expended with respect to any payee exceeded \$35,000, information that identifies the payee.
- (4) The amount expended by each corporation during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102 Stat. 511, Sec. 4166; renumbered Sec. 7366 and amended Pub. L. 102–40, title IV, Secs. 401(a)(4)(B), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 104–262, title III, Sec. 343(c)–(e), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–117, title II, Sec. 204(e), Nov. 30, 1999, 113 Stat. 1563; Pub. L. 107–103, title V, Sec. 509(f), Dec. 27, 2001, 115 Stat. 997.)

–REFTEXT–

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec.

(a)(1)(B), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

–MISC1–

AMENDMENTS

2001 – Subsec. (d)(2)(D). Pub. L. 107–103 made technical correction to directory language of Pub. L. 106–117, Sec. 204(e)(3). See 1999 Amendment note below.

1999 – Subsec. (d)(2)(B). Pub. L. 106–117, Sec. 204(e)(1), inserted "for research and the amount received from governmental entities for education" before the semicolon at end.

Subsec. (d)(2)(C). Pub. L. 106–117, Sec. 204(e)(2), inserted "for research and the amount received from all other sources for education" before "; and".

Subsec. (d)(2)(D). Pub. L. 106–117, Sec. 204(e)(3), as amended by

Pub. L. 107–103, Sec. 509(f), substituted "an amount received" for "the amount received".

Subsec. (d)(3)(A). Pub. L. 106–117, Sec. 204(e)(4), substituted ", the amount expended for salary for education staff, and the amount expended" for "and".

Subsec. (d)(3)(B). Pub. L. 106–117, Sec. 204(e)(5), inserted "and the amount expended for direct support of education" after "research".

Subsec. (d)(4). Pub. L. 106–117, Sec. 204(e)(6), added par. (4).

1996 – Subsec. (b). Pub. L. 104–262, Sec. 343(c), substituted "A corporation with revenues in excess of \$300,000 for any year shall obtain an audit of the corporation for that year. A corporation with annual revenues between \$10,000 and \$300,000 shall obtain an independent audit of the corporation at least once every three years. Any audit under the preceding sentences shall be performed by an independent auditor. The corporation shall include the most recent such audit" for "The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report".

Subsec. (c)(2). Pub. L. 104–262, Sec. 343(d), substituted "a statement signed by the executive director of the corporation certifying that each director and" for "an annual statement signed by the director or employee certifying that the director or".

Subsec. (d). Pub. L. 104–262, Sec. 343(e), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The

Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation."

1991 – Pub. L. 102–40, Sec. 401(a)(4)(B), renumbered section 4166 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

Subsec. (a)(1)(B). Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration" in two places.

Subsec. (b). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator" in two places.

Subsec. (c). Pub. L. 102–40, Sec. 403(a)(2), substituted "Department" for "Veterans' Administration" in introductory provisions.

Subsec. (c)(2). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 102–40, Sec. 403(a)(1), substituted "Secretary" for "Administrator".

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title V, Sec. 509(f), Dec. 27, 2001, 115 Stat.

997, provided that the amendment made by section 509(f) is effective Nov. 30, 1999, and as if included in Pub. L. 106–117 as originally enacted.

–End–

–CITE–

38 USC Sec. 7367 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

[Sec. 7367. Repealed. Pub. L. 107–14, Sec. 8(a)(14)(A), June 5,
2001, 115 Stat. 35]

–MISC1–

Section, added Pub. L. 100–322, title II, Sec. 204(a), May 20,
1988, 102 Stat. 512, Sec. 4167; renumbered Sec. 7367 and amended
Pub. L. 102–40, title IV, Secs. 401(a)(4)(B), 403(a)(1), May 7,
1991, 105 Stat. 221, 239, required a report to Congress on the
experience through the end of fiscal year 1990 under this
subchapter.

–End–

–CITE–

38 USC Sec. 7368 01/06/03

–EXPCITE–

TITLE 38 – VETERANS' BENEFITS

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES

CHAPTER 73 – VETERANS HEALTH ADMINISTRATION – ORGANIZATION AND
FUNCTIONS

SUBCHAPTER IV – RESEARCH CORPORATIONS

–HEAD–

Sec. 7368. Expiration of authority

–STATUTE–

No corporation may be established under this subchapter after
December 31, 2003.

–SOURCE–

(Added Pub. L. 100–322, title II, Sec. 204(a), May 20, 1988, 102
Stat. 512, Sec. 4168; renumbered Sec. 7368, Pub. L. 102–40, title
IV, Sec. 401(a)(4)(B), May 7, 1991, 105 Stat. 221; amended Pub. L.
102–291, Sec. 3(b), May 20, 1992, 106 Stat. 179; Pub. L. 104–262,
title III, Sec. 343(a), Oct. 9, 1996, 110 Stat. 3207; Pub. L.
106–419, title IV, Sec. 402(g), Nov. 1, 2000, 114 Stat. 1863.)

–MISC1–

AMENDMENTS

2000 – Pub. L. 106–419 substituted "December 31, 2003" for
"December 31, 2000".

1996 – Pub. L. 104–262 substituted "December 31, 2000" for
"December 31, 1992".

1992 – Pub. L. 102–291 substituted "December 31, 1992" for
"September 30, 1991".

1991 – Pub. L. 102–40 renumbered section 4168 of this title as
this section.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–291 effective Oct. 1, 1991, see section
3(c) of Pub. L. 102–291, set out as a note under section 7361 of
this title.

-End-