

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-628 effective Nov. 7, 1988, see section 631 of Pub. L. 100-628, set out as a note under section 254e of this title.

Amendment by Pub. L. 100-607 effective Nov. 4, 1988, see section 831 of Pub. L. 100-607, set out as a note under section 254e of this title.

§ 290dd-1. Admission of substance abusers to private and public hospitals and outpatient facilities

(a) Nondiscrimination

Substance abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their substance abuse, by any private or public general hospital, or outpatient facility (as defined in section 300s-3(4) of this title) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

(b) Regulations

(1) In general

The Secretary shall issue regulations for the enforcement of the policy of subsection (a) of this section with respect to the admission and treatment of substance abusers in hospitals and outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) of this section has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) of this section and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

(2) Department of Veterans Affairs

The Secretary of Veterans Affairs, acting through the Under Secretary for Health, shall, to the maximum feasible extent consistent with their responsibilities under title 38, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this paragraph, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regula-

tions, and the implementation thereof, which they each prescribe.

(July 1, 1944, ch. 373, title V, § 542, formerly Pub. L. 91-616, title II, § 201, Dec. 31, 1970, 84 Stat. 1849, as amended Pub. L. 96-180, § 6(a), (b)(1), (2)(B), Jan. 2, 1980, 93 Stat. 1302, 1303; Pub. L. 97-35, title IX, §§ 961, 966(d), (e), Aug. 13, 1981, 95 Stat. 592, 595; renumbered § 521 of act July 1, 1944, and amended Pub. L. 98-24, § 2(b)(13), Apr. 26, 1983, 97 Stat. 181; Pub. L. 98-509, title III, § 301(c)(2), Oct. 19, 1984, 98 Stat. 2364; Pub. L. 99-570, title VI, § 6002(b)(1), Oct. 27, 1986, 100 Stat. 3207-158; renumbered § 542, Pub. L. 100-77, title VI, § 611(2), July 22, 1987, 101 Stat. 516; Pub. L. 102-321, title I, § 131, July 10, 1992, 106 Stat. 368; Pub. L. 103-446, title XII, § 1203(a)(2), Nov. 2, 1994, 108 Stat. 4689.)

CODIFICATION

Section was formerly classified to section 4561 of this title prior to renumbering by Pub. L. 98-24.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103-446 substituted “Under Secretary for Health” for “Chief Medical Director”.

1992—Pub. L. 102-321 amended section generally, substituting provisions relating to admission of substance abusers to private and public hospitals and outpatient facilities for provisions relating to programs for government and other employees.

1986—Subsec. (a). Pub. L. 99-570, § 6002(b)(1), redesignated subsec. (b) as (a), struck out “similar” after “fostering and encouraging” in par. (1), and struck out former subsec. (a) which read as follows: “The Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, and in accordance with the provisions of subpart F of part III of title 5, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this chapter. Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.”

Subsecs. (b) to (d). Pub. L. 99-570, § 6002(b)(1)(C), redesignated subsecs. (c) and (d) as (b) and (c), respectively. Former subsec. (b) redesignated (a).

1984—Pub. L. 98-509 amended directory language of Pub. L. 98-24, § 2(b)(13). See 1983 Amendment note below.

1983—Pub. L. 98-24, § 2(b)(13), as amended by Pub. L. 98-509, renumbered section 4561 of this title as this section.

Subsec. (b)(4). Pub. L. 98-24, § 2(b)(13)(B)(i), substituted “section 290ee-1 of this title” for “section 1180(b) of title 21”.

Subsec. (d). Pub. L. 98-24, § 2(b)(13)(B)(ii), substituted “this section” for “this subchapter”, meaning subchapter II (§ 4561 et seq.) of chapter 60 of this title.

1981—Subsec. (b). Pub. L. 97-35, §§ 961, 966(d), made changes in nomenclature, and substituted provisions relating to responsible State administrative agencies, for provisions relating to single State agencies designated pursuant to section 4573 of this title.

1980—Pub. L. 96-180, § 6(b)(2)(A), amended section catchline.

Subsec. (a). Pub. L. 96-180, § 6(a), substituted “Office of Personnel Management” for “Civil Service Commission” and inserted provisions that require compliance with provisions of subpart F of part III of title 5 and encourage agencies and departments to extend the pro-

grams and services to the families of alcoholic employees and to employees who have family members who are alcoholics.

Subsec. (b). Pub. L. 96-180, §6(b)(1), designated existing provisions as par. (1), made the Secretary responsible for encouragement of programs and services, required the programs and services to be designed for application to families of employees and to employees who have family members who are alcoholics, and added pars. (2) to (4).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102-321, set out as a note under section 236 of this title.

§ 290dd-2. Confidentiality of records

(a) Requirement

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) Permitted disclosure

(1) Consent

The content of any record referred to in subsection (a) of this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g) of this section.

(2) Method for disclosure

Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed 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 in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, 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.

(c) Use of records in criminal proceedings

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

(d) Application

The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when such individual ceases to be a patient.

(e) Nonapplicability

The prohibitions of this section do not apply to any interchange of records—

(1) within the Uniformed Services or within those components of the Department of Veterans Affairs furnishing health care to veterans; or

(2) between such components and the Uniformed Services.

The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.

(f) Penalties

Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined in accordance with title 18.

(g) Regulations

Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. Such regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) Application to Department of Veterans Affairs

The Secretary of Veterans Affairs, acting through the Under Secretary for Health, shall, to the maximum feasible extent consistent with their responsibilities under title 38, prescribe regulations making applicable the regulations prescribed by the Secretary of Health and Human Services under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this subsection, the Secretary of Veterans Affairs shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.