

in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsecs. (a)(1) and (b)(1)(B), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

1990—Pub. L. 101-645 amended section generally, substituting provisions relating to nondiscrimination for provision relating to establishment of prohibition against making certain false statements.

§ 290cc-34. Definitions

For purposes of this part:

(1) Eligible homeless individual

The term “eligible homeless individual” means an individual described in section 290cc-22(a) of this title.

(2) Homeless individual

The term “homeless individual” has the meaning given such term in section 254b(h)(5) of this title.

(3) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) Substance abuse

The term “substance abuse” means the abuse of alcohol or other drugs.

(July 1, 1944, ch. 373, title V, §534, as added Pub. L. 100-77, title VI, §611(3), July 22, 1987, 101 Stat. 522; amended Pub. L. 101-645, title V, §511, Nov. 29, 1990, 104 Stat. 4733; Pub. L. 107-251, title VI, §601(b), Oct. 26, 2002, 116 Stat. 1665.)

AMENDMENTS

2002—Par. (2). Pub. L. 107-251 substituted “254b(h)(5)” for “256(r)”.

1990—Pub. L. 101-645 amended section generally, substituting provisions relating to definitions for provisions relating to nondiscrimination.

§ 290cc-35. Funding

(a) Authorization of appropriations

For the purpose of carrying out this part, there is authorized to be appropriated \$75,000,000 for each of the fiscal years 2001 through 2003.

(b) Effect of insufficient appropriations for minimum allotments

(1) In general

If the amounts made available under subsection (a) of this section for a fiscal year are insufficient for providing each State with an allotment under section 290cc-21 of this title of not less than the applicable amount under section 290cc-24(a)(1) of this title, the Secretary shall, from such amounts as are made available under such subsection, make grants to the States for providing to eligible homeless individuals the services specified in section 290cc-22(b) of this title.

(2) Rule of construction

Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.

(July 1, 1944, ch. 373, title V, §535, as added Pub. L. 100-77, title VI, §611(3), July 22, 1987, 101 Stat. 523; amended Pub. L. 100-607, title VIII, §811(a), Nov. 4, 1988, 102 Stat. 3169; Pub. L. 100-628, title VI, §611(a), Nov. 7, 1988, 102 Stat. 3242; Pub. L. 101-93, §5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 101-645, title V, §511, Nov. 29, 1990, 104 Stat. 4733; Pub. L. 106-310, div. B, title XXXII, §3203(b), Oct. 17, 2000, 114 Stat. 1191.)

PRIOR PROVISIONS

A prior section 290cc-36, act July 1, 1944, ch. 373, title V, §536, as added July 22, 1987, Pub. L. 100-77, title VI, §611(3), 101 Stat. 523, and amended Nov. 4, 1988, Pub. L. 100-607, title VIII, §§802(b)(3), 812(a), 102 Stat. 3169, 3170; Nov. 7, 1988, Pub. L. 100-628, title VI, §§602(b)(3), 612(a), 102 Stat. 3242, 3243; Nov. 18, 1988, Pub. L. 100-690, title II, §2614(b), 102 Stat. 4239; Aug. 16, 1989, Pub. L. 101-93, §5(t)(1), 103 Stat. 615, defined terms used in this part, prior to the general revision of this part by Pub. L. 101-645.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-310 substituted “fiscal years 2001 through 2003” for “fiscal years 1991 through 1994”.

1990—Pub. L. 101-645 amended section generally, substituting present provisions for similar provisions authorizing appropriations and providing for minimum allotments.

1989—Pub. L. 101-93 directed that this section as similarly amended by title VIII of Pub. L. 100-607 and title VI of Pub. L. 100-628 be amended to read as if the amendments made by title VI of Pub. L. 100-628 had not been enacted. See 1988 Amendment note below.

1988—Pub. L. 100-607 and Pub. L. 100-628 made identical amendments, amending section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this part \$35,000,000 for fiscal year 1987 and such sums as may be necessary for fiscal year 1988.”

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.

PART D—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

§ 290dd. Substance abuse among government and other employees

(a) Programs and services

(1) Development

The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall be responsible for fostering substance abuse prevention and treatment programs and services in State and local governments and in private industry.

(2) Model programs

(A) In general

Consistent with the responsibilities described in paragraph (1), the Secretary, act-

ing through the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

(B) Dissemination of information

The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall disseminate information and materials relative to such model programs to the State agencies responsible for the administration of substance abuse prevention, treatment, and rehabilitation activities and shall, to the extent feasible provide technical assistance to such agencies as requested.

(b) Deprivation of employment

(1) Prohibition

No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the grounds of prior substance abuse.

(2) Application

This subsection shall not apply to employment in—

- (A) the Central Intelligence Agency;
- (B) the Federal Bureau of Investigation;
- (C) the National Security Agency;
- (D) any other department or agency of the Federal Government designated for purposes of national security by the President; or
- (E) in any position in any department or agency of the Federal Government, not referred to in subparagraphs (A) through (D), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(3) Rehabilitation Act

The inapplicability of the prohibition described in paragraph (1) to the employment described in paragraph (2) shall not be construed to reflect on the applicability of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] or other anti-discrimination laws to such employment.

(c) Construction

This section shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

(July 1, 1944, ch. 373, title V, §541, formerly Pub. L. 91-616, title III, §301, Dec. 31, 1970, 84 Stat. 1849, as amended Pub. L. 92-554, Oct. 25, 1972, 86 Stat. 1167; Pub. L. 93-282, title I, §105(a), May 14, 1974, 88 Stat. 127; Pub. L. 94-371, §3(a), July 26, 1976, 90 Stat. 1035; Pub. L. 96-180, §7, Jan. 2, 1980, 93 Stat. 1303; Pub. L. 97-35, title IX, §962(a), Aug. 13, 1981, 95 Stat. 592; renumbered §520 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; renumbered §541, Pub. L. 100-77, title VI, §611(2), July 22, 1987, 101 Stat. 516; Pub. L. 100-607, title VIII, §813(2), Nov. 4, 1988, 102 Stat. 3170; Pub. L.

100-628, title VI, §613(2), Nov. 7, 1988, 102 Stat. 3243; Pub. L. 101-93, §5(t)(1), Aug. 16, 1989, 103 Stat. 615; Pub. L. 102-321, title I, §131, July 10, 1992, 106 Stat. 366.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (b)(3), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

Section was formerly classified to section 4571 of this title prior to renumbering by Pub. L. 98-24.

AMENDMENTS

1992—Pub. L. 102-321 amended section generally, substituting provisions relating to substance abuse among government and other employees for provisions relating to technical assistance to States relative to alcohol abuse and alcoholism programs.

1989—Subsec. (a)(4). Pub. L. 101-93 directed that subsec. (a)(4) of this section as similarly amended by title VIII of Pub. L. 100-607 and title VI of Pub. L. 100-628 be amended to read as if the amendments made by title VI of Pub. L. 100-628 had not been enacted. See 1988 Amendment note below.

1988—Subsec. (a)(4). Pub. L. 100-607 and Pub. L. 100-628 made identical technical amendments to reference to section 290dd-2 of this title to reflect renumbering of corresponding section of original act.

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 4571 of this title as this section.

Subsec. (a). Pub. L. 98-24, §2(b)(13)(A)(i), substituted “the National Institute on Alcohol Abuse and Alcoholism” for “the Institute”.

Subsec. (a)(4). Pub. L. 98-24, §2(b)(13)(A)(ii), substituted “section 290dd-2 of this title” for “section 4581 of this title”.

Subsec. (b). Pub. L. 98-24, §2(b)(13)(A)(iii), substituted “this subchapter” for references to “this chapter”, meaning chapter 60 (§4541 et seq.) of this title, and the Drug Abuse Prevention, Treatment, and Rehabilitation Act [21 U.S.C. 1101 et seq.].

1981—Pub. L. 97-35 restructured provisions and substituted provisions relating to technical assistance for enumerated activities, and improvement of coordination with Drug Abuse Prevention, Treatment, and Rehabilitation Act, for provisions authorizing appropriations through fiscal year ending Sept. 30, 1981, for covered activities.

1980—Pub. L. 96-180 authorized appropriation of \$60,000,000 and \$65,000,000 for fiscal years ending Sept. 30, 1980, and 1981.

1976—Pub. L. 94-371 struck out “and” after “1975” and inserted provisions authorizing \$70,000,000 to be appropriated for fiscal year ending Sept. 30, 1977, \$77,000,000 to be appropriated for fiscal year ending Sept. 30, 1978, and \$85,000,000 to be appropriated for fiscal year ending Sept. 30, 1979.

1974—Pub. L. 93-282 authorized appropriation of \$80,000,000 for fiscal years ending June 30, 1975 and June 30, 1976.

1972—Pub. L. 92-554 substituted “for each of the next two fiscal years” for “for the fiscal year ending June 30, 1973”.

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.

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.

(July 1, 1944, ch. 373, title V, §543, formerly Pub. L. 91-616, title III, §321, Dec. 31, 1970, 84 Stat. 1852, as amended Pub. L. 93-282, title I, §121(a), May 14, 1974, 88 Stat. 130; Pub. L. 94-371, §11(a), (b), July 26, 1976, 90 Stat. 1041; Pub. L. 94-581, title I, §111(c)(1), Oct. 21, 1976, 90 Stat. 2852; renumbered §522 of act July 1, 1944, and amended Pub. L. 98-24, §2(b)(13), Apr. 26, 1983, 97 Stat. 181; renumbered §543, 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. 102-405, title III, §302(e)(1), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 105-392, title IV, §402(c), Nov. 13, 1998, 112 Stat. 3588.)

CODIFICATION

Section was formerly classified to section 4581 of this title prior to renumbering by Pub. L. 98-24.

AMENDMENTS

1998—Subsec. (e)(1), (2). Pub. L. 105-392 substituted “Uniformed Services” for “Armed Forces”.

1992—Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director” in subsec. (h).

Pub. L. 102-321 amended section generally, substituting provisions relating to confidentiality of records for provisions relating to admission of alcohol abusers and alcoholics to general hospitals and outpatient facilities.

1983—Pub. L. 98-24, §2(b)(13), renumbered section 4581 of this title as this section.

Subsec. (a). Pub. L. 98-24, §2(b)(13)(C), made a technical amendment to reference to section 300s-3 of this title.

1976—Subsec. (a). Pub. L. 94-371, §11(a), inserted “, or outpatient facility (as defined in section 300s-3(6) of this title)” after “hospital”.

Subsec. (b)(1). Pub. L. 94-371, §11(b), inserted “and outpatient facilities” after “hospitals”, and “or outpatient facility” after “hospital” wherever appearing, and substituted “shall issue regulations not later than December 31, 1976” for “is authorized to make regulations”.

Subsec. (b)(2). Pub. L. 94-581 provided that subsec. (b)(2), which directed the Administrator of Veterans’ Affairs, through the Chief Medical Director, to prescribe regulations making applicable the regulations prescribed by the Secretary under subsec. (b)(1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under title 38 to veterans suffering from alcohol abuse or alcoholism and to consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribed, was superseded by section 4131 [now 7331] et seq. of Title 38, Veterans’ Benefits.

1974—Subsec. (a). Pub. L. 93-282, in revising text, prohibited discrimination because of alcohol abuse, substituted provisions respecting eligibility for admission and treatment based on suffering from medical conditions for former provision based on medical need and ineligibility, because of discrimination, for support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency for former requirement for treatment by a general hospital which received Federal funds, and deleted prohibition against receiving Federal financial assistance for violation of section and for termination of Federal assistance on failure to comply, now incorporated in regulation authorization of subsec. (b) of this section.

Subsec. (b). Pub. L. 93-282 substituted provisions respecting issuance of regulations by the Secretary concerning enforcement procedures and suspension or revocation of Federal support and by the Administrator concerning applicable regulations for veterans, and for coordination of the respective regulations for former provisions respecting judicial review.

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.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of Title 38, Veterans’ Benefits.

REPORT OF ADMINISTRATOR OF VETERANS’ AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER

Section 121(b) of Pub. L. 93-282, which directed Administrator of Veterans’ Affairs to submit to appropriate committees of House of Representatives and Senate a full report (1) on regulations (including guidelines, policies, and procedures thereunder) he had prescribed pursuant to section 321(b)(2) of Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [former subsec. (b)(2) of this section], (2) explaining bases for any inconsistency between such regulations and regulations of Secretary under section 321(b)(1) of such Act [subsec. (b)(1) of this section], (3) on extent, substance, and results of his consultations with Secretary respecting prescribing and implementation of Administrator’s regulations, and (4) containing such recommendations for legislation and administrative actions as he determined were necessary and desirable, with Administrator to submit report not later than sixty days after effective date of regulations prescribed by Secretary under such section 321(b)(1) [subsec. (b)(1) of this section], and to publish such report in Federal Register, was characterized by section 111(c)(5) of Pub. L. 94-581 as having been superseded by section 4134 [now 7334] of Title 38, Veterans’ Benefits.

§§ 290dd-3 to 290ee-3. Omitted

CODIFICATION

Sections 290dd-3 to 290ee-3 were omitted in the general revision of this part by Pub. L. 102-321.

Section 290dd-3, act July 1, 1944, ch. 373, title V, §544, formerly Pub. L. 91-616, title III, §333, Dec. 31, 1970, 84 Stat. 1853, as amended Pub. L. 93-282, title I, §122(a), May 14, 1974, 88 Stat. 131; Pub. L. 94-581, title I, §111(c)(4), Oct. 21, 1976, 90 Stat. 2852; renumbered §523 of act July 1, 1944, Apr. 26, 1983, Pub. L. 98-24, §2(b)(13), 97 Stat. 181; Aug. 27, 1986, Pub. L. 99-401, title I, §106(a), 100 Stat. 907; renumbered §544, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; June 13, 1991, Pub. L. 102-54, §13(q)(1)(A)(ii), 105 Stat. 278, related to confidentiality of patient records for alcohol abuse and alcoholism programs. See section 290dd-2 of this title.

Section 290ee, act July 1, 1944, ch. 373, title V, §545, formerly Pub. L. 92-255, title V, §502, as added Pub. L. 94-237, §12(b)(1), Mar. 19, 1976, 90 Stat. 247, and amended Pub. L. 95-461, §5, Oct. 14, 1978, 92 Stat. 1269; Pub. L. 96-181, §11, Jan. 2, 1980, 93 Stat. 1315; renumbered §524 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(15), 97 Stat. 181; renumbered §545, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; Nov. 4, 1988, Pub. L. 100-607, title VIII, §813(3), 102 Stat. 3170; Nov. 7, 1988, Pub. L. 100-628, title VI, §613(3), 102 Stat. 3243; Aug. 16, 1989, Pub. L. 101-93, §5(t)(1), 103 Stat. 615, related to technical assistance to State and local agencies by National Institute on Drug Abuse.

Section 290ee-1, act July 1, 1944, ch. 373, title V, §546, formerly Pub. L. 92-255, title IV, §413, Mar. 21, 1972, 86 Stat. 84, as amended Pub. L. 96-181, §8(a), (b)(1), Jan. 2, 1980, 93 Stat. 1313, 1314; Pub. L. 97-35, title IX, §973(e), Aug. 13, 1981, 95 Stat. 598; renumbered §525 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(16)(A), 97 Stat. 182; Oct. 27, 1986, Pub. L. 99-570, title VI, §6002(b)(2), 100 Stat. 3207-159; renumbered §546, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; Nov. 4, 1988, Pub. L. 100-607, title VIII, §813(4), 102

Stat. 3171; Nov. 7, 1988, Pub. L. 100-628, title VI, §613(4), 102 Stat. 3243; Aug. 16, 1989, Pub. L. 101-93, §5(t)(1), 103 Stat. 615, related to drug abuse among government and other employees.

Section 290ee-2, act July 1, 1944, ch. 373, title V, §547, formerly Pub. L. 92-255, title IV, §407, Mar. 21, 1972, 86 Stat. 78, as amended Pub. L. 94-237, §6(a), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-581, title I, §111(c)(2), Oct. 21, 1976, 90 Stat. 2852; renumbered §526 of act July 1, 1944, Apr. 26, 1983, Pub. L. 98-24, §2(b)(16)(B), 97 Stat. 182; renumbered §547, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516, related to admission of drug abusers to private and public hospitals.

Section 290ee-3, act July 1, 1944, ch. 373, title V, §548, formerly Pub. L. 92-255, title IV, §408, Mar. 21, 1972, 86 Stat. 79, as amended Pub. L. 93-282, title III, §303(a), (b), May 14, 1974, 88 Stat. 137, 138; Pub. L. 94-237, §4(c)(5)(A), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-581, title I, §111(c)(3), Oct. 21, 1976, 90 Stat. 2852; Pub. L. 97-35, title IX, §973(d), Aug. 13, 1981, 95 Stat. 598; renumbered §527 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(16)(B), 97 Stat. 182; Aug. 27, 1986, Pub. L. 99-401, title I, §106(b), 100 Stat. 907; renumbered §548, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; June 13, 1991, Pub. L. 102-54, §13(q)(1)(A)(iii), (B)(ii), 105 Stat. 278, related to confidentiality of patient records for drug abuse programs. See section 290dd-2 of this title.

PART E—CHILDREN WITH SERIOUS EMOTIONAL
DISTURBANCES

§ 290ff. Comprehensive community mental health services for children with serious emotional disturbances

(a) Grants to certain public entities

(1) In general

The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public entities for the purpose of providing comprehensive community mental health services to children with a serious emotional disturbance.

(2) "Public entity" defined

For purposes of this part, the term "public entity" means any State, any political subdivision of a State, and any Indian tribe or tribal organization (as defined in section 450b(b) and section 450b(c)¹ of title 25).

(b) Considerations in making grants

(1) Requirement of status as grantee under part B of subchapter XVII

The Secretary may make a grant under subsection (a) of this section to a public entity only if—

(A) in the case of a public entity that is a State, the State is a grantee under section 300x of this title;

(B) in the case of a public entity that is a political subdivision of a State, the State in which the political subdivision is located is such a grantee; and

(C) in the case of a public entity that is an Indian tribe or tribal organization, the State in which the tribe or tribal organization is located is such a grantee.

(2) Requirement of status as medicaid provider

(A) Subject to subparagraph (B), the Secretary may make a grant under subsection (a)

of this section only if, in the case of any service under such subsection that is covered in the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(i) the public entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the public entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under subsection (a) of this section, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

(3) Certain considerations

In making grants under subsection (a) of this section, the Secretary shall—

(A) equitably allocate such assistance among the principal geographic regions of the United States;

(B) consider the extent to which the public entity involved has a need for the grant; and

(C) in the case of any public entity that is a political subdivision of a State or that is an Indian tribe or tribal organization—

(i) shall consider any comments regarding the application of the entity for such a grant that are received by the Secretary from the State in which the entity is located; and

(ii) shall give special consideration to the entity if the State agrees to provide a portion of the non-Federal contributions required in subsection (c) of this section regarding such a grant.

(c) Matching funds

(1) In general

A funding agreement for a grant under subsection (a) of this section is that the public entity involved will, with respect to the costs to be incurred by the entity in carrying out the purpose described in such subsection, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the entity receives payments from a grant under

¹ See References in Text note below.