

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 programs 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 main-

tained 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 es-

¹ See References in Text note below.