

to OSHA's. The State has no appreciable backlog of workplace complaints and is conducting programmed inspection. These and other actions have also resolved all issues raised in the AFL-CIO's petition for withdrawal of approval of the North Carolina State Plan.

OSHA has issued three evaluation reports on North Carolina's performance since the Special Evaluation. All have documented continuing improvement and indicate that the program is now operating in a more than acceptable manner with an outstanding commitment to necessary enforcement as well as creative outreach and other voluntary compliance activities.

As a result of these actions, OSHA was prepared to suspend its exercise of concurrent Federal jurisdiction in North Carolina by mid-1994. However, two initiatives that the State had undertaken were brought to OSHA's attention as potential problems—the conditions attendant to the establishment of a joint Ergonomics Center with North Carolina State University; and an amendment to State law establishing a two-step contest procedure as a means of expediting review of contested cases and achieving more timely abatement of hazards. Both of these issues have now been resolved. The ergonomics program has been revised to eliminate any possibility or perception that inspection or citation exemption could result from employer participation in the Ergonomics Center program. The informal conference procedures have been revised through an internal operating procedure and a proposed regulation to specify that any informal conference resulting from the contest process must be held within 20 days.

B. Decision

Based on the foregoing, OSHA has determined that the exercise of concurrent Federal enforcement jurisdiction is no longer warranted, and it is hereby suspended. Federal enforcement authority will be exercised only with regard to those issues not covered by the State and in specific areas defined in the following modification to 29 CFR 1952.155 "Level of Federal Enforcement."

OSHA has similarly determined that no further action is necessary or appropriate with regard to the AFL-CIO petition for North Carolina plan withdrawal. This does not preclude the resubmission of a petition at any time on substantive issues of State Plan structure or performance.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Accordingly, 29 CFR 1952.155 is amended as set forth below.

Signed in Washington, DC, this 28th day of February 1995.

Joseph A. Dear,
Assistant Secretary.

PART 1952—[AMENDED]

1. The authority citation for 29 CFR part 1952 continues to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902, Secretary of Labor's Order No. 1-90 (55 FR 9033).

2. Section 1952.155 of part 1952, subpart I—North Carolina is revised to read as follows:

Subpart I—North Carolina

§ 1952.155 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii), discretionary Federal enforcement authority under Section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR part 1910, 29 CFR part 1926, and 29 CFR part 1928. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under Section 11(c) of the Act (29 U.S.C. 660(c)); enforcement with respect to private sector maritime activities, including enforcement of all provisions of the Act, rules or orders and all Federal standards, current or future, applicable to private sector maritime employment including 29 CFR part 1915, shipyard employment (including boat building establishments in SIC 3732 located on the navigable waters and all establishments in SIC 3731); 29 CFR part 1917, marine terminals; 29 CFR part 1918, longshoring (including all private sector and Federal sector marine cargo handling establishments or operations in SIC 4491 located within the State of North Carolina), 29 CFR part 1919, gear certification; all marinas in SIC 4493 located on the navigable waters; enforcement of marine construction activities on the navigable waters which are not directly accessible by land; and, enforcement of general industry and construction standards (29 CFR parts 1910 and 1926) appropriate to hazards found in these employments, which issues have been specifically excluded from coverage in the North Carolina plan; the enforcement of

occupational safety and health standards on Indian reservations; enforcement relating to any contractors or subcontractors on any Federal establishment where the land has been ceded to the Federal Government; enforcement on military bases; enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; completion of enforcement actions initiated prior to the effective date of this notice; and investigations for the purpose of the evaluation of the North Carolina plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in North Carolina.

[FR Doc. 95-5504 Filed 3-6-95; 8:45 am]

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29 CFR Part 1952

Approved State Plans for Enforcement of State Standards; Approval of Supplements to the Hawaii State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Approval of supplements to the Hawaii State Plan.

SUMMARY: This document gives notice of Federal approval of supplements to the Hawaii State occupational safety and health plan. These supplements are: regulations concerning the Division of Occupational Safety and Health's Access to Employee Medical Records; changes to previously approved regulations covering the Labor and Industrial Relations Appeals, Board, General Provisions and Definitions, Recording and Reporting Occupational Injuries and Illnesses, Inspections, Citations, and Proposed Penalties, and Variances; an amendment to the Hawaii Occupational Safety and Health Law enacted in 1987; the Hawaii Consultation Policies and Procedures Manual; and the Hawaii Occupational

Safety and Health Administration
Technical Manual.

EFFECTIVE DATE: March 7, 1995.

FOR FURTHER INFORMATION CONTACT:
Director, Office of Information and
Consumer Affairs, Occupational Safety
and Health Administration, Room
N3647, 200 Constitution Avenue NW.,
Washington, DC 20210. Telephone:
(202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

The Hawaii Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this chapter on January 4, 1974 (39 FR 1010). Part 1953 of this chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

Description of Supplements

A. Regulations

On September 16, 1982, the State submitted its regulation concerning the Division of Occupational Safety and Health's Access to Employee Medical Records. This regulation is identical to the Federal regulation set out in part 1913 of this Chapter. On March 11, 1988, the State submitted minor editorial revisions to this regulations.

On October 7, 1983, the State submitted a revised version of the Rules of Practice and Procedure of the Hawaii Labor and Industrial Relations Appeals Board. These rules have been reviewed and found to be as effective as the regulations governing the Federal Occupational Safety and Health Review Commission.

On June 27, 1983, the State submitted a revision to its regulation on Recording and Reporting Occupational Injuries and Illnesses (Chapter 52) to incorporate a change in the Federal regulation at Part 1904 of this Chapter concerning an exemption from requirements for recording occupational injuries and illnesses for certain low hazard industries. The State change is identical to the Federal revision. On March 11, 1988, the State submitted minor editorial changes to this regulation.

On June 27, 1983, the State submitted revisions to its regulations on Inspections, Citations, and Proposed Penalties (Chapter 51), to incorporate a change in the Federal regulation at Part 1903 of this Chapter concerning the use of personal sampling devices during inspections. On March 11, 1988, the

State submitted further revisions to this regulation. OSHA's review of an earlier version of this regulation had expressed concern about the provisions for Petition for Modification of Abatement dates (PMAs). (See 43 FR 5820, February 10, 1978.) In response, the State revised its regulation to provide for employee contest of a PMA within ten days of posting of the petition and an opportunity for contest PMAs to be heard by the Appeals Board, with the burden of proof placed on the employer. In addition, the State has issued a Guideline which provides that the employer will be informed of the right to contest the denial of a PMA and that the Director will not grant an uncontested PMA before the ten day contest period has expired. These revisions make the Hawaii regulations at least as effective as the Federal regulations in Part 1903 of this Chapter. This submission also contained a change in the State's provision for filing complaints of discrimination for exercising rights under the Act. The change incorporates a revision to the Federal regulation at Part 1977 of this Chapter concerning time limits for filing such complaints.

On March 11, 1988, Hawaii submitted revisions to its Rules of Practice for Variances (Chapter 53). The State amended its regulations to allow for acceptance of Federally granted variances from standards which are identical to Federal standards.

The March 11, 1988 submission also included minor editorial changes to Hawaii's General Provisions and Definitions (Chapter 50). In addition, on March 13, 1992, the State submitted a revision to this regulation to include a definition of nationally recognized testing laboratories, in response to changes in the Federal definition. On July 13, 1993, the State submitted an updated Guideline on Nationally Recognized Testing Laboratories, which states that Hawaii will not establish its own testing program but will recognize Federally approved laboratories.

B. Amendment to Hawaii Occupational Safety and Health Law

In 1987, the State enacted an amendment to its Occupational Safety and Health Law. The amendment, submitted as a plan supplement on March 13, 1992, expands the type of information that is protected from disclosure in any discovery or civil action arising out of enforcement or administration of the law.

C. Consultation Manual

On June 12, 1987, the State submitted its Consultation Policies and Procedures

Manual. This manual is identical to Part I of the Federal Consultation Policies and Procedures Manual.

D. Industrial Hygiene Technical Manual

On August 8, 1991, the State submitted notice of its adoption of the Federal OSHA Technical Manual, through Change 1. The State manual is identical to the Federal Technical Manual.

E. Revised Plan

On January 28, 1992, Hawaii submitted a reorganized State plan, incorporating the plan supplements approved herein as well as previously approved plan changes and other supplements still under review.

Location of Supplements for Inspection and Copying

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 415, 71 Stevenson Street, San Francisco, California 94105; Director, Hawaii Department of Labor and Industrial Relations, 830 Punchbowl Street, Honolulu, Hawaii 96813; and the Office of the Director of Federal-State Operations, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210.

Public Participation

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Hawaii plan supplements are consistent with Federal requirements and with commitments contained in the plan and previously made available for public comment. Good cause is therefore found for approval of these supplements, and further public participation would be unnecessary.

Decision

After careful consideration and extensive review by the Regional and National Offices, the Hawaii plan supplements described above are found to be in substantial conformance with comparable Federal provisions and are hereby approved under Part 1953 of this chapter. The decision incorporates the requirements and implementing regulations applicable to State plans generally.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, DC, this 20th day of February, 1995.

Joseph A. Dear,
Assistant Secretary.

Accordingly, 29 CFR Part 1952 is hereby amended as follows:

PART 1952—[AMENDED]

1. The authority citation for part 1952 continues to read:

Authority: Secs. 8, 18 Pub. L. 91-596, 84 Stat. 1608 Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 667); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736), as applicable.

2. New paragraphs (b) through (f) are added to § 1952.316 of Subpart Y to read as follows:

§ 1952.316 Changes to approved plans.

* * * * *

(b) Regulations.

(1) The State's regulation on the Division of Occupational Safety and Health's Access to Employee Medical Records, and amendments to State regulations covering the Labor and Industrial Relations Appeals Board; General Provisions and Definitions; Recording and Reporting Occupational Injuries and Illnesses; Inspections, Citations, and Proposed Penalties; and Variances, promulgated by the State through March 22, 1991, were approved by the Assistant Secretary on February 20, 1995.

(2) [Reserved]

(c) Legislation.

(1) An amendment to the Hawaii Occupational Safety and Health Law, enacted in 1987, which expands the type of information that is protected from disclosure in any discovery or civil action arising out of enforcement or administration of the law, was approved by the Assistant Secretary on February 20, 1995.

(2) [Reserved]

(d) Consultation Manual. The State's Consultation Policies and Procedures Manual was approved by the Assistant Secretary on February 20, 1995.

(e) Occupational Safety and Health Administration Technical Manual. The State's adoption of the Federal OSHA Technical Manual, through Change 1, was approved by the Assistant Secretary on February 20, 1995.

(f) Reorganized Plan. The reorganization of the Hawaii plan was

approved by the Assistant Secretary on February 20, 1995.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720-AA23

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Mental Health Services

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule is to reform CHAMPUS quality of care standards and reimbursement methods for inpatient mental health services. The rule updates existing standards for residential treatment centers (RTCs) and establishes new standards for approval as CHAMPUS-authorized providers for substance use disorder rehabilitation facilities (SUDRFs) and partial hospitalization programs (PHPs); implements recommendations of the Comptroller General of the United States that DoD establish cost-based reimbursement methods for psychiatric hospitals and residential treatment facilities; adopts another Comptroller General recommendation that DoD remove the current incentive for the use of inpatient mental health care; and eliminates payments to residential treatment centers for days in which the patient is on a leave of absence.

DATES: This rule is effective April 6, 1995, except amendments to § 199.4 which are effective October 1, 1995.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development; Aurora, Colorado 80045-6900.

FOR FURTHER INFORMATION CONTACT: CAPT Deborah Kamin, NC, USN, Office of the Assistant Secretary of Defense (Health Affairs), (703) 697-8975.

Questions regarding payment of specific claims should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: Provisions of this rule apply to the CHAMPVA (Civilian Health and Medical Program of the Department of Veterans Affairs) in the same manner as they apply to CHAMPUS.

I. Introduction

Quality assurance and cost effectiveness of mental health care

services under CHAMPUS continue to be major reform issues for the Defense Department and Congress. In recent years, a series of DoD initiatives, legislative and regulatory actions, and Congressional hearings have spotlighted both progress made and the need for more improvement.

Two recent Comptroller General Reports are indicative of the importance of these issues and the need for reform. The first of these, "Defense Health Care: Additional Improvements Needed in CHAMPUS's Mental Health Program," GAO/HRD-93-34, May 1993, stated that, although DoD has taken actions to improve the program "several problems persist." The Report (hereafter referred to as "GAO Report #1") elaborated:

For example, reviews of medical records have identified numerous instances of poor medical record documentation, potentially inappropriate admissions, excessive hospital stays, and poor-quality care. Also, inspections of RTCs [Residential Treatment Centers] continue to reveal significant health and safety problems, and corrective actions often take many months.

Moreover, DoD * * * pays considerably higher rates for comparable services than do other public programs.

GAO Report #1, p. 2. The Report referenced the General Accounting Office's 1991 Congressional testimony regarding CHAMPUS mental health care and inspections of residential treatment facilities conducted for DoD since then:

Inspections conducted since our 1991 testimony have identified some of the same problems we described then: unlicensed and unqualified staff, inappropriate use of seclusion and medication, inadequate staff-to-patient ratios, and inadequate documentation of treatment.

The principal conclusions of this Report were: (1) "Standards, which include termination for noncompliance, should be specified and termination proceedings, time frames, and reinspection provisions * * * should be adopted;" and (2) because "DoD reimburses psychiatric hospitals and RTCs at higher rates than do other government payers, it should modify its payment system to more closely resemble other programs such as Medicare." GAO Report #1, p. 9.

A second recent Comptroller General Report, "Psychiatric Fraud and Abuse: Increased Scrutiny of Hospital Stays Is Needed to Lessen Federal Health Program Vulnerability," GAO/HRD-93-92, September 1993, also called for improvements in the CHAMPUS mental health program. The Report (hereafter referred to as GAO Report #2) said:

Investigations to date have revealed that federal health programs have been subject to fraudulent and abusive psychiatric hospital