

#### § 493.567

or require the laboratory to submit material.

(d) If the laboratory possesses a valid certificate of accreditation, authorize CMS or a CMS agent to monitor the correction of any deficiencies found through the validation inspection.

#### **§ 493.567 Refusal to cooperate with validation inspection.**

(a) *Laboratory with a certificate of accreditation.* (1) A laboratory with a certificate of accreditation that refuses to cooperate with a validation inspection by failing to comply with the requirements in § 493.565—

(i) Is subject to full review by CMS or a CMS agent, in accordance with this part; and

(ii) May be subject to suspension, revocation, or limitation of its certificate of accreditation under this part.

(2) A laboratory with a certificate of accreditation is again deemed to meet the condition-level requirements by virtue of its accreditation when the following conditions exist:

(i) The laboratory withdraws any prior refusal to authorize its accreditation organization to release a copy of the laboratory's current accreditation inspection, PT results, or notification of any adverse actions resulting from PT failure.

(ii) The laboratory withdraws any prior refusal to allow a validation inspection.

(iii) CMS finds that the laboratory meets all the condition-level requirements.

(b) *CLIA-exempt laboratory.* If a CLIA-exempt laboratory fails to comply with the requirements specified in § 493.565, CMS notifies the State of the laboratory's failure to meet the requirements.

#### **§ 493.569 Consequences of a finding of noncompliance as a result of a validation inspection.**

(a) *Laboratory with a certificate of accreditation.* If a validation inspection results in a finding that the accredited laboratory is out of compliance with one or more condition-level requirements, the laboratory is subject to—

(1) The same requirements and survey and enforcement processes applied to laboratories that are not accredited

#### 42 CFR Ch. IV (10–1–23 Edition)

and that are found out of compliance following an inspection under this part; and

(2) Full review by CMS, in accordance with this part; that is, the laboratory is subject to the principal and alternative sanctions in § 493.1806.

(b) *CLIA-exempt laboratory.* If a validation inspection results in a finding that a CLIA-exempt laboratory is out of compliance with one or more condition-level requirements, CMS directs the State to take appropriate enforcement action.

#### **§ 493.571 Disclosure of accreditation, State and CMS validation inspection results.**

(a) *Accreditation organization inspection results.* CMS may disclose accreditation organization inspection results to the public only if the results are related to an enforcement action taken by the Secretary.

(b) *State inspection results.* Disclosure of State inspection results is the responsibility of the approved State licensure program, in accordance with State law.

(c) *CMS validation inspection results.* CMS may disclose the results of all validation inspections conducted by CMS or its agent.

#### **§ 493.573 Continuing Federal oversight of private nonprofit accreditation organizations and approved State licensure programs.**

(a) *Comparability review.* In addition to the initial review for determining equivalency of specified organization or State requirements to the comparable condition-level requirements, CMS reviews the equivalency of requirements in the following cases:

(1) When CMS promulgates new condition-level requirements.

(2) When CMS identifies an accreditation organization or a State licensure program whose requirements are no longer equal to, or more stringent than, condition-level requirements.

(3) When an accreditation organization or State licensure program adopts new requirements.

(4) When an accreditation organization or State licensure program adopts changes to its inspection process, as required by § 493.575(b)(1), as applicable.

(5) Every 6 years, or sooner if CMS determines an earlier review is required.

(b) *Validation review.* Following the end of a validation review period, CMS evaluates the validation inspection results for each approved accreditation organization and State licensure program.

(c) *Reapplication procedures.* (1) Every 6 years, or sooner, as determined by CMS, an approved accreditation organization must reapply for continued approval of deeming authority and a State licensure program must reapply for continued approval of a CLIA exemption. CMS provides notice of the materials that must be submitted as part of the reapplication procedure.

(2) An accreditation organization or State licensure program that does not meet the requirements of this subpart, as determined through a comparability or validation review, must furnish CMS, upon request, with the reapplication materials CMS requests. CMS establishes a deadline by which the materials must be submitted.

(d) *Notice.* (1) CMS provides written notice, as appropriate, to the following:

(i) An accreditation organization indicating that its approval may be in jeopardy if a comparability or validation review reveals that it is not meeting the requirements of this subpart and CMS is initiating a review of the accreditation organization's deeming authority.

(ii) A State licensure program indicating that its CLIA exemption may be in jeopardy if a comparability or validation review reveals that it is not meeting the requirements of this subpart and that a review is being initiated of the CLIA exemption of the State's laboratories.

(2) The notice contains the following information:

(i) A statement of the discrepancies that were found as well as other related documentation.

(ii) An explanation of CMS's review process on which the final determination is based and a description of the possible actions, as specified in § 493.575, that CMS may impose based on the findings from the comparability or validation review.

(iii) A description of the procedures available if the accreditation organization or State licensure program, as applicable, desires an opportunity to explain or justify the findings made during the comparability or validation review.

(iv) The reapplication materials that the accreditation organization or State licensure program must submit and the deadline for that submission.

**§ 493.575 Removal of deeming authority or CLIA exemption and final determination review.**

(a) *CMS review.* CMS conducts a review of the following:

(1) A deeming authority review of an accreditation organization's program if the comparability or validation review produces findings, as described at § 493.573. CMS reviews, as appropriate, the criteria described in §§ 493.555 and 493.557(a) to reevaluate whether the accreditation organization continues to meet all these criteria.

(2) An exemption review of a State's licensure program if the comparability or validation review produces findings, as described at § 493.573. CMS reviews, as appropriate, the criteria described in §§ 493.555 and 493.557(b) to reevaluate whether the licensure program continues to meet all these criteria.

(3) A review of an accreditation organization or State licensure program, at CMS's discretion, if validation review findings, irrespective of the rate of disparity, indicate widespread or systematic problems in the organization's accreditation or State's licensure process that provide evidence that the requirements, taken as a whole, are no longer equivalent to CLIA requirements, taken as a whole.

(4) A review of the accreditation organization or State licensure program whenever validation inspection results indicate a rate of disparity of 20 percent or more between the findings of the organization or State and those of CMS or a CMS agent for the following periods:

(i) One year for accreditation organizations.

(ii) Two years for State licensure programs.