

sion of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

(j) DEFINITIONS.—In this section:

(1) The term “medical quality assurance program” means any peer review activity carried out before, on, or after November 14, 1986 by or for the Department of Defense to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

(2) The term “medical quality assurance record” means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Department of Defense as part of a medical quality assurance program.

(3) The term “health care provider” means any military or civilian health care professional who, under regulations of a military department, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(4) The term “peer review” means any assessment of the quality of medical care carried out by a health care professional, including any such assessment of professional performance, any patient safety program root cause analysis or report, or any similar activity described in regulations prescribed by the Secretary under subsection (i).

(k) PENALTY.—Any person who willfully discloses a medical quality assurance record other than as provided in this section, knowing that such record is a medical quality assurance record, shall be fined not more than \$3,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.

(Added Pub. L. 99-661, div. A, title VII, § 705(a)(1), Nov. 14, 1986, 100 Stat. 3902; amended Pub. L. 100-180, div. A, title XII, § 1231(5), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 101-189, div. A, title VI, § 653(f), Nov. 29, 1989, 103 Stat. 1463; Pub. L. 108-375, div. A, title X, § 1084(c)(2), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112-81, div. A, title VII, § 714(a), Dec. 31, 2011, 125 Stat. 1476.)

#### Editorial Notes

##### AMENDMENTS

2011—Subsec. (j)(1). Pub. L. 112-81, § 714(a)(1), substituted “any peer review activity carried out” for “any activity carried out”.

Subsec. (j)(4). Pub. L. 112-81, § 714(a)(2), added par. (4).

2004—Subsec. (d)(2). Pub. L. 108-375 substituted “Comptroller General” for “General Accounting Office”.

1989—Subsec. (j)(1). Pub. L. 101-189 substituted “November 14, 1986” for “the date of the enactment of this section”.

1987—Subsec. (c)(2). Pub. L. 100-180 struck out “, United States Code” after “title 5” in second sentence.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. A, title VII, § 714(b), Dec. 31, 2011, 125 Stat. 1477, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2012.”

##### EFFECTIVE DATE

Pub. L. 99-661, div. A, title VII, § 705(b), Nov. 14, 1986, 100 Stat. 3904, provided that: “Section 1102 of title 10, United States Code, as added by subsection (a), shall apply to all records created before, on, or after the date of the enactment of this Act [Nov. 14, 1986] by or for the Department of Defense as part of a medical quality assurance program.”

#### § 1103. Contracts for medical and dental care: State and local preemption

(a) OCCURRENCE OF PREEMPTION.—A law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery or financing methods shall not apply to any contract entered into pursuant to this chapter by the Secretary of Defense or the administering Secretaries to the extent that the Secretary of Defense or the administering Secretaries determine that—

(1) the State or local law or regulation is inconsistent with a specific provision of the contract or a regulation promulgated by the Secretary of Defense or the administering Secretaries pursuant to this chapter; or

(2) the preemption of the State or local law or regulation is necessary to implement or administer the provisions of the contract or to achieve any other important Federal interest.

(b) EFFECT OF PREEMPTION.—In the case of the preemption under subsection (a) of a State or

local law or regulation regarding financial solvency, the Secretary of Defense or the administering Secretaries shall require an independent audit of the prime contractor of each contract that is entered into pursuant to this chapter and covered by the preemption. The audit shall be performed by the Defense Contract Audit Agency.

(c) STATE DEFINED.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

(Added Pub. L. 100-180, div. A, title VII, § 725(a)(1), Dec. 4, 1987, 101 Stat. 1116; amended Pub. L. 103-160, div. A, title VII, § 715(a), Nov. 30, 1993, 107 Stat. 1690; Pub. L. 109-163, div. A, title X, § 1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

#### Editorial Notes

##### AMENDMENTS

2006—Subsec. (c). Pub. L. 109-163 struck out “Territory and” before “possession”.

1993—Pub. L. 103-160 amended section generally. Prior to amendment, section read as follows:

“(a) The provisions of any contract under this chapter which relate to the nature and extent of coverage of benefits (including payments with respect to benefits) shall preempt any law of a State or local government, or any regulation issued under such a law, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

“(b) In this section, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title VII, § 715(b), Nov. 30, 1993, 107 Stat. 1691, provided that: “Section 1103 of title 10, United States Code, as amended by subsection (a), shall apply with respect to any contract entered into under chapter 55 of such title before, on, or after the date of the enactment of this Act [Nov. 30, 1993].”

##### EFFECTIVE DATE

Pub. L. 100-180, div. A, title VII, § 725(b), Dec. 4, 1987, 101 Stat. 1117, provided that: “Section 1103 of such title, as added by subsection (a), shall apply with respect to any contract entered into after October 1, 1987.”

#### APPLICABILITY OF PREEMPTION PROVISIONS TO CERTAIN CONTRACTS

Pub. L. 102-396, title IX, § 9032, Oct. 6, 1992, 106 Stat. 1908, as amended by Pub. L. 103-50, ch. III, § 301, July 2, 1993, 107 Stat. 250, provided in part “That the preemption provisions of section 1103(a) of title 10, United States Code, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to all contracts entered into pursuant to this general provision, the California and Hawaii recompetition contract, and Solicitation Number MDA 906-92-R-0004 and shall preempt any and all State and local laws and regulations which relate to health insurance or health care plans”.

#### APPLICABILITY TO CONTRACTS ENTERED INTO PURSUANT TO SOLICITATION NUMBER MDA-903-87-R-0047

Pub. L. 100-463, title VIII, § 8078(b), Oct. 1, 1988, 102 Stat. 2270-30, provided that preemption provisions of 10

U.S.C. 1103 shall apply to contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt State and local laws or regulations which relate to health insurance or prepaid health care plans. Similar provisions were contained in the following prior appropriation act:

Pub. L. 100-202, § 101(b) [title VIII, § 8104(b)], Dec. 22, 1987, 101 Stat. 1329-43, 1329-81.

#### § 1104. Sharing of health-care resources with the Department of Veterans Affairs

(a) SHARING OF HEALTH-CARE RESOURCES.—Health-care resources of the Department of Defense shall be shared with health-care resources of the Department of Veterans Affairs in accordance with section 8111 of title 38 or under section 1535 of title 31.

(b) REIMBURSEMENT FROM CHAMPUS FUNDS.—Pursuant to an agreement entered into under section 8111 of title 38 or section 1535 of title 31, the Secretary of a military department may reimburse the Secretary of Veterans Affairs from funds available for that military department for the payment of medical care provided under section 1079 or 1086 of this title.

(c) CHARGES.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided to covered beneficiaries under this chapter pursuant to an agreement entered into by the Secretary of a military department under section 8111 of title 38 or section 1535 of title 31.

(d) PROVISION OF SERVICES DURING WAR OR NATIONAL EMERGENCY.—Members of the armed forces on active duty during and immediately following a period of war, or during and immediately following a national emergency involving the use of the armed forces in armed conflict, may be provided health-care services by the Department of Veterans Affairs in accordance with section 8111A of title 38.

(Added Pub. L. 101-189, div. A, title VII, § 722(a), Nov. 29, 1989, 103 Stat. 1477; amended Pub. L. 102-484, div. A, title X, § 1052(14), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-35, title II, § 201(c)(1), May 31, 1993, 107 Stat. 98; Pub. L. 107-314, div. A, title VII, § 721(b), Dec. 2, 2002, 116 Stat. 2595.)

#### Editorial Notes

##### AMENDMENTS

2002—Subsec. (a). Pub. L. 107-314 substituted “shall” for “may”.

1993—Subsecs. (a) to (c). Pub. L. 103-35, § 201(c)(1)(A), substituted “section 8111 of title 38” for “section 8011 of title 38”.

Subsec. (d). Pub. L. 103-35, § 201(c)(1)(B), substituted “section 8111A of title 38” for “section 8011A of title 38”.

1992—Subsecs. (a) to (c). Pub. L. 102-484, § 1052(14)(A), substituted “section 8011 of title 38” for “section 5011 of title 38”.

Subsec. (d). Pub. L. 102-484, § 1052(14)(B), substituted “section 8011A of title 38” for “section 5011A of title 38”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-314 effective Oct. 1, 2003, see section 721(c) of Pub. L. 107-314, set out as a note under section 8111 of Title 38, Veterans’ Benefits.