

tate functions related to the conduct of" for "Any corporation established under this subchapter shall be established solely to facilitate" and inserted "or centers" before period at end.

Subsec. (b). Pub. L. 111-163, § 802(b), substituted "the term 'education' includes education and training and" for "the term 'education and training'" in introductory provisions.

Subsec. (b)(1). Pub. L. 111-163, § 802(c), struck out concluding provisions which read as follows: "Such term includes (in the case of such employees) education and training conducted as part of a residency or other program designed to prepare an individual for an occupation or profession."

Subsec. (b)(2). Pub. L. 111-163, § 802(d), substituted "and includes education and training for patients and families" for "to patients and to the families".

1999—Pub. L. 106-117 designated existing provisions as subsec. (a), in first sentence, inserted "and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B) of this title" after "7303(a) of this title", in second sentence, inserted "or education" after "research" and substituted "these purposes" for "that purpose", and added subsec. (b).

1991—Pub. L. 102-40, § 401(a)(4)(B), renumbered section 4162 of this title as this section.

Pub. L. 102-40, § 403(a)(3), substituted "7303(a)" for "4101(c)(1)".

Pub. L. 102-40, § 403(a)(2), substituted "Department" for "Veterans' Administration" in two places.

Pub. L. 102-40, § 403(a)(1), substituted "Secretary" for "Administrator".

§ 7363. Board of directors; executive director

(a) The Secretary shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) with respect to the Department medical center—

(A)(i) the director (or directors of each Department medical center, in the case of a multi-medical center research corporation);

(ii) the chief of staff; and

(iii) as appropriate for the activities of such corporation, the associate chief of staff for research and the associate chief of staff for education; or

(B) in the case of a Department medical center at which one or more of the positions referred to in subparagraph (A) do not exist, the official or officials who are responsible for carrying out the responsibilities of such position or positions at the Department medical center; and

(2) subject to subsection (c), not less than two members who are not officers or employees of the Federal Government and who have backgrounds, or business, legal, financial, medical, or scientific expertise, of benefit to the operations of the corporation.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Under Secretary for Health of the Department. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) to the board of directors of a corporation established under this subchapter may not be affiliated with or employed by any entity that is

a source of funding for research or education by the Department unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986.

(Added Pub. L. 100-322, title II, § 204(a), May 20, 1988, 102 Stat. 510, § 4163; renumbered § 7363 and amended Pub. L. 102-40, title IV, §§ 401(a)(4)(B), 403(a)(1), (2), (4), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102-405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104-262, title III, § 343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106-117, title II, § 204(c), Nov. 30, 1999, 113 Stat. 1562; Pub. L. 111-163, title VIII, § 803, May 5, 2010, 124 Stat. 1177.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-163, § 803(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "the director of the medical center, the chief of staff of the medical center, and as appropriate, the assistant chief of staff for research for the medical center and the assistant chief of staff for education for the medical center, or, in the case of a facility at which such positions do not exist, those officials who are responsible for carrying out the responsibilities of the medical center director, chief of staff, and, as appropriate, the assistant chief of staff for research and the assistant chief of staff for education; and".

Subsec. (a)(2). Pub. L. 111-163, § 803(b), inserted "not less than two" before "members who are not" and substituted "and who have backgrounds, or business, legal, financial, medical, or scientific expertise, of benefit to the operations of the corporation." for "and who are familiar with issues involving medical and scientific research or education, as appropriate."

Subsec. (c). Pub. L. 111-163, § 803(c), substituted "or employed by" for "employed by, or have any other financial relationship with".

1999—Subsec. (a)(1). Pub. L. 106-117, § 204(c)(1), substituted "as appropriate, the assistant chief of staff for research for the medical center and the assistant chief of staff for education for the medical center, or, in the case of a facility at which such positions do not exist, those officials who are responsible for carrying out the responsibilities of the medical center director, chief of staff, and, as appropriate, the assistant chief of staff for research and the assistant chief of staff for education; and" for "the assistant chief of staff for research of the medical center; and".

Subsec. (a)(2). Pub. L. 106-117, § 204(c)(2), inserted "or education, as appropriate" after "research".

Subsec. (c). Pub. L. 106-117, § 204(c)(3), inserted "or education" after "research".

1996—Subsec. (c). Pub. L. 104-262 struck out "section 501(c)(3) of" before "the Internal Revenue Code of 1986".

1992—Subsec. (b). Pub. L. 102-405 substituted "Under Secretary for Health" for "Chief Medical Director".

1991—Pub. L. 102-40, § 401(a)(4)(B), renumbered section 4163 of this title as this section.

Subsec. (a). Pub. L. 102-40, § 403(a)(1), substituted "Secretary" for "Administrator" in introductory provisions.

Subsec. (a)(2). Pub. L. 102-40, § 403(a)(4), struck out "of this section" after "subsection (c)".

Subsec. (b). Pub. L. 102-40, § 403(a)(2), substituted "Department" for "Veterans' Administration".

Subsec. (c). Pub. L. 102-40, § 403(a)(4), struck out "of this section" after "subsection (a)(2)".

Pub. L. 102-40, § 403(a)(2), substituted "Department" for "Veterans' Administration".

§ 7364. General powers

(a) IN GENERAL.—(1) A corporation established under this subchapter may, solely to carry out the purposes of this subchapter—

(A) accept, administer, retain, and spend funds derived from gifts, contributions, grants, fees, reimbursements, and bequests from individuals and public and private entities;

(B) enter into contracts and agreements with individuals and public and private entities;

(C) subject to paragraph (2), set fees for education and training facilitated under section 7362 of this title, and receive, retain, administer, and spend funds in furtherance of such education and training;

(D) reimburse amounts to the applicable appropriation account of the Department for the Office of General Counsel for any expenses of that Office in providing legal services attributable to research and education agreements under this subchapter; and

(E) employ such employees as the corporation considers necessary for such purposes and fix the compensation of such employees.

(2) Fees charged pursuant to paragraph (1)(C) for education and training described in that paragraph to individuals who are officers or employees of the Department may not be paid for by any funds appropriated to the Department.

(3) Amounts reimbursed to the Office of General Counsel under paragraph (1)(D) shall be available for use by the Office of the General Counsel only for staff and training, and related travel, for the provision of legal services described in that paragraph and shall remain available for such use without fiscal year limitation.

(b) TRANSFER AND ADMINISTRATION OF FUNDS.—(1) Except as provided in paragraph (2), any funds received by the Secretary for the conduct of research or education at a Department medical center or centers, other than funds appropriated to the Department, may be transferred to and administered by a corporation established under this subchapter for such purposes. Any amounts so transferred after September 30, 2016, shall be available without regard to fiscal year limitations, notwithstanding section 1535(d) of title 31.

(2) A Department medical center may reimburse the corporation for all or a portion of the pay, benefits, or both of an employee of the corporation who is assigned to the Department medical center if the assignment is carried out pursuant to subchapter VI of chapter 33 of title 5.

(3) A Department medical center may retain and use funds provided to it by a corporation established under this subchapter. Such funds shall be credited to the applicable appropriation account of the Department and shall be available, without fiscal year limitation, for the purposes of that account.

(c) RESEARCH PROJECTS.—Except for reasonable and usual preliminary costs for project planning before its approval, a corporation established under this subchapter may not spend funds for a research project unless the project is

approved in accordance with procedures prescribed by the Under Secretary for Health for research carried out with Department funds. Such procedures shall include a scientific review process.

(d) EDUCATION ACTIVITIES.—Except for reasonable and usual preliminary costs for activity planning before its approval, a corporation established under this subchapter may not spend funds for an education activity unless the activity is approved in accordance with procedures prescribed by the Under Secretary for Health.

(e) POLICIES AND PROCEDURES.—The Under Secretary for Health may prescribe policies and procedures to guide the spending of funds by corporations established under this subchapter that are consistent with the purpose of such corporations as flexible funding mechanisms and with Federal and State laws and regulations, and executive orders, circulars, and directives that apply generally to the receipt and expenditure of funds by nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(Added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 511, §4164; renumbered §7364 and amended Pub. L. 102-40, title IV, §§401(a)(4)(B), 403(a)(2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106-117, title II, §204(d), Nov. 30, 1999, 113 Stat. 1562; Pub. L. 111-163, title VIII, §804(a), May 5, 2010, 124 Stat. 1177; Pub. L. 116-315, title VII, §7006, Jan. 5, 2021, 134 Stat. 5059.)

Editorial Notes

REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (e), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116-315 inserted “Any amounts so transferred after September 30, 2016, shall be available without regard to fiscal year limitations, notwithstanding section 1535(d) of title 31.” at end.

2010—Pub. L. 111-163 amended section generally. Prior to amendment, section related to the general powers of a corporation established under this subchapter.

1999—Subsec. (c). Pub. L. 106-117 added subsec. (c).

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

1991—Pub. L. 102-40, §401(a)(4)(B), renumbered section 4164 of this title as this section.

Subsec. (b). Pub. L. 102-40, §403(a)(2), substituted “Department” for “Veterans’ Administration”.

[§ 7364A. Renumbered § 7365]**§ 7365. Coverage of employees under certain Federal tort claims laws**

(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the Government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

- (1) Section 1346(b) of title 28.
- (2) Chapter 171 of title 28.
- (3) Section 7316 of this title.

(b) An employee described in this subsection is an employee who—