

entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

(12) Indian tribe

(A) In general

The term “Indian tribe” has the meaning given such term in section 5304 of title 25.

(B) Inclusion of Pueblo and Rancheria

The term “Indian tribe” includes any Pueblo or Rancheria.

(13) Law enforcement

The term “law enforcement” means the full range of potential responders to elder abuse, neglect, and exploitation including—

(A) police, sheriffs, detectives, public safety officers, and corrections personnel;

(B) prosecutors;

(C) medical examiners;

(D) investigators; and

(E) coroners.

(14) Long-term care

(A) In general

The term “long-term care” means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

(B) Loss of capacity for self-care

For purposes of subparagraph (A), the term “loss of capacity for self-care” means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, management of one’s financial affairs, and other activities the Secretary determines appropriate.

(15) Long-term care facility

The term “long-term care facility” means a residential care provider that arranges for, or directly provides, long-term care.

(16) Neglect

The term “neglect” means—

(A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or

(B) self-neglect.

(17) Nursing facility

(A) In general

The term “nursing facility” has the meaning given such term under section 1396r(a) of this title.

(B) Inclusion of skilled nursing facility

The term “nursing facility” includes a skilled nursing facility (as defined in section 1395i-3(a) of this title).

(18) Self-neglect

The term “self-neglect” means an adult’s inability, due to physical or mental impairment

or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, and medical care;

(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(C) managing one’s own financial affairs.

(19) Serious bodily injury

(A) In general

The term “serious bodily injury” means an injury—

(i) involving extreme physical pain;

(ii) involving substantial risk of death;

(iii) involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or

(iv) requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

(B) Criminal sexual abuse

Serious bodily injury shall be considered to have occurred if the conduct causing the injury is conduct described in section 2241 (relating to aggravated sexual abuse) or 2242 (relating to sexual abuse) of title 18 or any similar offense under State law.

(20) Social

The term “social”, when used with respect to a service, includes adult protective services.

(21) State legal assistance developer

The term “State legal assistance developer” means an individual described in section 3058j of this title.

(22) State Long-Term Care Ombudsman

The term “State Long-Term Care Ombudsman” means the State Long-Term Care Ombudsman described in section 3058g(a)(2) of this title.

(Aug. 14, 1935, ch. 531, title XX, § 2011, as added Pub. L. 111-148, title VI, § 6703(a)(1)(C), Mar. 23, 2010, 124 Stat. 782.)

§ 1397j-1. General provisions

(a) Protection of privacy

In pursuing activities under this division, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.

(b) Rule of construction

Nothing in this division shall be construed to interfere with or abridge an elder’s right to practice his or her religion through reliance on prayer alone for healing when this choice—

(1) is contemporaneously expressed, either orally or in writing, with respect to a specific illness or injury which the elder has at the time of the decision by an elder who is competent at the time of the decision;

(2) is previously set forth in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

(3) may be unambiguously deduced from the elder's life history.

(Aug. 14, 1935, ch. 531, title XX, §2012, as added Pub. L. 111-148, title VI, §6703(a)(1)(C), Mar. 23, 2010, 124 Stat. 785.)

Editorial Notes

REFERENCES IN TEXT

Section 264(c) of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (a), is section 264(c) of Pub. L. 104-191, which is set out as a note under section 1320d-2 of this title.

PART I—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND RESEARCH

SUBPART A—ELDER JUSTICE COORDINATING COUNCIL AND ADVISORY BOARD ON ELDER ABUSE, NEGLECT, AND EXPLOITATION

§ 1397k. Elder Justice Coordinating Council

(a) Establishment

There is established within the Office of the Secretary an Elder Justice Coordinating Council (in this section referred to as the "Council").

(b) Membership

(1) In general

The Council shall be composed of the following members:

(A) The Secretary (or the Secretary's designee).

(B) The Attorney General (or the Attorney General's designee).

(C) The head of each Federal department or agency or other governmental entity identified by the Chair referred to in subsection (d) as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation.

(2) Requirement

Each member of the Council shall be an officer or employee of the Federal Government.

(c) Vacancies

Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) Chair

The member described in subsection (b)(1)(A) shall be Chair of the Council.

(e) Meetings

The Council shall meet at least 2 times per year, as determined by the Chair.

(f) Duties

(1) In general

The Council shall make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant Federal, State, local, and private agencies and entities, relating to elder abuse, neglect, and exploitation and other crimes against elders.

(2) Report

Not later than the date that is 2 years after March 23, 2010, and every 2 years thereafter,

the Council shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report that—

(A) describes the activities and accomplishments of, and challenges faced by—

(i) the Council; and

(ii) the entities represented on the Council; and

(B) makes such recommendations for legislation, model laws, or other action as the Council determines to be appropriate.

(g) Powers of the Council

(1) Information from Federal agencies

Subject to the requirements of section 1397j-1(a) of this title, the Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon request of the Chair of the Council, the head of such department or agency shall furnish such information to the Council.

(2) Postal services

The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(h) Travel expenses

The members of the Council shall not receive compensation for the performance of services for the Council. The members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, the Secretary may accept the voluntary and uncompensated services of the members of the Council.

(i) Detail of Government employees

Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) Status as permanent Council

Section 1013 of title 5 shall not apply to the Council.

(k) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Aug. 14, 1935, ch. 531, title XX, §2021, as added Pub. L. 111-148, title VI, §6703(a)(1)(C), Mar. 23, 2010, 124 Stat. 786; amended Pub. L. 117-286, §4(a)(256), Dec. 27, 2022, 136 Stat. 4334.)

Editorial Notes

AMENDMENTS

2022—Subsec. (j). Pub. L. 117-286 substituted "Section 1013 of title 5" for "Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.)".

§ 1397k-1. Advisory Board on Elder Abuse, Neglect, and Exploitation

(a) Establishment

There is established a board to be known as the "Advisory Board on Elder Abuse, Neglect,