

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Mini-Preview Announcement Number: HRSA-04-095 Media-Based Grass Roots Efforts To Increase Solid Organ Donation

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

SUMMARY: HRSA is modifying the announcement soliciting applications for HRSA's Media-Based Grassroots Efforts to Increase Solid Organ Donation based in part upon changes in the authorizing statute. In notice document 69 FR 21135, Tuesday, April 20, 2004, make the following corrections:

On page 21144, under "Legislative Authority," replace "Public Health Service Act, Section 371(a)(3), 42 U.S.C. 273(a)(3) as Amended." with "section 377A(b) of the Public Health Service (PHS) Act, § 42 U.S.C. 274f-1(b)."

On page 21144, under "Purpose" line 49, replace "80" with "75" and in line 61, replace "20" with "25".

On page 21144, under "Eligibility," lines 67, 68, 69, and 70, replace the language "private not-for-profit entities eligible for funds under section 371(a)(3) of the Public Health Service Act (42 U.S.C. 273(a)(3)." with "domestic public and nonprofit private entities are eligible to apply as the applicant institution."

On page 21144, under "Application Availability," replace "May 11, 2004." with "June 17, 2004".

On page 21144, under "Letter of Intent Deadline:" Delete this whole section.

On page 21144, under "Application Deadline" in the third column, line 19, replace "June 25, 2004." with "July 27, 2004".

On page 21144, under "Program Contact Person," in the third column, line 26, replace *judy.ceresa@hrsa.gov* with "jceresa@hrsa.gov."

Dated: July 9, 2004.

Tina Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04-16038 Filed 7-14-04; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice Regarding Subsection 224(o) of the Public Health Service Act (Volunteer Services Provided by Health Professionals at Free Clinics)

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice whereby a person can determine when and the extent to which a volunteer health professional at a free clinic is deemed to be a Public Health Service employee.

SUMMARY: The Secretary of Health and Human Services (the "Secretary") provides the following notice regarding Section 224 of the Public Health Service Act ("the Act") (42 U.S.C. 233), as amended by Public Law 104-191 (the Health Insurance Portability and Accountability Act of 1996 ("HIPAA")). Section 194 of HIPAA amended the Act by adding subsection 224(o), which provides for liability protection for certain free clinic health professionals. This notice sets forth information whereby a person can determine when and the extent to which a volunteer health professional at a free clinic is deemed to be a Public Health Service employee.

FOR FURTHER INFORMATION CONTACT: For further information, contact Program Director, Federal Tort Claims Act Medical Malpractice Program, Division of Clinical Quality, Bureau of Primary Health Care, Health Resources and Services Administration, 4530 East West Highway, Bethesda, MD 20857 (Phone: 301-594-0818 or E-mail: *FreeClinicsFTCA@hrsa.gov*).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 224(a) of the Public Health Service (PHS) Act (42 U.S.C. 233(a)) provides that the remedy against the United States under the Federal Tort Claims Act (FTCA) resulting from the performance of medical, surgical, dental or related functions by any commissioned officer or employee of the PHS while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding. Section 224(o) of the Act (added by Section 194 of the HIPAA) provides that under certain conditions, free clinic health care professionals shall be deemed to be employees of the PHS within the exclusive remedy provision of section 224(a). This notice is intended to provide information as to

action that the Department of Health and Human Services (HHS) will take to implement the Act. Application instructions pertaining to the deeming process discussed below can be requested from the information contact listed above. Application instructions for free health clinic professionals to obtain PHS employment status for FTCA purposes ("FTCA deemed status") are discussed below. Coverage under this program will be effective upon the receipt and approval of an application. Application forms and instructions may also be downloaded from HRSA's Bureau of Primary Health Care Web site at <http://www.bphc.gov> on or about September 1, 2004. HRSA will process applications as received.

II. Definition of Free Clinics and Free Clinic Health Professionals

Pursuant to the Act, HHS will provide free clinic health professionals with FTCA deemed status and FTCA coverage for medical malpractice claims only if it determines that the health care professional and the associated free clinic meet certain requirements.

(A) Under the Act, a *free clinic* is a health care facility operated by a nonprofit private entity that:

(1) In providing health care, does not accept reimbursement from any third-party payor (including reimbursement from any insurance policy, health plan, or Federal or State health benefits program);

(2) In providing health care, does not impose charges on patients to whom service is provided OR imposes charges on patients according to their ability to pay*;

(3) May accept patients' voluntary donations for health care service provision;

(4) Is licensed or certified to provide health services in accordance with applicable law.

(B) Under the Act, a *free clinic health professional*:

(1) Provides services to patients at a free clinic or through offsite programs or events carried out by a free clinic;

(2) Is sponsored by a free clinic (see section II(A) above);

(3) Provides a qualifying health service (i.e., any health care service required or authorized to be provided under Title XIX of the Social Security Act (42 U.S.C 1396 *et seq.*) without regard to whether the service is included in the plan submitted by the State in which the health care practitioner provides the service;

(4) Does not receive compensation for provided services from patients directly or from any third-party payor;

(5) May receive repayment from a free clinic for reasonable expenses incurred in service provision to patients;

(6) Is licensed or certified to provide health care services at the time of service provision in accordance with applicable law; and

(7) Provides patients with written notification before service provision of the extent to which his/her legal liability is limited pursuant to the Act if his/her associated free clinic has not already provided such notification. In the case of an emergency, the written notice shall be provided as soon thereafter as is practicable. If the patient is a minor or is otherwise legally incompetent, the written notice shall be provided to a legal guardian or other person with legal responsibility for the care of the patient.

*Free clinic entities may impose charges based on a patient's ability to pay, but in so doing negate the FTCA coverage of the volunteers for the specific services for which the clinic received payment.

III. FTCA Deeming Application

A free clinic may sponsor a free clinic health professional for FTCA deemed status and FTCA coverage for medical malpractice claims by submitting an application meeting the requirements of subsection 224(g)(1)(D) of the Act to the Secretary on behalf of the free clinic health professional. The application must be submitted in such form and manner as the Secretary shall prescribe. Moreover, the application must provide evidence that the free clinic:

(A) Has implemented appropriate policies and procedures to reduce the risk of medical malpractice and lawsuits

arising out of any health or health related functions performed by the free clinic;

(B) Has reviewed and verified the credentials, references, claims history, fitness, professional review organization findings, and license status of its physicians and other licensed or certified health care practitioners, and, where necessary, has obtained its practitioners' permission to access this information;

(C) Has no history of a patient filing a medical malpractice claim against the U.S. Government pursuant to Section 224 for services provided by its free clinic health professionals OR has fully cooperated with the Attorney General in his/her preparation of a defense against any such medical malpractice claim against the U. S. Government. If the free clinic has a history of such a claim, it also must demonstrate that it has taken or will take any necessary steps to prevent such medical malpractice claims in the future; and

(D) Has pledged to fully cooperate with the Attorney General in providing information relating to an estimate of the number of expected medical malpractice claims for the following year as described in Section 224 of the Act.

Pursuant to subsection 224(g)(1)(E) of the Act, the Secretary will determine if the free clinic health professional meets the requirements for FTCA deemed status of the free clinic health professional. The Secretary will provide the free clinic with a notice of the effective date of the free clinic health professional's FTCA deemed status. A free clinic health professional's deemed

status shall apply only to acts or omissions within the scope of the professional's duties at the free clinic occurring on or after the effective date specified in the notice.

This notice is not intended to constitute, and does not constitute, a comprehensive notice pertaining to any provision of the Act except to the extent that procedures pertaining to the implementation of the Act are described explicitly above.

Dated: July 8, 2004.

Elizabeth M. Duke,
Administrator.

[FR Doc. 04-16037 Filed 7-14-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Cancellation of Customs Broker License Due to Death of the License Holder

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to title 19 of the Code of Federal Regulations at section 111.51(a), the following individual Customs broker license and any and all permits have been cancelled due to the death of the broker:

Name	License #	Port name
Emil F. Benja	02274	New York.

Dated: July 1, 2004.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 04-16043 Filed 7-14-04; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Retraction of Revocation Notice

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: The below-identified Customs broker license was erroneously included in a list of revoked Customs broker licenses. See 69 FR 51512, dated October 9, 2001.

Name	License #	Port name
Miami Valley Worldwide, Inc	11297	Cleveland.