

“Puerto Rico Medical Services Administration Act”

Act No. 66 of June 22, 1978, as amended

(Contains amendments incorporated by:

Act No. 3 of December 11, 1978

Act No. 45 of July 2, 1985

Act No. 99 of July 9, 1985

Act No. 124 of July 12, 1986

Act No. 30 of July 22, 1992

Act No. 36 of July 29, 1994

Act No. 141 of July 18, 1998

Act No. 112 of September 7, 2005

Act No.132 of July 21, 2006)

(Amendments non-incorporated:

Act No. 174 of November 23, 2010)

To create the Puerto Rico Medical Services Administration in the Department of Health and to define its purposes, powers, duties, responsibilities, organization and operation; to repeal Act No. 106 of June 26, 1962, as amended, known as the Puerto Rico Medical Center Act.

STATEMENT OF MOTIVES

Act No. 106 of June 26, 1962, as amended, created what is known as the Puerto Rico Medical Center Service Corporation in the Commonwealth of Puerto Rico for the purpose of seeking a solution to the problem of organizing, financing and rendering first-class health services to the people of Puerto Rico and giving legal status to said institution, so that it would be able to do business with the participating agencies, to borrow money, to receive rentals and to apply them to the payment of such loans, to sue and be sued, and to operate the central services of the Puerto Rico Medical Center Corporation, according to the administrative structure that the same shall provide and such personnel, budgetary, accounting, purchasing and other administrative systems that it may organize or administer.

Experience has shown that the measures adopted through the approval of Act No. 106 have not been satisfactory, since the Puerto Rico Medical Center Corporation, as well as its Participating Agencies, have considerable debts among themselves and with the providers. The complexity and unapplicability of the present legal and financial structure of the Puerto Rico Medical Center Corporation has allowed these debts to be accrued from year to year, up to the point that the medical services rendered therein have been seriously affected. Therefore, it is urgent that the Puerto Rico Medical Center Corporation be financially and administratively restructured, so that it may defray such debts as soon as possible and continue furnishing the services which are supposed to be rendered there.

Another factor to be considered is the problem created by allowing the head of each one of the participating agencies to also be a member of the governing board of the Medical Center Corporation, thus making it almost impossible for such governing board to collect from itself.

This Legislature considers that the responsibility for the expansion and development of what is known as the Puerto Rico Medical Center Corporation should be reoriented and consolidated in only one responsible entity. It also considers that the Secretary of Health, who is the official responsible for the health of the People of Puerto Rico, should be solely responsible for the administration, operation and development of what is known today as the Puerto Rico Medical Center Corporation, and which is hereby reorganized under the name of the Medical Services Administration.

Be it enacted by the Legislature of Puerto Rico :

Section 1. — Short Title. (24 L.P.R.A. § 342)

This act shall be known as the "Puerto Rico Medical Services Administration Act".

Section 2. — Definitions. (3 L.P.R.A. § 342a)

The following phrases and terms shall have the meanings set forth hereinafter:

- (1) Administration. — The Puerto Rico Medical Services Administration created by this Act.
- (2) Secretary. — The Secretary of Health of the Commonwealth of Puerto Rico.
- (3) Department. — The Department of Health of the Commonwealth of Puerto Rico.
- (4) Consumer institutions. — Institutions located on lands of the Administration, which use the services thereof and/or render basic medical and hospital care services, training, education and research in the field of health.
- (5) Central services. — All those auxiliary medical services, commercial type services and administrative services rendered by the Administration and purchased by consumer institutions.
- (6) Corporation. — The Puerto Rico Medical Center Services Corporation was created by Act No. 196 of June 26, 1962, which was repealed by Act June 22, 1978, No. 66.
- (7) Board of the Puerto Rico Medical Center Participating Entities. — The Board constituted by the chief executives of the entities that operate one or more institutions in the Medical Center and by two (2) consumers of health services and the Chairperson of the Administration and Medical Policy Committee.
- (8) Administration and Medical Policy Committee. — The body constituted by the medical directors and leading administrators of consumer institutions and which shall be the forum to identify, attend to and solve the problems and circumstances of said institutions in their interaction with the Administration, and among themselves, for the purpose of achieving the most effective inter-institutional coordination and cooperation.
- (9) Participating entities. — The bodies or instrumentalities that operate one or more institutions and services facilities in the Medical Center.
- (10) Medical Center. — The system of medical-hospital, teaching and research institutions located at Barrio Monacillos in the Municipality of San Juan, as specified in Section 6 of this act.

Section 3. — Creation of the Puerto Rico Medical Services Administration; exemption from duties and taxes. (3 L.P.R.A. § 342b)

The Puerto Rico Medical Services Administration is hereby created as an instrumentality of the Government of the Commonwealth of Puerto Rico, attached to the Department of Health of the Commonwealth of Puerto Rico, independent and separate from any other administration or body created or to be created in the future in the Department of Health and which shall be under the direction and supervision of the Secretary of Health. Said Administration shall have a separate juridical personality apart from every official thereof as well as from the Government of the Commonwealth of Puerto Rico and its agencies, instrumentalities, public corporations and political subdivisions. The powers of the Administration shall be conferred on and be exercised by the Secretary with the advice of the Board of Participating Entities and with its consent on matters specified in Section 5 of this Act.

The Administration shall be exempted from the payment of any kind of taxes, duties, fees, tariffs or charges, including those for licenses, taxes or those imposed by the Commonwealth of Puerto Rico or any of its political subdivisions or its municipalities, including all its operations, real and personal properties, its capital, revenues and surpluses.

The Administration is also exempted from the payment of any kind of fees or taxes required by law for the prosecution of judiciary proceedings, the [issuance] of certifications in all offices and dependencies of the Government of the Commonwealth of Puerto Rico and the execution and registration of public documents in any public registry of Puerto Rico.

Section 4. — [Organization, operation and administration of services]. (3 L.P.R.A. § 342c)

The Administration hereby created shall be charged with the organization, operation and administration of the central services operated by the Corporation. It shall also be charged with the coordination of the Medical Center member institutions through its Executive Director and Administration and Medical Policy Committee created by this Act so that they may function as one system.

Section 5. — [Board of Medical Center Participating Entities; creation and members; Executive Director] (3 L.P.R.A. § 342d)

The Puerto Rico Medical Center Participating Entities Board is hereby created, which shall be constituted by the following members: the Secretary of Health of Puerto Rico, the Dean of the Medical Sciences School of the University of Puerto Rico, the Chairperson of the Board of Directors of the Puerto Rican League Against Cancer, the Mayor of San Juan, the Administrator of the State Insurance Fund, the Secretary of the Family, the Administrator of Mental Health and Addiction Services, and two (2) consumers appointed by the Secretary of Health. The Chairperson of the Medical Administration and Policy Committee appointed by virtue of the provisions of Section 19 of this act shall also be a member. The Secretary of Health shall be Chairperson of the Board. Attendance by the members of this Board to its meetings cannot be delegated.

The initial terms of office of the two (2) members that represent the consumers shall be one for three (3) years, and the other for four (4) years and until their successors have been appointed

and have taken office. As their terms expire, their successors shall be appointed for a term of four (4) years.

Any vacancy that occurs in the office of these members shall be filled in the same way within a period of ninety (90) days after the date the vacancy occurs, for a term of four (4) years.

The Board of Participating Entities shall appoint an Executive Committee composed of three (3) of its members to which it shall delegate those responsibilities and functions related to the day-to-day operations of the centralized services and the coordination of the Medical Center member institutions, in such a manner that the decision-making process in which the Board must intervene is expedited.

The Administration shall have an Executive Director, appointed by the Secretary with the advice of the Board and the approval of the Governor of Puerto Rico, who will hold office at the Secretary's will until his successor is appointed. The Executive Director shall be the chief executive of the Administration; he shall represent the Administration in all acts and the contracts that must be executed in the exercise of the functions thereof, and shall perform the duties and have the responsibilities, powers and authority delegated to him by the Secretary. The Executive Director shall attend the meetings of the Board. The salary of the Executive Director shall be fixed by the Secretary with the approval of the Governor of Puerto Rico.

The Board may delegate any of its powers, except the power to regulate, to the Executive Director or other employees of the Administration.

Section 6. — Land and Facilities. (3 L.P.R.A. § 342e)

All resources and facilities, including records, equipment, property, buildings, lands, funds and appropriations, which are being used in connection with the programs and functions of the Corporation to be used, owned or spent by the Administration in connection with the functions it is bound to perform pursuant to the provisions of this Act, are hereby transferred to the Administration.

The lands donated to the People of Puerto Rico by deed No. 66, executed before Notary Public Eduardo Acuña Aybar, in San Juan, on August 2, 1913, and those acquired by the People of Puerto Rico through purchase from Tomas Lopez Morales by public deed No. 16, executed before Notary Public Antonio J. Amadeo, in San Juan, on July 23, 1924, other than the lands the Corporation has already transferred to agencies of the Government of the United States of America under Act No. 106 of June 26, 1962, as amended, are hereby included in the lands transferred.

The Administration may dispose of the lands transferred by this Act in order to carry out its purposes after prior consultation with the Board and the approval of the Secretary, and to such ends it may transfer lots from them to agencies and instrumentalities of the Government of the Commonwealth of Puerto Rico or of the Government of the United States and its political subdivisions. In the same manner, it may convey in usufruct lots of land to private nonprofit associations and organizations dedicated to teaching, medical investigation (or research) or the promotion and conservation of health. The conditions and requirements under which the transfers and conveyances of the usufruct of lots of these lands [sic] shall be determined in each case by the Secretary of Health in consultation with the Board. Conveyance of the usufruct shall be for a limited term or for the term determined by the Secretary without being subject to the provisions of Section 448 of the Civil Code of Puerto Rico [31 L.P.R.A. § 1578]. Provided, That

the lots already conveyed in usufruct and those to be conveyed in the future as well as the structures and other real property on the lots shall also be exempted from payment of property taxes for the duration of the usufruct.

All proposals for the construction, addition, alteration, remodeling or demolition of structures or physical facilities that affect the lands conveyed to the participating entities must be presented for the consideration of the Board sufficiently in advance by the proposing participating entity. The recommendation of the Board will be determining for the final decision on the petition.

Section 7. — [Transfers - Debts, obligations and responsibilities] (3 L.P.R.A. § 342f)

All debts, obligations, responsibilities, as well as the duty to meet the same and the right to receive the benefit of any judgment for or against the Corporation after the approval of this act are hereby transferred to the Administration.

Section 8. — Powers and duties of the Administration. (3 L.P.R.A. § 342g)

The Administration shall have all the powers necessary and convenient to carry out and achieve the purposes of this section, including all those described in Section 4, and without it being construed as a limitation, the powers described below:

- (a) To sue and be sued.
- (b) To draw up, adopt, amend and repeal the rules and regulations required for its operation.
- (c) To establish its own administrative, personnel, budgetary, purchasing and accounting structures and any other administrative systems needed for the efficient and economical operation of the centralized services, in coordination with the Central Personnel Administration Office, the Department of the Treasury, the Office of Management and Budget and the General Services Administration.
- (d) To borrow money from any financing source, including private institutions as well as from the Government of the Commonwealth of Puerto Rico and the Government of the United States or from any of its agencies or instrumentalities, for the payment of its debts, to carry out the responsibilities and powers provided by this Act and to carry out construction projects, improvements and for its functioning and operation or for any other matter deemed convenient to serve the best interest of the Administration and the People of Puerto Rico. It shall guarantee the payment of its debts from the revenues generated from its operations. Provided, That the Administration's debts and other obligations shall not constitute debts or obligations of the Commonwealth of Puerto Rico.
- (e) To negotiate and execute all kinds of contracts, documents and other public instruments with persons, firms, corporations, government agencies and other entities to achieve the purposes of this section, including the sale of services to private persons or entities, commercial insurance companies, labor unions, public as well as private prepaid health plans and societies with health plans, for the health services rendered.
- (f) To offer and to collect payment for the health services rendered from solvent persons, commercial insurance companies, labor unions, public and private prepaid health plans and associations with health plans.
- (g) To use recovered funds to pay its first-priority debts and to maintain, improve and extend its services.

- (h) To appoint, contract and designate medical personnel to provide direct treatment to patients through centralized auxiliary medical services and through any medical services that the Secretary of Health may require from the Administration, for an emergency or as needed.
- (i) The Administration shall appoint the heads of the centralized auxiliary medical services.
- (j) To purchase for itself or for the consumer institutions all the materials, supplies, equipment, spare parts and services which are necessary, and to dispose of such materials, supplies, equipment and parts through sale, transfer or conveyance to other entities, or by destruction or any other manner the Administration may deem most convenient, in coordination with the General Services Administration, after they no longer serve their purpose.
- (k) To enter into agreements and compacts with consumer institutions and other bodies of the Government of the Commonwealth of Puerto Rico and its political subdivisions, which will lead to an efficient and effective operation of the services to be rendered by the Administration for the purposes set forth in chapter. Consumer institutions and other bodies of the Government of the Commonwealth of Puerto Rico, as well as its political subdivisions, are also authorized to enter into agreements and compacts with the Administration to accomplish the purposes of this Act.
- (l) To fix and receive rates and rentals for the use of its facilities and to enforce and draw up regulations that guarantee maximum use of any of its structures and facilities.
- (m) To receive, accept and administer donations of money, subsidies and real and personal property from natural or juridical persons, as well as execute contracts or agreements with any federal agency, entity or political subdivision of the Commonwealth of Puerto Rico for any purpose that promotes or advances the goals of the Administration.
- (n) To request, receive and accept funds, commonwealth, federal, or any other sort of donations, and aid for the development of health care and protection projects, for their administration and operation, and to carry out the purposes of this Act.
- (o) To contract professional and consulting services in all phases of management, planning, construction and operation of the Administration.
- (p) To contract for the drawing up of plans, projects and cost budgets for the construction, reconstruction, improvement, expansion or repair of any of its facilities.
- (q) To perform by itself or to contract for the construction, improvement, expansion, extension or repair work the Administration shall need to house any of its facilities.
- (r) To participate with other public and private entities in a corporation, partnership, joint enterprise or association, in any transaction, business, arrangement or agreement for [sic] which the participating corporation is empowered to carry out by itself.

Section 8-A. — [Torts-Civil Action] (3 L.P.R.A. § 342g-1)

No health services professional shall be included as defendant in a civil action claiming damages for medical malpractice faults or negligence caused in the practice of his/her profession as long as said health services professional acts in the performance of his/her duties and functions as an employee of the Medical Services Administration of Puerto Rico. In all civil suits in which claims for damages are brought against the Medical Services Administration of Puerto Rico, in all cases in which a judgment is rendered for acts constituting medical malpractice committed by employees or officials of the Medical Services Administration of Puerto Rico, or by physicians who render services under contract to the Medical Services Administration of Puerto Rico in the performance of their institutional duties; or when judgment is rendered for

acts which constitute faults or negligence directly related to the operation of a health care institution under the Medical Services Administration of Puerto Rico, the Medical Services Administration of Puerto Rico, shall be subject to the limits of liability and conditions imposed by Act No. 104 of June 29, 1955, as amended [32 L.P.R.A. § 3077 et seq.], when compelling liability from the Commonwealth of Puerto Rico in similar circumstances.

Section 9. — Bonds. (3 L.P.R.A. § 342h)

(a) By authority of the Government of Puerto Rico hereby executed, the Puerto Rico Medical Services Administration is by these presents authorized to issue all at once or from time to time, bonds to finance the purposes of this Act. Each issue of bonds shall bear the date, shall mature at such time or times which shall not exceed forty (40) years from their respective dates of issue and shall bear interest at such rate or rates that do not exceed the maximum rates established by law for the sale of bonds of the Commonwealth of Puerto Rico, as determined by the Administration, and may be redeemed before their maturity at the Administration's option, at such price or prices and under such terms and conditions as may be determined by it, prior to the bond issue. The Administration shall determine the manner and way to execute the bonds, and the place or places where the principal and interest thereof shall be paid. When a bond or coupon bears the signature or facsimile signature of an official who has ceased in office at the time of the delivery of said bonds, such signature or facsimile signature shall, nevertheless, be valid and sufficient and it shall be considered for all purposes as if the official had remained in office until such delivery. Notwithstanding any other provision in this Act or of the language of any of the bonds issued under the provisions hereof, such bonds shall be considered negotiable instruments under the laws of the Commonwealth of Puerto Rico. Bonds may be issued in coupon or recordable form, or both, as the Administration may determine and provision shall be made to record any coupon bonds in regard to principal only, and also in regard to principal and interest, and to reconvert any registered bonds into coupon bonds, in regard to principal and interest. The Administration may sell said bonds in such form, at public or private sale, for such price or prices as it shall determine to be most convenient for its own interests, but for not less than the percentage of their par value, as established by law for the sale of bonds of the Commonwealth of Puerto Rico.

The proceeds from each bond issue shall be used solely for the purposes for which such bonds have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Administration may provide in the resolution authorizing such bond issue or in the trust agreement securing the bonds.

The resolution providing for the bond issue and any trust agreement securing them may contain such limitations as to additional bond issues as the Administration may determine. Prior to preparing the final bonds, the Administration may issue interim receipts or temporary bonds with or without coupons, exchangeable for final bonds after they have been prepared. The Administration may provide for the replacement of any bonds which may be mutilated, destroyed or lost.

(b) Bonds issued under the provisions of this Act may be secured, in the discretion of the Administration, by a trust agreement between the latter and a corporate trustee which may be any trust company or bank having the powers of a trust company, within or outside the Commonwealth of Puerto Rico. The resolution authorizing the bond issue or the trust agreement

may pledge all or any part of the proceeds or any other revenues of the Administration, and provide for the mortgage of its properties to secure payment of the principal and interest on such bonds, and it may contain such provisions for the protection and exercise of the bondholders, rights and remedies and any other provisions deemed reasonable and proper by the Administration.

(c) All bonds issued under the provisions of this Act and the interest drawn by them shall be exempt from taxation at all times.

Section 10. — Priority in the payment of obligations and creation of a "Special Fund" for the amortization and redemption. (3 L.P.R.A. § 342i)

(a) By authority of the Government of Puerto Rico hereby executed, the Puerto Rico Medical Services Administration is by these presents authorized to issue all at once or from time to time, bonds to finance the purposes of this Act. Each issue of bonds shall bear the date, shall mature at such time or times which shall not exceed forty (40) years from their respective dates of issue and shall bear interest at such rate or rates that do not exceed the maximum rates established by law for the sale of bonds of the Commonwealth of Puerto Rico, as determined by the Administration, and may be redeemed before their maturity at the Administration's option, at such price or prices and under such terms and conditions as may be determined by it, prior to the bond issue. The Administration shall determine the manner and way to execute the bonds, and the place or places where the principal and interest thereof shall be paid. When a bond or coupon bears the signature or facsimile signature of an official who has ceased in office at the time of the delivery of said bonds, such signature or facsimile signature shall, nevertheless, be valid and sufficient and it shall be considered for all purposes as if the official had remained in office until such delivery. Notwithstanding any other provision in this Act or of the language of any of the bonds issued under the provisions hereof, such bonds shall be considered negotiable instruments under the laws of the Commonwealth of Puerto Rico. Bonds may be issued in coupon or recordable form, or both, as the Administration may determine and provision shall be made to record any coupon bonds in regard to principal only, and also in regard to principal and interest, and to reconvert any registered bonds into coupon bonds, in regard to principal and interest. The Administration may sell said bonds in such form, at public or private sale, for such price or prices as it shall determine to be most convenient for its own interests, but for not less than the percentage of their par value, as established by law for the sale of bonds of the Commonwealth of Puerto Rico.

The proceeds from each bond issue shall be used solely for the purposes for which such bonds have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Administration may provide in the resolution authorizing such bond issue or in the trust agreement securing the bonds.

The resolution providing for the bond issue and any trust agreement securing them may contain such limitations as to additional bond issues as the Administration may determine. Prior to preparing the final bonds, the Administration may issue interim receipts or temporary bonds with or without coupons, exchangeable for final bonds after they have been prepared. The Administration may provide for the replacement of any bonds which may be mutilated, destroyed or lost.

(b) Bonds issued under the provisions of this Act may be secured, in the discretion of the Administration, by a trust agreement between the latter and a corporate trustee which may be any trust company or bank having the powers of a trust company, within or outside the Commonwealth of Puerto Rico. The resolution authorizing the bond issue or the trust agreement may pledge all or any part of the proceeds or any other revenues of the Administration, and provide for the mortgage of its properties to secure payment of the principal and interest on such bonds, and it may contain such provisions for the protection and exercise of the bondholders, rights and remedies and any other provisions deemed reasonable and proper by the Administration.

(c) All bonds issued under the provisions of this Act and the interest drawn by them shall be exempt from taxation at all times.

Section 11. — [Purchases and supply and service contracts] (3 L.P.R.A. § 342j)

Any purchases and supply and service contracts executed by the Administration shall be made through a bidding process; Provided, That when the estimated cost for acquiring or rendering the service does not exceed forty thousand dollars (\$40,000), the same may be conducted without the bidding process. Neither shall competitive bidding be necessary when:

- (1) An emergency requires the immediate delivery of materials, effects or equipment or the performance of services, or
- (2) spare parts, accessories, equipment or supplementary services are needed for equipment or services previously rendered or contracted, or
- (3) the service or work of experts is required and the Secretary deems that in the interest of a sound management it is better that the contracts for such purposes be made without the need of competitive bidding, or
- (4) the prices are not subject to competition because there is only one source of supply available or they are regulated by law. In such cases, such materials, effects or equipment shall be purchased or such services shall be obtained in the open market in the usual and ordinary way of doing business. The Administration or its representative shall reserve the right to award at a public call for bidding on the basis of considerations other than price.

In every case in which a purchase is made or the performance of a service is contracted without resorting to a call for bids, a detailed record of the reason for dispensing with the call for bids shall be kept. Whenever the Administration or its representative awards a purchase or the performance of a service for considerations other than price, such considerations shall have to be clearly in the public interest and a detailed record thereof and of the way public interest is best served with such an action shall be kept. The documents explaining the reasons why the competitive bidding is dispensed with or is awarded for considerations other than price shall be deemed public documents subject to examination by any citizen, especially by persons or entities interested in rendering services or in selling any goods or supplies

Section 12. — [Deposit of funds of the Administration] (3 L.P.R.A. § 342k)

All Administration moneys shall be entrusted to designated depositories of the funds of the Government of the Commonwealth of Puerto Rico. The amounts shall be maintained in a separate account or accounts registered in the name of the Administration. Disbursements shall

be made pursuant to rules and regulations prescribed by the Administration. These regulations shall be promulgated by the Administration in coordination with the Secretary of the Treasury.

Section 13. — [Annual budget] (3 L.P.R.A. § 342*l*)

The annual budget of the Administration shall be prepared sufficiently in advance so that it can be integrated into the total budget of the Department of Health with the prior approval of the Secretary of Health. The Administration's budget must be prepared in consultation and with the approval of the participating entities. These must state their approval by means of a written certification indicating the volume of services they shall request from the Administration, their acceptance of the cost of said services and that they have enough resources available to finance said services.

The Administration shall not exceed its capacity in rendering services that entail a disbursement of funds greater than what was certified by the participating entities. They, in turn, shall not require services from the Administration which exceed their respective budgets according to what the certification issued by them allows.

When preparing the General Expense Budget, the Director of the Office of Management and Budget shall set aside in a clearly identified item sufficient funds so that the Department of Health and the other participating entities that depend on Legislative appropriations may pay the total of the Administration's centralized services each year. Once the Budget Joint Resolution becomes effective, the Secretary of the Treasury shall remit to the Administration the total amount of the funds thus set aside to pay the centralized services corresponding to the Department of Health and to the other participating entities.

When, due to the lack of liquidity of the Commonwealth Treasury or for any other valid reason, the Secretary cannot remit the total amount of funds appropriated, he may then remit a fourth part of the appropriation on the first day of the first month of each quarter, that is, in July, October, January, and April of each year. These advances shall be liquidated at the close of each fiscal year based on the periodic invoices submitted by the Administration. The frequency of the invoices shall be determined by the Administration.

The Director of the Office of Management and Budget as well as the Secretary of the Treasury shall ascertain that the amounts set aside for this purpose are sufficient to meet the annual obligations of the participating entities with the Administration, based on the volume of services the Administration has agreed to provide to said entities.

When, due to an oversight or any other reason, the funds set aside are not sufficient to meet the obligations for the year, the Director of the Bureau of Management and Budget shall be responsible for producing the needed amounts through the mechanism of a transfer of funds from the resources of the corresponding government agencies as long as there has been a notice to such effect from the Administration's Executive Director early in the fiscal year. These transfers shall be made subject to the provisions of the Budget Act, Act No. 147 of June 18, 1980. In the case of Government Consumer Institutions not subject to the control of the Central Government, they shall present a certified resolution from its governing entity, whether it be a governing board, board of directors, municipal legislature or other entity, that the funds have been duly budgeted on the books and set aside to pay for such services. In the case of nongovernment consumer institutions, they shall render to the Administrator at the beginning of each fiscal year financial statements duly certified by a certified public accountant in which it is certified under

oath that the funds for the payment of the services to be rendered by the Administration have been set aside and on the books for this purpose. Moneys thus set aside may not be used for any other purpose than the appropriation corresponding to the payment of centralized services provided by the Administration. Provided, That the amount of the moneys to be set aside shall be based on the experience of former years as determined by the Administration and based on the projected volume of services, costs, inflation and any other pertinent factor.

Whereas the Administration has its own legal status, independent and separate from any other administration or body created or to be created in the future pursuant to the provisions of Section 3 of this act, none of the consumer institutions may compensate the debts it may incur with the Administration with credits it may have against any other of the consumer institutions or its participating entities.

In order to assure the faithful compliance of the payment obligations contracted by each consumer institution with the Administration, the Secretary of the Treasury shall withhold from whatever funds are pending remittance to any of the participating entities whose budget is not subject to control by the Office of Management and Budget, including the funds corresponding to the Federal Medicaid Program, an amount sufficient to satisfy overdue accounts with the Administration. A notice and certification to that effect by the Executive Director which has not been contested satisfactorily by the institution concerned within ninety (90) days after having received a copy of said notice which shall be sent by the Administration shall suffice. For the purpose of this provision, it shall be understood that an account has been contested satisfactorily when the objections are duly itemized, audited and certified by a recognized firm of certified public accountants. Once the ninety (90) days have elapsed, the Secretary of the Treasury shall immediately remit the funds so withheld to the Administration.

When any amount of money owed to the Administration by an instrumentality, municipality or political subdivision of the Commonwealth of Puerto Rico which operates with funds that are separate and independent from the Government, and which debt cannot be collected through the Department of the Treasury, the Executive Director shall certify and serve notice on the chief executive officer of said instrumentality, municipality or political subdivision of said debt. Upon receipt of the notice and certification of debt, said executive shall withhold from the appropriations, funds or resources belonging to the entity or person indebted to the Administration that are in his power, the amount or amounts needed to settle the certified debt, and shall remit them to the Administration immediately.

The withholding of funds mentioned in the two (2) paragraphs above shall apply only to debts contracted with the Administration by the participating entities as of July 1, 1985.

Section 14. — [Personnel; rights and transfer] (3 L.P.R.A. § 342m)

(a) The Administration shall be excluded from the provisions of Act No. 5 of October 14, 1975, as amended. The Administration shall have a personnel system based on the merit principle. The Administration employees shall be entitled to negotiate collective bargaining agreements. Within 180 days after the date of approval of this act, the Administration must adopt, with the advice of the Personnel Office, personnel regulations embodying the merit principle, which shall govern the personnel standards of those employees who are covered by collective bargaining agreements.

A copy of the regulations thus adopted shall be sent to the Legislature of Puerto Rico.

(b) All personnel rendering services in the Medical Center on the date this act takes effect are hereby transferred to the Administration. The personnel thus transferred shall keep their vested rights under the laws and regulations in force at the time of the transfer, as well as all rights, privileges, duties and status in connection with any existing pension or retirement system or systems or savings and loan funds to which they may be affiliated.

(c) All the provisions of the personnel regulations and of the Collective Bargaining Agreement in force when this act is approved shall continue in effect until their expiration, repeal or amendment.

Section 15. — [Evaluation of Services; report] (3 L.P.R.A. § 342n)

The Board shall carry out a periodic evaluation of the services required and needed by the institutions located on the grounds of the Medical Center for the purpose of determining the need to conduct the reorganization of the services as the need may arise due to technological, scientific, demographic and social changes, taking into consideration the need for maintaining the excellence and efficiency of the medical services rendered in the Administration and in the consumer institutions and maximizing the use of the resources. Said evaluation shall be conducted as frequently as not less than every five (5) years as of the reorganization provided by Section 15-A of this Act. The Board and the consumer institutions shall render a report and their recommendations to the Governor and to the Legislature regarding any other organizational restructuring that may be convenient not later than one hundred and eighty (180) days after the close of the fiscal year in which the evaluation is initiated. Provided, That the Governor shall approve those services of the Administration that it may want to centralize, realign and reorganize in the future.

Furthermore Provided, that such determinations shall be based in feasibility studies that give due consideration to the objectives of the Medical Center.

Section 15-A. — Integration of Administrative Functions. (3 L.P.R.A. § 342n-1)

The integration of the technical and management services common to the Commonwealth institutions that constitute the Medical Center shall be public policy of the Administration. To such ends:

(A) *Administrative Consolidation.*

1. Within the year following the effective date of this Section, the Secretary of Health and the Executive Director of the Administration, after consulting the Board, shall submit to the Governor and to the Legislature of Puerto Rico a Reorganization Plan for the integration, as far as feasible and functionally effective, of technical and management services common to the Commonwealth hospitals that constitute the Puerto Rico Medical Center.

2. The services to be consolidated shall include, but without it being understood as a limitation:

- a. Auditing
- b. Planning
- c. Economic studies
- d. Administrative services

- e. Procurement
 - f. Maintenance
 - g. Legal counsel and services
 - h. Personnel
 - i. Information processing computer systems
 - j. Other whose consolidation is feasible
3. The Internal Reorganization Plan shall furthermore include the proper recommendations for the possible transfer, relocation, fusion or elimination of programs and operating functions within ASEM and the component institutions.
 4. Pursuant to the determinations made through this process, the Secretary of Health shall include with the Reorganization Plan the proposals for those bills of law and budgetary petitions that would give continuity to the Plan.
 5. The Reorganization Plan shall become effective 45 days after being submitted should no action to amend or reject the same be taken by the Legislature.

(B) *Consolidation of the Personnel area*

The Secretary of Health and the Executive Director of ASEM, should they understand it to be feasible and functionally effective, may integrate the functions of the various personnel offices of ever component. If it is understood that this is necessary, within the one hundred and eighty (180) days following the approval of the Reorganization Plan, the Secretary shall approve a classification and compensation master plan and personnel regulations to apply to the components integrated. For the final approval of the master plan and the regulations, or amendments to these, the Secretary must have the approval of the Office of Management and Budget so as to ensure their fiscal feasibility.

(C) *Conditions*

1. The Reorganization proposed shall set forth the functional economies and the operating efficiency of the units that make up the Medical Center.
2. No integration of functions shall be made in detriment to the operating autonomy or the juridical personality of any of the component institutions.
3. No provisions of this Act shall be understood to modify, alter or invalidate any agreement, claim or contract that the officials or employees responsible for the entities subject to the Reorganization Plan have executed and are in force when the same is made effective. Any claim presented by or against said officials or employees and whose resolution is pending when the Plan becomes effective.
4. All regulations that govern the operation of the entities subject to the Reorganization Plan and that are in force when the latter becomes effective, shall continue in effect until they are altered, modified, amended, repealed or substituted.
5. All career employees of the agencies affected by this Plan are guaranteed their employment, rights, privileges and their respective status in relation to any pension or retirement system or savings and loan fund to which they were subscribed when the Plan becomes effective.

(D) *Progress report*

Within the term of twelve (12) months as of the effective date of the Reorganization Plan, the Secretary shall submit to both Legislative Bodies a report on its implementation. The report shall include a breakdown of the measures established to increase the efficiency and

effectiveness of the organisms that constitute the entity and specifically detail the mechanisms adopted or to be adopted.

Section 16. — [Advancement of funds; reimbursement] (3 L.P.R.A. § 342o)

Advances to the Puerto Rico Medical Services Administration by the Secretary of the Treasury.

(a) All advances made pursuant to the provisions of subsection (a) of this section shall be reimbursed to the Commonwealth General Fund by the Administration within the fiscal year following that when the advance is made; Provided, further, That the Administration shall pay the interest for such advance to the Secretary of the Treasury at the rate to be determined by the latter.

(b) The Secretary of the Treasury of Puerto Rico is authorized to withhold the amounts needed according to the contribution each entity should make for the operation of all those auxiliary medical services, commercial-type services and managerial services rendered by the Administration, for the purpose of recovering proportionately the advances from any appropriations or funds in its power belonging to consumer institutions operating one or more institutions in the Administration.

Section 17. — [Annual budget of expenses; semi-annual report] (3 L.P.R.A. § 342p)

At least thirty (30) days before May 15 of each year, the Administration shall submit to the Governor for his approval an annual budget of operating expenses and capital investments, containing a chart of probable revenues and a disbursement program based on a plan of the work and services to be rendered. The Governor may amend said budget.

The Administration shall establish the fiscal, budgetary and cost controls which may be needed to keep the budget within the limits of the expected income so that they will not incur a deficit.

The Administration shall render a semi-annual report on the work performed and all the income received and disbursements made to the Governor or the official whom he may delegate, no later than 30 working days after the semester has ended

Section 18. — Powers of the Board of Participating Entities. (3 L.P.R.A. § 342q)

The Board of the Puerto Rico Medical Center Participating Entities constitutes the basic mechanism of participation for the entities or bodies that operate one or more institutions and service facilities, and shall be empowered to:

- (a) Consider matters and situations relevant to the function of coordinating consumer institutions to ensure their efficiency so that they can operate as a system.
- (b) Periodically define and evaluate public policy as well as the purposes and objectives of the Medical Center as a system.
- (c) Propose the operational expense budget of the Administration.
- (d) Study the desirability, viability and convenience of centralizing services.
- (e) Periodically evaluate the centralized services.
- (f) Analyze and evaluate the operation of the Medical Center as a system.
- (g) Plan the physical and organization development of the Medical Center.

The Board shall meet within sixty (60) days after the approval of this act and shall organize and designate a Vice-Chairperson from among its members as well as a Secretary who shall not be a member of the Board.

Six (6) members of the Board shall constitute a quorum and decisions shall be made by an absolute majority of its members. The Board shall meet at least six (6) times a year in regular meetings and may meet in special sessions every time it deems it pertinent, after being duly summoned by its Chairperson. During every meeting of the Board, minutes and records of the proceedings shall be kept of its deliberations and agreements.

The Administration shall provide the Board with all the physical facilities and administrative powers needed to properly carry out its duties. The Board may create such special committees it deems are needed for the faithful performance of its functions, and may perform all the studies and investigations which are found to be necessary to attain its objectives, and to execute the duties delegated to it by this Act. The Executive Director shall take part in the meetings and shall have a voice but no vote.

Section 19. — Administration and Medical Policy Committee. (3 L.P.R.A. § 342r)

Within the sixty (60) days following the approval of this act, an Administration and Medical Policy Committee shall be constituted which shall be composed pursuant to the provisions of Subparagraph (8) of Section 2 of this act and shall have the duties delegated therein.

The main duty of this Committee shall be that of facilitating direct and effective participation of these institutions in the identification, attention to and solution of their problems and situations in their interaction with the Administration and among themselves, for the purpose of attaining a more effective inter-institutional coordination and collaboration.

The members of the Administration and Medical Policy Committee shall elect from among themselves a Chairperson and Vice-Chairperson at a meeting summoned to such effects. The Executive Director of the Administration shall be the Secretary of the Committee. The Chairperson of the Committee shall be an ex officio member of the Board of Participating Entities.

The Administration and Medical Policy Committee shall carry out the investigations and studies that are needed to carry out its duties, and shall perform such other duties entrusted to it.

Section 20. — [Repealing Clause]. (3 L.P.R.A. § 342 note)

Act No. 106 of June 26, 1962 as amended, known as the Puerto Rico Medical Center Act is hereby repealed.

Section 21. — This act shall take effect immediately after its approval.

Note. This compilation was prepared by Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.