

***“Mental Health and Addiction Services Administration Act”***

Act No. 67 of August 7, 1993 as amended,

(Contains amendments incorporated by:

Act No. 2 of January 8, 1994

Act No. 53 of August 13, 2005

Act No. 182 of August 6, 2008)

To create the Mental Health and Addiction Services Administration, attached to the Department of Health; transfer the functions, powers, faculties, obligations, personnel, real and movable property, records, funds and programs of the Department of Addiction services and the Deputy Secretariat of Mental Health; establish everything that is related to contracts, agreements, obligations, laws and regulations in effect; guarantee the rights of the employees transferred hereby; Authorize the Governor, the Administrator and the Secretary of Health to establish the necessary administrative measures for these transfers and the continuation of the services; repeal Act No. 60 of May 30, 1973 as amended, known as the "Puerto Rico Department of Addiction Services Organic Act"; amend Act No. 11 of June 23, 1976 as amended, known as the Puerto Rico Health Services Integral Reform Act, in order to reorganize the General Health council; set penalties, and for other related matters.

**STATEMENT OF MOTIVES**

The approval of the Jones Act in 1917, created the Executive Departments, which, upon the approval of the Constitution of the Commonwealth of Puerto Rico in 1952, became the council of Secretaries. The creation of the Department of Health arises from Article IV Section 6 of the Constitution of Puerto Rico, and Act No. 81 of March 14, 1912 as amended. The Department of Health is in charge of handling all matters related to physical and mental health.

The accelerated process of sociological change to which our people have been submitted has brought about disturbances which affect their mental health and created situations that impair the stability of the family at all socioeconomic levels. This is also the case of the drug addiction and alcoholism problem which limits the quality of Puerto Rico's human resources, especially of our youth. The Legislature has recognized as a public policy, that the health of our people deserves to have the highest priority in the government's efforts. Besides this, health problems have been a cause of concern for the professionals who render services in this or other related fields. Each individual's health is a matter that embraces physical as well as mental health.

The Department of Health is the agency in charge of drafting and implementing mental health and drug addiction programs, including alcoholism. It is, then, logical and convenient to integrate our efforts to attend to the drug addiction and alcoholism problem, to those related to mental health; and that it pertains to the Department of Health and the Secretary of Health to enforce the constitutional and legal mandate to attend to and provide for everything related to physical and mental health in Puerto Rico.

The Legislature has construed that the resources of the Government of Puerto Rico appropriated for matters related to mental health and drug addiction, should be integrated to the Department of Health. These activities are grouped to achieve greater efficiency savings and uniformity in the integral rendering of services to clients with multiple disorders, and to avoid duplicating and fragmenting services. To such effects, the Department of Addiction Services is hereby abolished and the Mental Health and Addiction Services Administration is created, attached to the Department of Health.

*Be it enacted by the Legislature of Puerto Rico :*

**Section 1. — Creation and Title.** (3 L.P.R.A. § 402)

The Mental Health and Addiction Services Administration is hereby created, attached to the Department of Health, with its own juridical personality, and power to sue and be sued, and with fiscal and administrative autonomy. This Administration shall be responsible for programs and services related to mental health, drug and alcohol addiction. This Act shall be known as the "Mental Health and Addiction Services Administration Act".

**Section 2. — Definitions.** (3 L.P.R.A. § 402a)

The following terms and phrases shall have the meaning indicated below:

- (a) Administration. — Means the Mental Health and Addiction Services Administration, as created by this Act.
- (b) Administrator. — Means the Administrator of the Mental Health and Addiction Services Administration.
- (c) Department. — Means the Department of Health.
- (d) Secretary. — Means the Secretary of Health.
- (e) Biopsychosocial. — Means the physical, biological psychological and social dimensions related to mental disorders or addiction.
- (f) Patient. — Means any person who is receiving treatment for a mental condition, including drug or alcohol dependence.
- (g) Mental disorder. — Means an illness with psychological manifestations associated [with] the impairment of biological, psychological and social functioning. Each mental disorder has characteristic signs and symptoms.
- (h) Rehabilitation. — Is the effort made to relieve an impairment of the biological, social or psychological level of a person who suffers a mental disorder.

(i) Substance dependence. — Includes addiction to and abuse of controlled or not controlled, legal or illegal substances, including alcohol, which negatively affect and endanger the physical, psychological and social welfare of a person.

**Section 3. — Public Policy.** (3 L.P.R.A. § 402b)

The Secretary shall be the official responsible for the faithful compliance of the public policy provided in this Act, with the purpose of wholly and efficiently attending to every matter related to mental health and addiction. The Administration shall be the agency which is responsible for carrying out the programs of the Government of Puerto Rico addressed to complying with said public policy through programs for the prevention, attention, mitigation and solution of problems concerning mental health, or addiction to or dependency on narcotic, stimulant or depressive substances, including alcohol, in order to promote, preserve and restore the biopsychosocial health of the People of Puerto Rico. The Administration shall establish and coordinate programs for the education and orientation of the community, and for the diagnosis, treatment and rehabilitation of the persons thus affected.

The treatment of patients in the addiction, alcoholism, and mental health programs shall focus on the biopsychosocial concept.

The Administration shall provide for community participation in its programs and services.

**Section 4. — Transfer of Areas or Functions of the Department of Addiction Services to the Mental Health and Addiction Services Department, and to the Department of Health.** (3 L.P.R.A. § 402c)

All personnel; real, movable and intellectual property; treatment, rehabilitation or any other type of centers; programs; unused appropriations or other Commonwealth, federal or any other funds in the hands of, and under the custody of the Department of Addiction Services, are hereby transferred to the Mental Health and Addiction Services Administration; except that all of the functions, faculties and powers conferred on the Department of Addiction Services by Act No. 4 of June 23, 1971 as amended [24 L.P.R.A. § 2101 et seq.], known as the "Puerto Rico Controlled Substances Act", to distribute, dispense, manufacture and prescribe controlled substances for medical use; investigate every violation of a criminal or administrative nature of that Act; supervise the manufacture, distribution, dispensing and delivery of any controlled substance included in Classifications II through V of that Act sections, as well as the seizure of controlled substances for medical use and property related to the unauthorized possession of controlled substances for medical use, are hereby transferred to the Secretary of Health.

The funds needed to continue the services contemplated in this Act, shall be appropriated in the General Budget of Expenses of the Government of Puerto Rico, to the Mental Health and Addiction Services Administration and to the Department of Health, correspondingly.

**Section 5. — Transfer of the Deputy Secretariat of Mental Health to the Mental Health and Addiction Services Administration.** (3 L.P.R.A. § 402d)

The Secretary of Health is hereby directed and authorized to take the administrative measures needed to transfer to the Mental Health and Addiction Services Administration created hereinunder, all personnel; real, movable and intellectual property; treatment, rehabilitation or any other type of centers; programs; unused appropriations or other Commonwealth, federal or any other funds corresponding to the Deputy Secretariat of Mental Health of the Department of Health. The funds needed to continue the mental health services shall be appropriated in the General Budget of Expenses of the Government of Puerto Rico, to the Mental Health and Addiction Services Administration.

**Section 6. — Administration.** (3 L.P.R.A. § 402e)

The Administration shall have the powers that are necessary and convenient to carry out the purposes and provisions of this Act, including the following, without it being understood as a limitation:

- (a) Adopt, alter and use the Official Seal of the Mental Health and Addiction Services Administration.
- (b) License, supervise, keep and maintain a public registry of all public as well as private institutions, organizations and facilities engaged in providing services for the prevention or treatment of mental disorders, addiction to drugs and alcoholism.
- (c) Request the court of competent jurisdiction to issue judicial orders to prevent or restrict the operations of facilities that are operating without holding the license required by this Act, or in violation of the applicable regulations.
- (d) Prepare a separate, confidential registry of drug addiction and alcoholism patients, and mental health patients, when deemed necessary for treatment, investigation, and statistical purposes, through regulations established by the Administrator. The reliability and confidentiality of all individual registries are guaranteed. Any non-therapeutic or scientific research use of said registries is forbidden. Any violation of the confidentiality of said registries shall be considered a felony and shall be punishable by imprisonment for one (1) year or a fine of five thousand dollars (\$5,000), or both penalties in the discretion of the court.
- (e) The clerks of the courts shall remit to the Administration, a copy of every judgment issued against any person for an infraction of the Controlled Substances Act of Puerto Rico, Act No. 4 of June 23, 1971 as amended, [24 L.P.R.A. § 2101 et seq.], in which it has been determined that the accused is addicted to narcotic drugs or dependent on depressing or stimulating drugs.
- (f) To draft and implement any prevention, treatment or rehabilitation programs and establish quality controls therefor, that are needed to comply with the purposes of this Act.
- (g) Establish, administer and operate facilities or institutions to provide specialized non-medicated treatment addressed to persons with mental disorders, and substance addiction or dependency. Provided, That the Administration may establish, administer and operate facilities or institutions for the medicated treatment of persons suffering mental disorders,

and substance addiction or dependency, upon prior and due authorization of the Secretary of Health.

(h) Lease or sub-lease real and movable property for its own use and lease or sub-lease real and movable property to private institutions or organizations duly-licensed by the Administration, devoted to the prevention, treatment, and rehabilitation of persons with mental disorders, addiction or dependence on substances; assign the use or possession of real and movable property to private, non-profit institutions or organizations devoted to the prevention, treatment, and rehabilitation of persons with mental disorders, addiction or dependence on substances. Any assignment shall be made pursuant to the provisions of applicable laws and regulations. Before disposing of the assets in the authorized manner, the Administrator shall evaluate the institution or organization in question and the program it executes, as well as the services it renders to the community in general and the affected population. The lease, sub-lease or assignment shall be subject to the norms and conditions fixed by the Administrator.

(i) Enter into contracts and agreements with departments, agencies, corporations, bodies and municipalities of the Commonwealth of Puerto Rico, the several states of the Union and the Government of the United States, and with profitable or non-profitable private institutions, when it is determined that it is necessary in order to attain the objectives of this Act.

(j) Procure, accept and receive gifts or assistance in cash, goods or services.

(k) The Administration shall have the power to generate its own resources and collect from third parties for services rendered. The funds thus collected shall be covered into the Mental Health and Addiction Services Administration's fund in recovery of operating costs incurred. Funds collected under this provision shall be used in accordance with the priorities established by the Administrator to supplement the personnel's compensation or improve the Administration's services and facilities.

(l) The Administration shall also be responsible for handling the problem of the use of cigarettes or tobacco products by minors and shall include within its prevention program the education and orientation to minors on the risks involved in the use of said harmful substances, in order to reduce the use thereof by minors.

**Section 7. — Secretary.** (3 L.P.R.A. § 402f)

Within the framework of this Act, the Secretary shall have the following functions and powers:

(a) Appoint and supervise the Administrator, and fix his/her salary.

(b) Counsel the Governor of Puerto Rico and the Legislature on the drafting and implementation of public policy with regard to mental health and addiction.

(c) Coordinate with the Administrator the assignment of personnel of the Department to the Administration, and of the Administration to the Department, based on criteria that will propitiate the most efficient use of the human resources, without affecting the functions indicated by law to the Administration or the Department. The assignment of employees will be effective as long as the Secretary and the Administrator understand that the needs of the service require it. The rights and salary schedules of the employees thus assigned shall be safeguarded. It is hereby provided that no assignment of Department employees to the

Administration, or of the Administration to the Department, may affect negatively, or reduce the salary schedules, rights and benefits of the employees thus assigned.

(d) Authorize the distribution, dispensing, manufacture, and prescription of controlled substances for medical use; supervise the manufacture, distribution, dispensing and delivery of any controlled substance included in Classifications II through V; seize controlled substances used medically, and property, connected with the unauthorized possession of controlled substances for medical use.

(e) Investigate any violation of a criminal or administrative nature of Act No. 4 of June 23, 1971 as amended, [24 L.P.R.A. § 2101 et seq.], known as the "Puerto Rico Controlled Substances Act", when said violations are related to the manufacture, distribution, dispensing and delivery of any controlled substance included in Classifications II, III, IV and V of said Act, and those related to controlled substances in Classification I, when a certificate of registration has been issued to perform research with said substances.

(f) Delegate on the Controlled Substances Inspectors all the faculties that correspond to an officer of the law, which include, among others, the power to have, hold, bear, transport and use firearms under the provisions of Act No. 17 of January 19, 1951, as amended, known as the "Weapons Law of Puerto Rico", the power to make arrests, to enforce and serve search orders and subpoenas, the power to seize property pursuant to the provisions of Section 512 of Act No. 4 of June 23, 1971 as amended, [24 L.P.R.A. § 2512], and the power to take oaths and sworn statements, as well as the powers related to the registration of manufacturers, distributors, and dispensers, and any others deemed necessary or convenient.

(g) After notification by the Puerto Rico Physicians Examining Board, of every resolution or order imposing sanctions on a physician, the Secretary shall take the necessary measures with regard to the registries of persons duly-authorized to prescribe controlled substances.

**Section 8. — Administrator.** (3 L.P.R.A. § 402g)

The operations and functions of the Administration shall be coordinated by an Administrator appointed by the Secretary, who shall fix his/her salary.

The person who fills the position of Administrator shall have sufficient knowledge and experience in the field of behavioral science, and administrative skills that will qualify him/her to enforce the public policy related to mental health and addiction.

The Administrator shall carry out the following duties and functions:

(a) Exercise the nominating function, being empowered hereby to appoint, contract, transfer, remove and assign responsibilities and confer faculties on the Administration's personnel based on criteria that propitiate the most efficient use of all resources.

(b) Delegate on subordinates those faculties, powers, duties and responsibilities he/she deems convenient to expedite the administrative duties and rendering of services.

(c) Contract personnel from other departments and agencies, instrumentalities, public corporations and municipalities, outside of regular working hours, who are indispensable for the operation of the Administration and its programs, in the fields of psychiatry, psychology, social work, rehabilitation counseling, vocational training, medical technology, occupational therapy and chemistry, without being subject to the provisions in Article 177 of the Political Code of Puerto Rico [3 L.P.R.A. § 551], with the prior authorization of the head of the corresponding government body.

With regard to the contracting of technical and specialized personnel from other agencies, the Administrator shall contact the Central Personnel Administration Office and the Employment Service, leaving written evidence of its efforts to recruit the necessary personnel for the Administration's programs, and the impossibility to find said personnel outside of the government agencies.

(d) Perform studies and investigations of a social, technical and scientific nature that are needed to perform their functions and to advise public and private institutions and organizations. For this purpose, a research and training institute shall be established and shall operate within the Administration.

(e) Promulgate, amend and repeal norms and regulations for the internal operation of the Administration, and those that are needed to enforce this Act and the Administration's programs.

(f) Procure, offer and assign through the parameters and procedures established by Regulations, whatever technical, professional and financial assistance is deemed necessary to coordinate, expand, improve and implement the prevention, treatment and rehabilitation programs carried out by private institutions and organizations. This assistance may be in the form of money, services, supplies, or the granting of real and movable property, free of charge. He/she shall also supervise, evaluate and control the use of Commonwealth funds in behalf of the institutions or organizations that receive financial aid or free grants by virtue of this Act, or through legislative appropriations. At least one annual report shall be required from each organization that receives financial, technical or professional aid, which shall contain a breakdown of the use of the resources thus assigned. This report shall be public.

(g) Review and study legislation, regulations or administrative orders that govern the government functions, programs and bodies that have been transferred to the Administration, and submit the recommendations that he/she deems are necessary and convenient, to the Secretary.

(h) Request and obtain the cooperation of other departments, instrumentalities and public corporations or municipalities, with regard to the use of personnel, offices, equipment, supplies and others. These bodies are authorized to render said cooperation to the Administration.

(i) Establish and implement an intense and far-reaching education and orientation program in public and private schools and the community in general, on the biopsychosocial problems under its jurisdiction, and the mechanisms for prevention, treatment and rehabilitation.

(j) Draft and submit the budget request to the Office of Management and Budget, with the Secretary's approval.

(k) Acquire in any way, the equipment, supplies, services and real and movable property that are needed for the operation of the Administration.

(l) Administrate any federal program which, in its nature, purpose and scope is related to the Administration's functions. To such ends, it shall enter into whatever covenants and agreements are needed so that the Government of Puerto Rico can receive such funds and benefits.

(m) Enter into agreements with the corresponding government bodies of the various states of the Union and the federal government, for the exchange of information on programs, studies and research related to the functions which have been entrusted to it in this Act.

(n) Establish, in coordination with the Secretary, such covenants, contracts and agreements leading to transfer [of] the operation of mental health or addiction programs and services to private non-profit or profitable entities, subject to applicable laws and regulations.

(o) Designate an Administration official as his/her representative on the Transfer Committee.

(p) Compile, process the statistical data and render reports required by the U.S. Secretary of Health and Human Resources with respect to the prohibition of sale, distribution of cigarettes and tobacco products to minors under eighteen (18) years of age, when said reports are a requirement or condition for the granting of federal funds. Provided, That in the compliance of said functions, any source of information may be used whose accuracy and reliability cannot be reasonably doubted.

(q) As part of the powers necessary and convenient to carry out the purposes and provisions of this Act, the Administrator shall also:

(1) Outline and direct the purposes of the strategic plan towards the control and prevention, treatment and rehabilitation from the use of drugs and other addictive substances, with special emphasis on prevention and treatment, for which purpose he/she shall design an all-encompassing program to be given extensive public diffusion through schools and other educational institutions on the Island, in order to dissuade the general population, especially the young population, from engaging in the detrimental habit of using illegal drugs and other addictive substances.

(2) Incorporate into the strategic plan the efforts undertaken in Puerto Rico, the United States of America, and other jurisdictions, after having evaluated their results and effectiveness, in agreement with the public policy of the Government of Puerto Rico.

(3) Coordinate the available resources and follow-up on the implementation of the public policy established for the control, prevention, treatment and rehabilitation efforts concerning the harmful use of drugs.

(4) Coordinate the plans of action and the efforts undertaken by the government bodies for controlling illegal drug trafficking and for the prevention, treatment, and education programs concerning the use and abuse of drugs and other addictive substances.

(5) Coordinate, evaluate and supervise the availability and use of the resources and compliance with the strategic plan by the agencies that implement programs and activities subject to the coordination of the Administration so that they may adjust to the public policy adopted. Furthermore, it shall coordinate the establishment of a technical support and assistance system to optimize the performance of said agencies.

(6) Advise the Governor and the Legislature about the mechanisms employed to reduce drug use and those established for the prevention, treatment, rehabilitation and education pertinent to the use and abuse of drugs and other addictive substances, and each January, he/she shall submit an annual report on the efforts made pursuant to this subsection to the Legislature and the Governor of Puerto Rico at the beginning of the first regular session of the year.

**Section 9. — Diagnosis, Treatment and Rehabilitation of Mentally Disordered and/or Addicted Persons—Admission to Institutions.** (3 L.P.R.A. § 402h)

The Administration and/or those institutions licensed thereby shall admit persons with mental disorders and/or addiction, whose admission has been ordered by any court of

competent jurisdiction, or to addicts and mentally-ill persons who voluntarily request it, for diagnosis, treatment and rehabilitation in the facilities under its jurisdiction.

Priority for admission to treatment and rehabilitation in the Administration's facilities shall be given to persons of limited financial resources, over others who have the needed financial resources to use private facilities or institutions. The criteria to determine whether a person has limited financial resources shall be used by the Department in rendering medical-hospital services chargeable to public funds within the Medical-Hospital Assistance Plan.

**Section 10. — Judicial Procedure for Involuntary Treatment of Persons with Mental Disorders.** (3 L.P.R.A. § 402i)

The Mental Health Code of Puerto Rico, Act No. 116 of June 12, 1980, establishes the procedure to be followed in those cases that persons manifest mental disorders.

**Section 11. — Judicial Procedure for Addicts.** (3 L.P.R.A. § 402j)

When the Administrator has evidence that any person over eighteen (18) years of age is addicted to narcotic drugs or alcohol, he/she may file a petition through the Secretary of Justice before the part of the court of competent jurisdiction corresponding to the domicile or residence of said person, stating the grounds for the petition, and requesting the court to order the person to be committed to the corresponding facility or institution, after complying with the procedures required in this section. The petition shall include a certificate of the Administrator attesting that there are appropriate facilities available to render the treatment and rehabilitation services.

Once the petition has been filed, the court shall summon the person concerned and shall hold a hearing to the sole effect of determining if there are grounds to intervene with the person. After said determination, the person shall be summoned to appear before the court. The process shall be private, unless the person subject thereto requests that it be public. In all stages of this process, the person affected by the Administrator's petition shall be entitled to be represented by counsel. If the person has no resources to contract legal counsel, the court shall designate a lawyer.

If the court determines that there are grounds to believe that the person is addicted to narcotic drugs or alcohol, it shall order an evaluation of said person.

The court may order that the person be committed to an appropriate institution, for evaluation, for a term that shall not exceed five (5) days. The personnel designated by the Administration to participate in the evaluation of the person, shall present a report within the term of five (5) days from the date the evaluation was made, which shall contain the results of the evaluation, and a conclusion as to whether or not the person is addicted to narcotic drugs or alcohol. No report regarding physical or mental evaluations of the person subject to this procedure, nor any other evidence obtained during the procedure, or as a result thereof, shall be given publicity, or used against the person, and it shall not be admissible in any judicial procedure filed against said person.

Once the reports of the evaluations made have been presented, a hearing shall be held in the part of the court where the procedure was commenced. This shall be governed by the Rules of Evidence and Procedure that apply to civil cases. Based on the evidence presented at the

hearing, the court shall determine whether or not the person is addicted to narcotic drugs or alcohol. If the judicial determination is that the person is addicted, the court shall direct the Administrator to commit said person as a patient for adequate treatment in an institution provided by the Administration for such purposes. The court's resolution which declares that said person is an addict and which orders his/her treatment, shall be compulsory, and the person thus committed shall remain in the institution until he/she has received whatever treatment can be offered to him/her, or until the Administrator certifies the release from or termination of the treatment, to the court.

The Administrator shall designate an official in the institution where the patient is receiving treatment, to submit periodic reports to the court. Said reports shall itemize the way the treatment is developing and any other information required by the court, as well as a specific recommendation as to whether it is advisable that the compulsory treatment shall be continued or not.

When the Administrator or the official on whom he/she delegates recommends to the court that the treatment be discontinued because the patient has recovered, or because he/she has received the maximum treatment offered by the institution, the court shall determine, after hearing the patient, whether he/she should continue to receive treatment. If the court determines that it is not necessary or viable to keep the patient under treatment, it shall order the patient to be released immediately and shall serve a copy of said resolution to the Administrator.

The court, *motu proprio* or by petition of the patient, and after the patient has been undergoing treatment for one (1) year, shall summon the person in charge of the institution which has been giving treatment to the patient, to show cause why the patient has not been released. If the court, after hearing both parties, determines that the patient has received maximum treatment and is rehabilitated, it shall order that he/she be released and shall serve the Administrator with a copy of said Resolution.

Any person who has been declared addicted to narcotic drugs or alcohol shall appear personally before the Administrator or the person upon whom he/she delegates, within two (2) years following the termination of the treatment to which he/she was submitted, during those periods prescribed by regulations, to determine whether the person has relapsed in the use of drugs. During these periodic visits, the person can be subjected to those physical evaluations and toxicologic analyses ordered by the Administrator. If he/she should refuse to comply with the appointments made by the Administrator or the person on whom he/she delegates, the appearance shall be arranged through the same court that determined the addition of the person subject to the procedure provided in this section.

No person who is submitted to compulsory treatment authorized in this section shall be considered as a violator of the "Puerto Rico Controlled Substances Act", Act No. 4 of June 23, 1971 as amended, [24 L.P.R.A. § 2101 et seq.]. Any order of the court ordering treatment in an institution shall not be considered as a criminal conviction or sentence, under any circumstances.

Any person who is addicted to narcotic drugs or alcohol against whom a petition is filed under this section, may waive any of the hearings that are conceded herein and voluntarily request treatment in the institution designated by the court. This person shall be subject to the same obligations that are imposed on the persons who are compulsorily submitted to treatment in the institutions under the provisions of this Act.

**Section 12. — Treatment for Convicts Addicted to Drugs and/or Alcohol.** (3 L.P.R.A. § 402k)

Any person convicted for any public offense who is confined in one of the correctional institutions under the jurisdiction of the Corrections Administrator, and who is addicted to narcotic drugs or alcohol, shall be submitted to treatment which shall be compulsory.

The following procedure is hereby established to evaluate those cases of prisoners who are in the stage of being transferred to the Administration's institutions or private, duly-licensed institutions to continue treatment and rehabilitation, subject to the conditions established through regulations.

(a) The cases shall be submitted to a committee which shall be denominated as the "Transfer Committee", composed of representatives of the Administrator, the Corrections Administrator and duly-licensed private programs that render services to the penal population. Once the case is evaluated, the Transfer Committee shall determine whether the prisoner qualifies for additional treatment and rehabilitation and shall recommend the Corrections Administrator to transfer him/her to the corresponding Administration facility, or private duly-licensed institution which meets the basic requirements, by regulations, to receive this type of population. The Corrections Administrator shall make a final decision with regard to the transfer of prisoners to the Administration's institutions or to private institutions.

(b) Once the transfer is made, the prisoner shall remain in the physical custody of the Administrator or the Director of the private, duly-licensed institution, who shall adopt all those norms, rules and measures needed to guarantee their custody during treatment and rehabilitation, as well as the protection of public safety. The time that the prisoner is subject to treatment and rehabilitation, including the term of leaves provided in this section, shall be credited to his/her sentence.

(c) The Administrator, or the Director of the private institution, may grant permits to the prisoners transferred by the Corrections Administrator to continue treatment and rehabilitation in facilities or institutions under his/her jurisdiction, to visit their homes or for any other purpose, provided that it is determined that the granting of these privileges constitutes a measure that is convenient and necessary for the rehabilitation of the prisoner. These permits shall be granted pursuant to what the Corrections Administrator has established.

(d) The Director of the facility or institution where the prisoner is under treatment, shall recommend the granting of the permit and the terms and conditions thereof, after consultation with the technical personnel in charge of the treatment and rehabilitation of the prisoner in said institution.

(e) After consulting with the Corrections Administrator, the Administrator shall promulgate regulations that will rule everything related to the granting of permits for leave of the prisoners who are committed in Administration facilities or institutions duly-licensed by it.

(f) Upon returning to the institution after a leave, the prisoner shall be submitted to any examinations that are needed to determine whether he/she has used narcotic drugs or depressant or stimulant drugs. The Director of the facility shall interview the prisoner and shall communicate with his/her family as well as the neighbors to evaluate the results of the visit, in order to evaluate the granting of subsequent permits. The time that the prisoner has

been on leave at home through these permits and has had good behavior shall be credited to his/her sentence.

(g) The Administrator or the Director of the private, duly-licensed institution shall keep the Corrections Administrator advised of the development of the treatment and rehabilitation program, and the progress of each case under treatment. If during the course thereof, the Administrator or the Director of the private institution determines, after an evaluation of the case, that the prisoner is not responding to the treatment, or has violated the applicable norms or rules, he/she shall advise the Corrections Administrator of it, who shall proceed to transfer the prisoner to the corresponding penal institution, pursuant to what has been established by regulations.

(h) When the prisoner has completed his/her treatment according to the criteria established by the Administration or the private institution where he/she is undergoing treatment, this fact shall be advised to the Administrator, who shall certify it to the Corrections Administrator.

(i) The Administrator and the Corrections Administrator shall promulgate Regulations for their respective Administrations as needed to enforce the provisions of this Act.

**Section 13. — [Costs, responsibility] (3 L.P.R.A. § 402l)**

The Department of Health and the Corrections Administration shall assume the responsibility for the costs incurred by the Administration or by the duly-licensed programs for the services rendered to the prisoners. The costs shall be established through agreements between the Secretary, the Administrator and the Corrections Administrator.

**Section 14. — Minors Under 18 Years of Age, or Mentally-Impaired. (3 L.P.R.A. § 402m)**

In the case of minors under eighteen (18) years of age who are addicted to narcotic drugs, or dependent on depressant or stimulant drugs, or alcohol, or with mental problems, the Administrator shall first obtain the authorization of the father or mother, the tutor or the person in charge, to offer them treatment or rehabilitation. When the father, mother, tutor or person in charge of a minor or a mentally-impaired person refuses to give said authorization, the Administrator is empowered to initiate the corresponding action before any part of a competent court, for it to authorize the individual's treatment or rehabilitation in the facilities or institutions of the Administration or in private, duly-licensed facilities or institutions.

The Administration or any private duly-licensed program shall admit for treatment and rehabilitation, any minor who is an addict or drug user or who has problems with alcohol, who wants to receive treatment for his/her condition.

**Section 15. — Minors Under Court Jurisdiction. (3 L.P.R.A. § 402n)**

In the case of minors who are addicted to narcotic drugs, or dependent on depressant or stimulant drugs, or who are alcoholics, who are under court jurisdiction, the Administration is empowered to appear before it and request that the minor be referred and confined in a specific facility of the Administration, or in private, duly-licensed institutions, for diagnosis,

treatment or rehabilitation. The court may direct, in consideration of the Administration's petition and the minor's and the community's welfare, that the minor be placed in the custody of the Administration, for it to admit the minor to the institution that is adequate for his/her treatment and rehabilitation. The Administrator shall not terminate the period of custody, nor may remove the minor from the court's jurisdiction without its prior authorization. The Administration shall coordinate with the court for it to report all those cases in which minors addicted to narcotic drugs, or dependent on depressant or stimulant drugs, or alcohol, are involved.

**Section 16. — Licensing of Institutions.** (3 L.P.R.A. § 402o)

The Administrator is the only official who is authorized to issue, deny, renew or revoke licenses for the operation of facilities and institutions, public as well as private, engaged in the prevention, non-medicated treatment, and rehabilitation of persons with mental disorders, addiction or dependence on narcotics, depressant or stimulant substances, including alcohol.

The Administrator is hereby empowered to establish the necessary regulations to issue licenses to said institutions and facilities. He/she shall also regulate the operation of said facilities and institutions.

The licenses granted by the Administration shall be for a term of two (2) years. The Administrator shall require compliance of minimum requirements which if not complied with shall bring about the revoking of the license granted hereby, after a hearing to such effects. The Administrator shall establish the costs that the institution requesting the license must pay, by regulations, establishing categories between profit and nonprofit institutions. The regulations adopted by the Administrator to such effects, shall establish among other requirements for the granting and renewal of licenses, that the applicant shall describe the nature and philosophy of the prevention, treatment or rehabilitation program it will use, accrued experience, if any, objective data with regard to the program's probability of success, evidence of the professional administrative and financial competence of the applicant entity and its personnel, a description and capacity of the physical facilities in which it will operate, the clients it will serve, and the evaluating and auditing systems it has in place. The Administrator, by him/herself or through his/her duly authorized representative shall visit and inspect the facilities and institutions described above, at least once every eight (8) months for the purpose of ascertaining that the same are operating pursuant to the provisions of this Act and the rules and regulations promulgated and the provisions of the license application form.

Among its licensing powers, the Administrator may request the institutions any information and documents that he/she deems pertinent, and may also inspect its facilities. The Administrator may request the assistance of the court of competent jurisdiction to enforce its powers and prerogatives over these institutions. Provided, That the Administrator shall establish an ongoing monitoring of these facilities and institutions to ensure the continued quality and effectiveness of the services rendered, and to protect the best interests of the patients. The Administrator may suspend or revoke said licenses at any time, after a hearing to such effects, when he/she determines that a facility or institution has failed to meet the established requirements of quality and effectiveness.

**Section 17. — Effectiveness of agreements, covenants, claims and contracts.** (3 L.P.R.A. § 402p)

No provision of this Act shall be construed as modifying, altering or invalidating any agreement, contract, covenant or claim in effect on the date of approval of this act and during the transfer period. Once the transfer is completed, the Administrator may negotiate, terminate, or modify said agreements, covenants, or contracts, through regulations approved to such effects.

**Section 18. — Regulations.** (3 L.P.R.A. § 402q)

So that the continuity of the programs and services are not affected negatively by the transfers authorized by this Act, it is hereby authorized as a transitional measure, that those regulations, rules and orders that apply to the Department of Addiction Services, and the Deputy Secretariat of Mental Health of the Department of Health, which are not in conflict with this Act, shall continue in effect until they are amended, repealed or replaced by the Administrator. The regulations authorized under this Act shall be promulgated within one (1) year from the date of approval of this act.

**Section 19. — Reference.** (3 L.P.R.A. § 402r)

Any statute that refers to the Department of Addiction Services or the Deputy Secretariat of Mental Health of the Department of Health, shall be construed to refer to the Administration of Mental Health and Addiction Services, as of the effective date of this act.

**Section 20. — Personnel.** (3 L.P.R.A. § 402s)

With regard to the transfers provided by this Act, all employees affected thereby are hereby guaranteed all the rights, privileges, obligations and conditions acquired under the personnel laws and regulations in effect on the date of approval of this act, as well as those concerning the retirement system, and savings and loan funds to which they are affiliated or have availed themselves of, on the approval of this act.

The Secretary or the Administrator shall take any measures needed to transfer, relocate, reclassify or carry out any other personnel transaction, so that the employment security of the employees affected by this Act is protected to the maximum.

The Administrator shall be an individual administrator pursuant to the provisions of Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act", and shall follow the norms of the merit system.

**Section 21. — Transitional Measures.** (3 L.P.R.A. § 402 note)

The Governor and the Secretary are hereby authorized to adopt any transitional measures that are needed so that the transfers decreed by this Act are carried out without affecting the administrative processes and functions of the transferred programs and matters.

The Secretary of Health and the Secretary of Addiction Services are hereby empowered to initiate the necessary or pertinent measures to carry out the transfers contemplated in this Act from the date of its approval, notwithstanding the effective date of this Act.

**Section 22. — Repeal.**

Act No. 60 of May 30, 1973, as amended [3 L.P. R.A. § 401 et seq.], known as the Puerto Rico Department of Addiction Services Organic Act", is hereby repealed.

**Section 23. —** [Omitted. This section amended sections 4, 5 and 8 of Act No. 11 of June 23, 1976, as amended]

**Section 24. — [Separability]** (3 L.P.R.A. § 402 note)

If any Article, Section or provision of this Act were found to be null or unconstitutional in whole or in part, by a Court of competent jurisdiction, its nullity or unconstitutionality shall not affect, impair or invalidate the remaining provisions of said Article, Section or provision, nor this Act.

**Section 25. — Effectiveness.** (3 L.P.R.A. § 402 note)

This Act shall take effect sixty (60) days after its approval, with the exception of Sections 21 and 24 which shall be effective immediately.

**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.