

(H. B. 895)
(Reconsidered)

(No. 60-2021)

(Approved November 4, 2021)

AN ACT

To add a new paragraph (1) to subsection (a) of Section 2021.03 of Act No. 60-2019, as amended, known as the “Puerto Rico Incentives Code,” in order to empower the Secretary of the Department of Economic Development and Commerce to grant the decrees provided in said Section to eligible specialist and subspecialist physicians after December 31, 2020, subject to the issuance by the Secretary of Health of a Special Certification due to Urgent Need for Specialist and Subspecialist Physicians, clearly and accurately providing the medical specializations and sub specializations that are in high demand based on the citizenry’s urgent need for services, medical conditions in Puerto Rico, and the shortage or lack thereof; provide for coordination with the Secretary of the Treasury; establish the duties and responsibilities of the agencies concerned; provide for the filing of reports with the Legislative Assembly and the Governor; and for other related purposes.

STATEMENT OF MOTIVES

Natural disasters such as hurricanes or earthquakes, as well as emergencies such as pandemics, disrupt our individual peace and transform our social environment. The “new” realities appear suddenly affecting our families, jobs, and the essential services we receive from the Government. It is in times of great need that we require timely and decisive action and when our “social contract” with the State becomes relevant. The mission of the State in modern society is to ensure the highest quality of life possible for its citizens. Issues such as health, the rendering of essential services, and the promotion of economic development, among others, are critical to accomplish such mission, because they have an impact on all aspects of citizens’ individual, family, and professional lives. The mission of the Government

is to ensure and seek a better quality of life for its people, thus, in times of crisis and emergencies the State must rise to the occasion and prove its worth to the people.

Hurricanes Irma and Maria, the earthquakes, and the COVID-19 pandemic have stressed our need for a robust health care system that has the human resources required to handle these situations. The lack of health care professionals, particularly medical specialists and subspecialists, is a critical issue that should be addressed as a priority since it has an impact on the rendering of such services to our society.

As a result of the aforesaid, Act No. 60-2019, known as the “Puerto Rico Incentives Code,” was amended by Act No. 47-2020 and Act No. 106-2020 to extend the deadline for “qualified physicians” to request a tax decree as the government’s method to promote the retention and recruitment of said professionals. This deadline expired on December 31, 2020, therefore, no new decrees may be issued even though the need continues.

Rather than setting a new deadline and legislating the matter all over again, this legislation seeks to empower the Secretary of the Department of Economic Development and Commerce to grant the aforesaid tax decrees to the medical specialists and subspecialists that are included in the Special Certification due to Urgent Need for Specialist and Subspecialist Physicians issued by the Secretary of Health. Said certification shall clearly and accurately provide the medical specializations and subspecializations that are in high demand based on the citizenry’s urgent need for services, the medical conditions in Puerto Rico, and the shortage or lack of services under said specialization or subspecialization.

For all of the foregoing, this Act seeks to address this issue by establishing, as an exception, a dynamic but fiscally responsible administrative process that enables the Secretary of Health to identify compelling medical needs. Said process shall be implemented by the Department of Economic Development and Commerce in coordination with the Department of the Treasury, in order to retain and recruit

specifically such professional resources deemed fundamental and critical to provide our constituents with an adequate and efficient health care system that promotes the welfare of our people. This Act enshrines the State's commitment to society and its institutions in a modern and effective manner in order to ensure a better quality of life for all Puerto Ricans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new subsection (1) is hereby added to Section (a) of Section 2021.03 of Act 60-2019, as amended, known as the "Puerto Rico Incentives Code," to read as follows:

"Section 2021.03 - Qualified Physicians

(a) Every individual admitted to the practice of general medicine or any medical specialty, podiatric medicine; audiology; chiropractic; optometry; or who is a dental surgeon or practices any dental specialty and meets the requirements of Section 2023.02 of this Code, may apply to the Secretary of the DEDC to be granted the economic incentives provided in Section 2022.04. Every Qualified Physician who is a Puerto Rico resident, as defined in Section 1010.01(a)(30) of the Internal Revenue Code, shall have until December 31, 2020, to apply for a Decree under this Chapter. Likewise, every Qualified Physician who is not a Puerto Rico resident as of the effective date of this Code, as defined in Section 1010.01(a)(30) of the Internal Revenue Code, shall have until December 31, 2020, to apply for a Decree under this Chapter. No applications shall be received after the aforementioned dates. Applications filed after April 21, 2019, shall be considered under the provisions of this Code.

(1) Special Decree due to Urgent Need for Specialist and Subspecialist Physicians/Discretionary Authority

The Secretary of the DEDC may grant the decrees provided in this Section after December 31, 2020 to Qualified Physicians, whether they are Puerto Rico residents or nonresidents, if the Secretary of Health has previously issued a Special Certification due to Urgent Need for Specialist and Subspecialist Physicians. Qualified Physicians shall apply for the Special Certification to the Secretary of Health who shall determine whether or not to issue it based on the urgent needs of the people, the medical conditions in Puerto Rico, and the shortage or lack of services under the eligible specializations or subspecializations in any public entity or region of Puerto Rico. When evaluating the application for Decree, the Secretary of the DEDC may require such information and/or documentation deemed pertinent. The granted decree shall include all benefits and requirements provided in this Act applicable to Qualified Physicians. However, the Secretary of the DEDC may establish other additional requirements if he deems it appropriate and pertinent to ensure the attainment of the objectives sought through the recruitment of specialist and subspecialist physicians under these exceptional circumstances. Every decree shall be approved by the Secretary of the Treasury before the granting thereof. Similarly, the certification issued by the Secretary of Health may limit the eligibility for the decree to the rendering of services in a specific public entity, region, or area of Puerto Rico with an urgent need to and shortage or lack of a medical specialization or subspecialization. Likewise, the Secretary of the DEDC and the

Secretary of Health shall exercise this discretionary authority while taking into account the measures necessary to control the fiscal impact of these provisions, including, but not limited to, the authority to implement such provisions with restrictions and the authority to receive and approve applications for decree and to issue the certifications provided in this Act. Every Qualified Physician who is a Puerto Rico resident, as defined in Section 1010.01(a)(30) of the Internal Revenue Code, shall have until December 31, 2024 to apply to the Secretary of Health for a Special Certification under this Chapter. Likewise, every Qualified Physician who is a Puerto Rico nonresident as of the effective date of this Code, as defined in Section 1010.01(a)(30) of the Internal Revenue Code, shall have until December 31, 2024 to apply to the Secretary of Health for a Special Certification under this Chapter. Applications filed after the aforesaid dates shall not be accepted.

(b) ...”

Section 2.- Duties and Responsibilities of Agencies / Reports

The Department of Health shall have the duty to evaluate the health care needs of Puerto Rico and issue a Special Certification due to Urgent Need for Specialist and Subspecialist Physicians within thirty (30) days from the approval of this Act.

The Department of Economic Development and Commerce shall have the duty to evaluate and grant decrees under this Act in accordance with Section 6020.01 of the Puerto Rico Incentives Code.

The Department of Economic Development and Commerce and the Department of the Treasury shall have the duty to ensure that every decree granted by discretionary exception under this Act complies with the Principle of Fiscal

Neutrality and, therefore, has a neutral impact on the Certified Budget for the Government of the Commonwealth of Puerto Rico or, in lieu thereof, that its implementation has no significant impact on the treasury while Public Law No. 114-187, the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), is in effect.

The Department of Economic Development and Commerce and the Department of Health shall have the duty to prepare and deliver, separately, a report to the Legislative Assembly and the Governor of Puerto Rico stating in detail all that pertains to the attainment of the objectives of this Act. The first report shall be filed with the Office of the Secretary of the Senate and Clerk of the House of Representatives, and the Office of the Governor within sixty (60) days from the approval of this Act. After the filing of the first report, the Department of Health shall file an updated report stating any relevant information on this matter on February 1st of each year. Said report shall include, but not be limited to, how the implementation of the authorities provided herein shall impact and benefit Puerto Rico's Health Care System, as well as the savings achieved for the Government of Puerto Rico, and its correlation with the fiscal impact of this Act.

In addition to the Report herein required, the Secretary of Health shall furnish the Legislative Assembly on a quarterly basis, with a copy of every Special Certification due to Urgent Need for Specialist and Subspecialist Physicians issued by him, including the special certifications issued to certain public entities or regions or areas of Puerto Rico with an urgent need and shortage or lack of services from a medical specialization or sub specialization. For each quarterly notification, every copy of a Special Certification due to Urgent Need for Specialist and Subspecialist Physicians shall be accompanied by a note of the Secretary of Health justifying the Special Certification based on an urgent need of the people, the medical conditions in Puerto Rico or the shortage or lack of services of the eligible specialization or

subspecializations in any Public entity or region of Puerto Rico. Moreover, the Secretary of the DEDC shall notify the Legislative Assembly on a quarterly basis with a copy of the Special Decrees due to Urgent Need for Specialist and Subspecialist Physicians granted and denied.

Section 3.- Severability

If any section, provision, paragraph, subsection, or part of this Act were held to be void or unconstitutional by a competent Court, it shall be understood that the remaining provisions thereof shall continue in full force and effect.

Section 4.- Effectiveness.

This Act shall take effect upon its approval.