<español>

"Puerto Rico Health Insurance Administration Act"

Act No. 72 of September 7, 1993, as amended,

(Contains amendments incorporated by:
Act No. 1 of January 8, 1994
Act No. 139 of December 14, 1994
Act No. 29 of July 1, 1997
Act No. 83 of June 13, 1998
Act No. 88 of May 24, 2000
Act No. 107 of June 22, 2000
Act No. 372 of September 2, 2000
Act No. 462 of December 29, 2000
Act No. 463 of December 29, 2000
Act No. 12 of April 11, 2001
Act No. 100 of August 10, 2001
Act No. 105 of July 19, 2002
Act No. 64 of January 8, 2003
Act No. 133 of June 1, 2003
Act No. 334 of December 29, 2003
Act No. 482 of September 23, 2004
Act No. 63 of August 23, 2005
Act No. 27 of January 23, 2006
Act No. 236 of November 3, 2006
Act No. 125 of September 21, 2007
Act No. 78 of June 2, 2008
Act No. 100 of June 27, 2008
Act No. 267 of August 13, 2008
Act No. 120 of October 7, 2009
Act No. 127 of October 19, 2009
Act No. 128 of October 19, 2009
Act No. 20 of February 26, 2010
Act No. 123 of August 8, 2010
Act No. 173 of November 23, 2010
Act No. 197 of December 15, 2010
Act No. 198 of December 15, 2010
Act No. 227 of December 30, 2010
Act No. 205 of October 18, 2011
Act No. 112 of June 13, 2012
Act No. 192 of August 22, 2012
Act No. 65 of July 19, 2013
Act No. 134 of November 20, 2013
Act No. 5 of January 3, 2014
Act No. 76 of July 1, 2014
Act No. 172 of October 8, 2015)

[Amendments non-incorporated:
Act No. 62 of May 4, 2015 *(amended Sect. 6, Art. VI)*
Act No. 177 of August 13, 2016 *(amended Sect. 6, Art. VI)*
Act No. 253 of December 6, 2018 *(amended Sect. 9, Art. VI)*
Act No. 29 of May 23, 2019 *(amended Sect. 9, Art. VI)*
Act No. 10 of January 3, 2020 *(amended Sect. 6, Art. VI)*
Act No. 19 of January 12, 2020 *(amended Sect. 6, Art. VI)*
Act No. 105 of August 13, 2020 *(amended Sect. 3, Art. VI)*
Act No. 162 of December 30, 2020 *(amended Sects. 4 and 13, Art. VI)*]
Act No. 69 of December 27, 2021 *(amended Sect. 6, Art. VI)*
Act No. 78 of December 30, 2021 *(amended Sects. 10 and 14, Art. VI)*
Act No. 89 of October 14, 2022 *(amended Sect. 3, Art. VI)*
Act No. 40 of February 21, 2023 *(amended Sect. 6, Art. VI)*
Act No. 73 of July 17, 2023 *(added new Sect.7, Art. VI)*

To create the Puerto Rico Health Insurance Administration; to establish its organization, purposes, duties and functions; to establish health insurance; and to appropriate funds.

Be it enacted by the Legislature of Puerto Rico:

ARTICLE I. — TITLE.

Section 1.— (24 L.P.R.A. § 7001 note)

This Act shall be known as the "Puerto Rico Health Insurance Administration Act", (A.S.E.S. in Spanish), hereinafter known as the "Administration".

ARTICLE II. — STATEMENT OF LEGISLATIVE INTENT. (24 L.P.R.A. § 7001)

As part of a radical reform of the health services in Puerto Rico, this Act is established to create the Puerto Rico Health Insurance Administration. It is a public corporation with full authority to develop the functions entrusted by this Act.

The Administration shall have the responsibility to implement, administer, and negotiate a health insurance system by means of contracts with insurers and/or Health Services Organizations, as such term is defined in Act No. 113 of June 2, 1976, as amended, known as the "Health Services Organizations Act," incorporated into the Insurance Code of Puerto Rico (Section 19.020 et seq.), which shall eventually give all the residents of the Island access to quality medical and hospital care, regardless of the financial condition and ability to pay of those who require them.

From the turn of this century, the public health policy of Puerto Rico has revolved around the viewpoint that the government has the responsibility of rendering direct health services.

Pursuant to this policy, two health systems have evolved which are notably unequal. In general terms, we can affirm that the quality of health care in Puerto Rico has come to depend predominantly on the financial capacity of the person to cover the cost thereof with his/her own resources.

Within this scheme, the care of the medically-indigent sector of our population has fallen upon the Department of Health. The good intentions of its officials have not been sufficient to counteract the adverse effects on the quality of the Department, factors such as: budget insufficiency; rising cost of technology and medical supplies; bureaucratic growth and, centralism; and the interference of party politics with departmental efforts.

Since 1967, there have been several attempts in Puerto Rico to reform the medical and hospital services of the Department. However it has not been possible to narrow the ever-widening gap between the quality of public and private services.

This experience provides the background of the public policy set forth by this Act. This public policy is the following: The Administration shall approach, negotiate and contract health services insurance companies and providers to provide quality medical and hospital services, particularly to those who are medically-indigent.

The Administration also shall establish control mechanisms addressed to prevent an unjustified rise in the costs of health services and insurance premiums.

ARTICLE III. — DEFINITIONS.

Section 1. — Terms and Phrases. (24 L.P.R.A. § 7002)

For the purposes of this Act, the following terms and phrases shall have the meaning set forth below:

(a) Administration. — Puerto Rico Health Insurance Administration.

(b) Beneficiary Alliances. — groups of beneficiaries represented by the Administration in the negotiation of the Health Plan coverage benefits they need. These groups are composed of the beneficiaries of the Department of Health, or other groups that may avail themselves of the activities of the Administration in the future.

(c) Employer Contribution. — portion of the cost of the premium paid by the employer of the beneficiary.

(d) Personal Contribution. — portion of the cost of the premium paid by the beneficiary.

(e) Insurer. — the entity that assumes the contractual risk by being a paid a premium, duly-authorized by the Insurance Commissioner to do business in Puerto Rico; or the entity on which the Administration delegates through a contract the adjudication of the processing of the payment for services, in contracts between the Administration and participating purveyors.

(f) Internal Fiscal Audit. — the procedure established by the Administration to compile the information needed to corroborate that the services rendered to the beneficiaries were provided on the basis criteria of necessity and the same were billed correctly.

(g) Medicare Beneficiary. — a person eligible for the Federal Medicare Program who also meets the requirements to be a beneficiary of the Administration.
(h) Co-insurance. — percentage-based share of the beneficiary for each loss or portion of the cost of receiving a service.
(i) Commissioner. — Insurance Commissioner of Puerto Rico.
(j) Health Benefit Coverage. — all benefits for the beneficiaries included in a health plan.
(k) Department. — Department of Health of the Commonwealth of Puerto Rico.
(l) Executive Director. — The Executive Director of the Puerto Rico Health Insurance Administration.
(m)Emergency. — refers to a medical condition this manifested by sufficiently severe, acute symptoms, including severe pain, which a reasonable prudent layperson, having average knowledge of medicine and health, may expect that the lack of immediate medical assistance could place the health of the person in grave danger, or would result in a serious dysfunction of any organ or member of the body; or with regard to pregnant women having contractions, the lack of sufficient time to transfer her to other facilities before the delivery, or that her transfer would represent a threat to the health of the woman or the unborn baby.
(n) Entity. — any organization with its own legal status, organized or authorized to do business under to the laws of Puerto Rico.
(o) Health Facilities. — those defined in Act No. 101 of June 26, 1965, as amended.
(p) Primary Medical Group. — profitable or non-profitable entity that groups or associates primary physicians.
(q) Supporting Medical Group. — either a profitable or non-profitable entity which groups or associates supporting physicians.
(r) Group of Primary Purveyors. — a profitable or non-profitable entity which groups or associates primary purveyors.
(s) Board of Directors. — Board of Directors of the Puerto Rico Health Insurance Administration.
(t) Act. — "Puerto Rico Health Insurance Administration Act".
(u) Supporting Physician. — the participating professional, purveyor who provides complementary and support services to primary physicians. In order to obtain these benefits, the beneficiary must be referred by the primary physician. The following are considered to be support physicians: cardiologists, endocrinologists, neurologists, psychiatrists, ophthalmologists, radiologists, nephrologists, physiotherapists, orthopedists, general surgeons and other physicians not included in the definition of primary physician.
(v) Primary Physician. — the participating professional purveyor who evaluates and initially treats the beneficiaries. He/she is responsible for determining the services needed, by the beneficiary provide continuity, and to refer the beneficiaries for special services. The following: are considered to be Primary Physicians: internists, family doctors, pediatricians, gynecologists and obstetricians.
(w) Health Services Organizations. — The Administration shall have the responsibility to implement, administer, and negotiate a health insurance system by means of contracts with insurers and/or Health Services Organizations, as such term is defined in Act No. 113 of June 2, 1976, as amended, known as the "Health Services Organizations Act," incorporated into the Insurance Code of Puerto Rico (Section 19.020 et seq.), which shall eventually give all the residents of the Island

access to quality medical and hospital care, regardless of the financial condition and ability to pay of those who require them.

(x) Capitation. — the part of the premium paid to the insurer that is transferred to the purveyor in payment of the benefits provided under health benefit coverage's to the beneficiary represented by the Administration or such fixed payment made by the Administration to the participating purveyor for each beneficiary.

(y) Healthcare Plan. — Any contract through which a person is committed to provide to a beneficiary or group of beneficiaries, specific healthcare services, whether directly or through a healthcare provider, or to pay all or part of the cost of said services, in consideration of the payment of an amount prefixed in said contract, which is considered to be due regardless of whether or not the beneficiary uses the healthcare services provided by the plan. Notwithstanding the foregoing, said plan shall provide mainly for the rendering of healthcare services, as opposed to a mere indemnification for the cost of such services.

(z) Pre-authorization. — a written authorization of the insurer to the beneficiary granting authorization to obtain a benefit. The beneficiary shall be responsible for obtaining such pre-authorization from the insurer in order to obtain the benefits it requires. Failure to obtain the pre-authorization when required shall prevent the beneficiary from obtaining the benefit, and the granting of the pre-authorization binds the issuer to pay the service thus authorized.

(aa) Premium. — remuneration granted to an insurer for assuming a risk through an insurance contract.

(bb) Basic Premium. — the lowest premium from among all those contracted with the insurers.

(cc) Health Services Purveyor. — shall consist of primary physicians, support physicians, primary services, primary purveyors and health service organizations.

(dd) Participating Purveyor. — a health service purveyor contracted by the insurers by or the Administration to provide health services to the population represented by the Administration.

(ee) Primary Purveyors. — shall consist of participating purveyors that are clinical laboratories, radiology facilities pharmacies and hospitals, without including emergency rooms.

(ff) Referral. — written authorization issued by the selected primary physician that allows the beneficiary to receive a service from another participating purveyor within a specific period of time.

(gg) Secretary. — Secretary of the Department of Health.

(hh) Primary Services. — the emergency rooms of the participating purveyors.

ARTICLE IV. — PUERTO RICO HEALTH INSURANCE ADMINISTRATION.

Section 1. — Creation. (24 L.P.R.A. § 7003)

A public corporation is hereby created, as an instrumentality of the Commonwealth of Puerto Rico, under the name of Puerto Rico Health Insurance Administration. The Administration shall have existence in perpetuity with a juridical personality, independent and separate from any other entity, agency, department or instrumentality of the Government of Puerto Rico, and shall be governed by a Board of Directors.

Section 2. — Purposes, Functions and Powers. (24 L.P.R.A. § 7004)

The Administration shall be the government body in charge of implementing the provisions of this Act. To such purposes, it shall have the following powers and functions which shall rest on its Board of Directors:

(a) To implement medical-hospital service plans based on health insurance.

(b) To negotiate and contract medical hospital insurance coverage with public and private insurers and health services organizations, as defined and established in Article VI of this Act.

(c) Directly negotiate and contract with health service purveyors, those health services that the Administration deems convenient, considering the capacity and structure thereof.

(d) Organize alliances and conglomerates of beneficiaries with the purpose of representing them in the negotiation and contracting of their health plans.

(e) Directly negotiate and contract with health service purveyors, those health services that the Administration deems convenient, considering the capacity and structure thereof.

(f) To adopt, modify and use an official seal.

(g) To establish an administrative and financial structure that will allow them to manage their funds and revenues, administer cash and make disbursements.

(h) To sue and be sued.

(i) To request, accept and receive federal, state, municipal and any other kind of contributions.

(j) To establish guidelines for the appointment, contracting and remuneration of its personnel

(k) To negotiate and award any kind of contract, document and other public instrument with juridical persons and entities.

(l) To acquire goods, for corporate purposes, through purchase, gift, concession or bequest; to possess and exercise full property rights thereon and to dispose of them according to the terms and conditions determined by its Board of Directors.

(m) To perform all the acts that are necessary and convenient to execute the purposes of this Act, except that the Administration shall not have the power to pledge the credit of the Commonwealth of Puerto Rico or of any of its political subdivisions.

(n) To establish in the contracts underwritten with insurers, participating providers, and health service organizations:

1) A guarantee of the payment of the medical-hospital care received by its beneficiaries, even though it is rendered outside of the health area where the beneficiaries reside, due to an emergency or urgent need.

2) The evaluation mechanisms and those of any other nature which will guarantee all aspects, that directly or indirectly, affect the accessibility, quality, costs control and use of services, as well as the protection of the rights of the beneficiaries and the participating purveyors.

3) The performance as secondary payer, of the medical insurance contracted by the Administration, in the event the person eligible to receive services has other medical insurance.

4) To bar service purveyors from billing patients directly for the balance that the insurance company did not pay out for services rendered in emergency rooms, which, as patients, they are not under the obligation to pay. Insurers shall be responsible to pay one hundred percent (100%) of the amount stipulated in their contract. This does not include deductibles.

(o) To direct the insurers, health service organizations, and participating providers to furnish the information that the Administration deems necessary to follow up on the strict compliance with this Act, to keep a record of the services rendered in categorical programs subsidized by the Federal Government that have been delegated, and to document the relationship of their beneficiaries, payment claims, and the pertinent financial and statistical reports. In case of noncompliance, the Administration may resort to the Court of First Instance of Puerto Rico, San Juan Part, to request it to order the delivery of the required information.

(p) To approve, amend and repeal regulations to govern the business and activities of the Administration and to prescribe the rules and norms needed to comply with its functions and duties, as established in Act No. 170 of August 12, 1988, as amended, known as the "Commonwealth of Puerto Rico Uniform Administrative Procedures Act" *[Note: Repealed and replaced by Act No. 38-2017]*.

(q) To order all the studies that are needed to comply with the mandate of this Act.

(r) To maintain a Continuing Education and Prevention Division for the promotion, development, emphasis, and strengthening of activities and training for the providers participating in the Health Plan to be established and managed by the Administration, according to norms and procedures thereof and the funds assigned to the same for these purposes, including but not limited to:

1) Maintaining said participating providers informed about the operations of the system, its procedures, those changes it may undergo, and any other information related to the management of the health services provided for the beneficiaries of the Administration, according to this Act.

In the exercise of this duty, the Administration may use communication methods or strategies, such as the publishing of an informational bulletin, press releases, or coordinating the educational and prevention seminars for such ends, among others, jointly with the Puerto Rico Surgeons Association and other associations and entities established by law, in representation of the participating providers.

(s) Impose civil fines up to a maximum of twenty thousand dollars ($20,000) per violation to any insurer, health service organization, service provider, pharmacy benefit manager, or any intermediary organization contracted by insurers that violates any provision of this Act and of any other law and its concomitant regulations, which the Administration is responsible for implementing, as well as any noncompliance with any obligation acquired by virtue of the agreements entered into with the Administration in compliance with the duties assigned thereto by said laws. The Administration shall adopt and promulgate the regulations deemed convenient and necessary for the proper implementation and enforcement of this provision, as well as pay and collect fines. Revenues for violations of the provisions of this Act or the regulations thereunder shall be deposited into the budget fund of the Administration. Provided, however, that civil fines imposed by the Administration shall be in addition to other penalties, including liquidated damages or penalties certified in the agreement that the Administration may impose.

Section 2-A. — Authorization for Financing. — (24 L.P.R.A. § 7004a)

(a) The Administration is hereby authorized to borrow, incur in financial obligations and take out any kind of loan, up to a principal sum not to exceed four hundred million dollars ($400,000,000.00) under the terms and conditions approved by the Board of Directors of the

Administration and the Government Development Bank, in its capacity as fiscal agent of the Government of Puerto Rico and its instrumentalities.

(b) The moneys derived from the aforementioned obligations may only be used for the payment of debts incurred with insurers and health service providers, as well as with other Administration suppliers, as established through a resolution approved by the Board of Directors. The Board of Directors shall provide the mechanisms it deems convenient or necessary to ensure that such funds derived from these credit facilities are used solely and exclusively for the aforementioned purposes.

(c) The Administration is hereby authorized to pledge and constitute liens on any of its real or personal properties, whether tangible or intangible, to secure payment of the obligations authorized herein, as the same may be modified from time to time under such terms and conditions as may be deemed necessary and convenient, including, but not limited to, mortgages on real property, mortgage or collateral assignment of any lease contract, liens on deposit accounts, securities accounts, or investments of any kind, any lien on personal or real property for its fixtures, the pledging of any credit, account receivable, claim and/or cause of action, the posting of any bond, letter of credit or surety, and the pledging of any other income, asset, fee, cause of action, or revenue of the Administration.

(d) The Administration is hereby authorized to execute all such public or private instruments and any other documents as necessary for and/or pertinent to the obligations authorized herein, including public instruments and documents pertaining to any refinancing, moratorium, extension, modification, or amendment of the obligations authorized herein.

(e) The Commonwealth of Puerto Rico shall honor through budget appropriations made by the Legislative Assembly in the operating budgets of each Fiscal Year, starting in Fiscal Year 2012-2013 and ending in Fiscal Year 2041-2042, the payment of the obligations authorized herein. To such effect, for Fiscal Years 2012-2013 and 2013-2014, the amount corresponding to the payment of interest shall be earmarked in the general budget of the Commonwealth of Puerto Rico. From Fiscal Year 2014-2015 and up to Fiscal Year 2041-2042, the corresponding amount of principal and interest shall be earmarked for the obligations incurred under subsection (a) of this Section.

(f) The Administration is hereby directed to use its own available funds to reduce the obligation authorized herein during its effective term pursuant to the terms and conditions approved by the Board of Directors and the Bank.

(g) The Executive Director shall represent the Administration in any acts and in the execution and/or delivery of all public or private instruments and documents mentioned in this Section 2-A.

(h) As used in this Section, the term "Bank" shall mean the Government Development Bank for Puerto Rico.

Section 2-B. — Authorization for Revolving Financing. — (24 L.P.R.A. § 7004b)

(a) The Administration is hereby authorized to incur obligations through a revolving credit line, term loan, or any other credit facility in an amount to be determined by the Board of Directors of the Administration and approved by the Government Development Bank for Puerto Rico. However, such instruments shall never be greater than the grants in effect at the time its issuance. The credit line, fixed-term loan, or other credit facility, as the case may be, and hereby authorized, may be taken through the Bank or any private financial institution. The credit line used for the

payment of services rendered by insurance companies or health service providers, as well as for any financing expense. For such purposes, the Administration shall be required to identify the funds to repay, in full and within a reasonable time, the principal and interests, as well as the costs associated with said financing. The repayment of said financing shall not be conditioned to the refinancing of the principal due on the loan's maturity date.

(b) The approval of the Bank, in its role as fiscal agent, shall be necessary in order to establish the credit line herein authorized with a private financial entity. Furthermore, the Bank and the Office of Management and Budget shall establish the administrative mechanisms deemed necessary to ensure that said funds are used solely and exclusively for the purposes provided in this Section.

(c) The Administration is hereby authorized to enter into all those contracts that may be necessary to guarantee the payment of the obligations herein established, including, but not limited to, encumbering and establishing liens over any of its properties, whether real or personal, tangible or intangible, deposit accounts, securities or investment accounts of any type, as the same may be modified from time to time, under those terms and conditions deemed necessary and convenient.

(d) The Administration is hereby authorized to execute all those public or private instruments, and any other documents necessary and/or related to the obligations authorized herein, including those documents and public instruments pertaining to any refinancing, moratorium, extension, modification, or amendment to the obligations herein authorized.

(e) If necessary, the Administration is hereby directed to use its own available funds to reduce the obligation herein authorized during the effective term thereof in accordance with the terms and conditions approved by the Board of Directors and the Bank.

(f) The Executive Director shall represent the Administration in all those acts and in the execution and/or surrendering of all those instruments and documents, whether public or private, as previously indicated in this Section.

(g) In the event that there is any balance owed to the Bank from the credit line authorized in this Section after applying the funds from the transfers received by the Administration from the Federal Government Medicaid Program or its equivalent, the Government of Puerto Rico shall honor the same through the budget appropriations that may be necessary. To such effects, the Director of the Office of Management and Budget is hereby directed to consign in the operating budgets of the Government of Puerto Rico, submitted annually by the Governor of Puerto Rico to the Legislative Assembly, the amount corresponding to the payment of any balance owed, as reported by the Bank. If, at any time, the federal funds transfer from the Medicaid Program or its equivalent, the budget appropriations, or other income of the Administration were insufficient to pay the obligations herein authorized and the interest accrued each year, the Secretary of the Treasury shall withdraw from any funds available in the General Fund of the Government of Puerto Rico any amount needed to cover the deficit in the amount required for the payment of said obligations and interest, and shall direct the amounts withdrawn to be applied to such payment and purpose.

(h) As used in this Section, the term 'Bank' shall mean the Government Development Bank for Puerto Rico.

Section 3. — Board of Directors - Composition. (24 L.P.R.A. § 7005)

The Board of Directors of the Administration shall be composed of eleven (11) members. Six (6) shall be ex-officio members and five (5) shall be appointed by the Governor of Puerto Rico with the advice and consent of the Senate.

Section 4. — Ex-Officio Members. (24 L.P.R.A. § 7006)

The Secretaries of Health and the Treasury, the Administrator of the Mental Health and Addiction Services Administration (ASSMCA), the Director of the Office of Management and Budget, the President of the Government Development Bank for Puerto Rico, and the Insurance Commissioner, or the persons delegated by them, shall be the six (6) ex-officio members of the Board of Directors.

Section 5. — Qualifications of the Appointed Members of the Board of Directors. (24 L.P.R.A. § 7007)

The five (5) members of the Board of Directors who are not ex-officio members shall be persons of recognized moral integrity. Of these, one (1) shall be a professional competent in the insurance industry; two (2) shall be competent providers within the Health Reform, of which one shall be a primary physician; one shall represent the beneficiaries of medical-hospital insurance; and one (1) shall be a representative of the public interest. The latter shall not have interests nor belong to the other groups represented in the Board; shall not have commercial nor contractual relations with medical-hospital facilities nor with the health insurance industry, nor health service providers other than those as insurer-insured, insurer-claimant, doctor-patient or patient-hospital relationships.

Section 6. — Incumbency of the Members of the Board. (24 L.P.R.A. § 7008)

The members of the Board of Directors that are not ex officio members shall be appointed for a term of six (6) years each, and shall hold office until their successors have been appointed. The original appointments shall be one (1) for two (2) years; one (1) for four (4) years; and two (2) for six (6) years.

In the event that a member of the Board is not able to complete his/her term due to resignation, removal or death, the successor shall fill his/her office for the remainder of the term.

Section 7. — Officials of the Board of Directors. (24 L.P.R.A. § 7009)

The Governor of Puerto Rico shall appoint the chairperson of the Board of Directors from among its members. The Board of Directors shall select from among its members: a co-chairperson, who shall substitute for the chairperson in his/her absence, as well as a secretary.

Section 8. — Meetings and Quorum. (24 L.P.R.A. § 7010)

(a) The Board of Directors shall hold regular meetings at least once (1) a month and shall hold all the special meetings that may be convoked by the Chairperson or that may be requested by a majority of the members of the Board.
(b) The majority of the members of the Board of Directors shall constitute quorum for the meetings. Every agreement or determination of the Board shall require the affirmative vote of at least five (5) members. The function of each member of the Board as well as thus attendance at the meetings, shall not be delegated.

Section 9. — Compensation. (24 L.P.R.A. § 7011)

The ex officio members of the Board of Directors shall not receive any remuneration for the performance of their duties. Those members of the Board of Directors that are not public officials or employees, shall be entitled to the payment of per diems which shall not exceed one hundred dollars ($100) for each meeting they attend.

Section 10. — Removal. (24 L.P.R.A. § 7012)

The members of the Board of Directors that are not ex officio members may be removed by the Governor of Puerto Rico for incompetence in the performance of their duties, or by for other just cause, after proffering of charges and the opportunity to be heard before the Board.

Section 11. — Applicability of the provisions of the Ethics in Government Act. (24 L.P.R.A. § 7013)

The members of the Board of Directors shall be subject to the provisions of Act No. 12 of July 24, 1985, known as "Ethics in Government Act of Puerto Rico" *[Note: Repealed and replaced by Act 1-2012, "Puerto Rico Government Ethics Act of 2011"]*, especially with respect to the filing of financial reports by public officials required by said dispositions.

Section 12. — Immunity of the Board of Directors of the Administration or of Any of its Members. (24 L.P.R.A. § 7014)

Neither the Board of Directors nor its directors shall personally or individually incur any economic liability whatsoever for any action taken in the discharge of their duties and powers under this Act, provided they do not act in violation of their fiduciary duties towards the Administration, nor act intentionally to cause harm or knowingly that they may cause some harm.

ARTICLE V. — EXECUTIVE DIRECTOR.

Section 1. — Appointment of the Executive Director. (24 L.P.R.A. § 7020)

The Board of Directors shall appoint an Executive Director, who shall be responsible for the proper operation of the Administration.

Section 2. — Qualifications of the Executive Director. (24 L.P.R.A. § 7021)

The Executive Director shall be a person of known moral probity and expertise in the area of health insurance management.

Section 3. — Incumbency of the Appointment and Remuneration. (24 L.P.R.A. § 7022)

The Executive Director shall hold office at the will of the Board of Directors, and shall perform his/her duties in accordance with the norms and conditions established by this Act. The Board shall also determine the remuneration and other benefits of the Director.

Section 4. — Functions and Duties of the Executive Director. (24 L.P.R.A. § 7023)

The Executive Director shall have all the powers and faculties delegated to him/her by the Board of Directors, including those listed below, without being limited thereto.
(a) Perform any functions that are necessary and convenient to implement this Act and the regulations adopted by virtue thereof.
(b) To appoint an assistant director, with the approval of the Board of Directors. In case of absence or disability, the Executive Director shall be substituted by the assistant director, who shall perform all of his/her duties.
(c) To submit to the consideration of the Board of Directors, proposals of regulations to govern the affairs and activities of the Administration and to establish the rules and norms needed to comply with the functions and duties of the Administration.
(d) To appoint and contract the personnel of the Administration, fix their remuneration pursuant to applicable personnel regulations, and to the compensation plan established by the Board of Directors.
(e) To establish and maintain offices in the place or places deemed adequate and necessary to comply with the purposes of this Act, upon approval by the Board of Directors.

ARTICLE VI. — HEALTH INSURANCE PLAN.

Section 1. — (24 L.P.R.A. § 7025)

The Administration shall negotiate health plans for one or more geographic areas upon determining that such geographic areas meet the necessary conditions to ensure access to quality health services within a cost effective scheme. To such purposes, we may consider that the territorial delimitation of Puerto Rico as a whole, constitutes one single area, as well as the grouping of one or more municipalities, may constitute one independent and separate area or region. Among the criteria that the Administration shall use to determine the territorial boundary by areas or regions, shall be the participation of a minimum number of insurers that the Administration has previously qualified to guarantee competition in the cost of the premiums and quality of services. Prior to determining that Puerto Rico as a whole is one single area, the Administration shall carry out a study to determine the viability of establishing one single area, as well as the advantages and disadvantages for the stability and strengthening of the health plan, so that it may truly support free selection and access to quality services for the beneficiaries. The Administration shall take into consideration the solvency, and administrative and operational resources when evaluating the insurers. The Department, through the Medical Assistance Office (PAM, Spanish acronym), shall identify and certify the persons that are eligible for the services pursuant to their level of income and their eligibility to receive state and federal health benefits, in harmony with the provisions of Section 5 of Article VI of this Act. Provided, that when determining eligibility, beneficiaries shall be notified in a timely manner of the adoption of new standards of eligibility within a term of not less than six (6) months before the same take effect, except in the case of a federal regulation requiring immediate compliance.

Among the rules of eligibility, regarding rustic farms, when assessing real property under the process for determining beneficiary's eligibility, the value per *cuerda* shall be one thousand (1,000) dollars; provided, that such farm is not producing or generating any income whatsoever. There shall be determined that this assessment designation shall be exclusively for the purposes of this Act. In such case, the beneficiary shall be required to show the beneficiary's proof of ownership and a sworn statement, which shall attest to the fact that the farm is not generating any income whatsoever. If after extending the benefit, it is determined that such person furnished false information, he/she shall be bound to reimburse twice the amount paid as a result of using the Health Plan of the Government of Puerto Rico, without prejudice of any other penal sanctions that may apply as provided in the laws in effect on presenting false information or documents or illegally obtaining government services.

The health plans provided by this Act shall be subject to evaluation by the Administration, in order to determine their success and the need to modify the same in order to achieve the purposes of this Act.

Section 2. — Contracting. (24 L.P.R.A. § 7026)

The Administration shall contract health insurance for the area or areas established with one (1) or more insurers and/or health service organizations authorized to do health insurance business in Puerto Rico by the Insurance Commissioner, or by special laws approved for such purposes. Likewise, the Executive Director shall be the person designated to evaluate and to contract with health service providers as defined in this Act. Provided, That the health service organizations that contract with the Administration for the services they render to the beneficiaries represented by the Administration shall not be subject to the jurisdiction nor to regulation of the Commissioner pursuant to Article 19.031 of the Insurance Code. The Administration shall be responsible for supervising and seeing to the scope and effectiveness of the compliance of these organizations, and may contract the services of third parties to such ends.

Section 3. — Health Insurance Beneficiaries. (24 L.P.R.A. § 7029) *[Note: Act No. 105-2020 and Act No.89-2022 hereby amended this Sec. 3, but the official translation is not available. Please consult the Spanish version]*

All residents of Puerto Rico may be beneficiaries of the Health Plan established upon the implementation of this Act, provided that they meet the following requirements, as pertinent:

(a) Be identified and certified by the Department, as provided by Section 1 of Article VI of this Act. Provided, That all persons eligible to receive federal health benefits, shall obtain their services as provided through the applicable federal legislation, or regulations also having the right to Commonwealth health services that may be available and adequate for their condition, that are not covered under the federal health benefits.

(b) Members of the Puerto Rico Police, as well as their spouses and children, pursuant to the provisions of Act No. 53 of June 10, 1996, as amended *[Note: Repealed and replaced by Act No. 20-2017]* .

When a member of the Puerto Rico Police dies under any circumstance, this benefit shall remain in force for the surviving spouse, as long as the spouse does not remarry, and the children are younger than twenty-one (21) years of age, or for those who are undertaking post-secondary studies, until they are twenty-five (25) years of age. The Puerto Rico Police shall consign the funds in its budget of expenses to continue providing the health insurance plan to these beneficiaries by means of a contribution equal to the health benefit contribution received by the member of the Police force from his/her employer at the moment of his/her death.

In the event that the member of the Puerto Rico Police dies, the agency shall notify the surviving spouse and/or underage children about their right to continue enjoying the coverage of the Government Health Insurance Plan, and they must accept or decline such continued coverage in writing.

(b)(1) – Such beneficiaries shall have a term of ninety (90) days to notify whether they accept or decline the benefit and, within said ninety (90)-day term, no changes in health benefits may be made unless the notice is answered before the term expires.

(b)(2) – The Puerto Rico Police shall notify any changes in the health benefits of dependents of a police officer fallen in the line of duty to the Department of Health. It is provided that the Medical Assistance Program (Medicaid) shall notify the dependent(s) of the deceased police officer of the rights they are entitled to under this Act.

(c) Those public employees and their direct dependents who, due to their financial condition, qualify as beneficiaries of the Health Insurance Plan of the Government of Puerto Rico, shall be

entitled to receive this benefit. The corresponding difference to cover the total cost of the individual and family medical and hospital coverage insurance premium shall arise from the funds appropriated by the Office of Management and Budget.

Public employees whose income level does not allow them to be eligible for the Plan may opt to avail themselves, together with their dependents, of the Health Plan of the Government of Puerto Rico or to continue benefiting from a private plan of their preference. If they choose to join the Government's Health Plan, the difference between the government's contribution and the cost of the premium shall be defrayed by the employees.

In the case of married individuals both of whom are public employees, they may avail themselves of the Health Plan and combine their contributions and act jointly for their eligibility. In all instances, the Secretary of the Treasury, the municipality, or the public corporation shall transfer to the Administration the sum corresponding to the employer contribution of such public employees benefiting from the Health Plan. Public employees who choose to use the employer contribution to acquire another health plan available in the market and who,
in turn, have been identified and certified by the Department, as provided in Section 1 of Article VI of this Act, shall not participate in the Health Plan of the Government of Puerto Rico. Public employees shall have the choice of extending their medical hospital coverage to their optional dependents, and the employee shall defray the cost of such coverage in its entirety.

For purposes of this subsection, the term "public employees" includes the employees of the public corporations and the municipalities. The Administration shall prescribe a premium payment system by regulations.

(d) The pensioners of the Central Government of the Commonwealth of Puerto Rico, according to the Implementation Plan of the Administration. The Secretary of the Treasury shall transfer to the Administration the corresponding sum of the employer contribution for pensioners of the Central Government agencies. The pensioners shall have the option of extending the medical-hospital coverage to their direct and optional dependents, and the pensioner shall defray the full cost of the coverage. The pensioners who opt to use the employer contribution to acquire another medical insurance plan in the market shall not participate in the plan established herein.

(e) Employees of small- and medium-sized businesses, (better known as PYMES), who are interested in subscribing to the plan established herein and, should they be entitled, allow their employer to transfer to the Administration or to the Insurer the corresponding sum of the employer contribution, in addition to the payment of the contribution of the employee, until the cost of the insurance premium for hospital medical benefits is covered, both for individual and family coverage; except in the case where the employer contribution covers the full cost of the insurance coverage. For purposes of this subsection, small- and medium-sized businesses are those having between one (1) and fifty (50) employees. In these cases, the Administration shall adopt regulations as necessary for the implementation and operation of this Health Plan, so as to establish what its coverage shall include and what benefits shall be provided, the eligibility criteria, and the premium payment system.

(f) Veterans, their spouses and children, certified by the Federal Medical Assistance Program, pursuant to the provisions of Act No. 13 of October 2, 1980, as amended.

(g) Veterans, their spouses and children under twenty-one (21) years of age who are dependent on their parents for their care and support, if interested in doing so, may pay the Administration or

the Insurer the corresponding sum for the cost of the insurance premium to cover medical-hospital benefits, for both the individual as well as family coverage.

(h) Individuals, personally, and regardless of their position at work; employees whose employers do not provide them with a health plan; and self-employed individuals and their dependents. In these cases, the Administration shall adopt regulations as necessary for the implementation and operation of this Health Plan so as to establish what its coverage shall include and what benefits shall be provided, the eligibility criteria and the premium payment system.

(i) Members of associations, cooperatives, professional associations, or colleges of persons authorized to practice their professions by the Government of Puerto Rico; trade associations or colleges; Federal, state, or municipal associations; and the American Association of Retired Persons (AARP), interested in benefiting from such plan and that transfer to the Administration or to the Insurer the corresponding sum of the cost of the insurance premium for hospital medical benefits, both for individual and family coverage. In these cases, the Administration shall adopt regulations as necessary for the implementation and operation of this Health Plan so as to establish what its coverage shall include and what benefits shall be provided, the eligibility criteria, and the premium payment system.

Section 4. — Provisions Against Discrimination. (24 L.P.R.A. § 7030) *[Note: Act No. 162-2020 hereby amended this Sec. 4, but the official translation is not available. Please consult the Spanish version]*

An insurer or health service organization under this Act shall not issue identification cards that are different from those provided to others who are insured under plans with similar coverage, unless the Administration so authorizes or requires.

No participating purveyor or its agent shall make any sort of inquiry on the source of the health insurance plan coverage, to determine if a person is the beneficiary of the plan created by this Act.

Section 5. — Deductibles; Co-insurance and Premiums; Prohibited Practices. (24 L.P.R.A. § 7031)

The Administration shall establish the premium agreed to in the contracts underwritten with the insurers and/or health service organizations. It shall also establish in said contracts the corresponding amount as payment of deductibles and co-insurance according to the level of income and ability to pay of the beneficiary. All other insurers and/or health service organizations may come to an agreement with the Administration to pay a premium that is higher than the basic premium, the difference of which shall be paid by the beneficiary. No participating provider may charge the beneficiary an amount that exceeds the amount agreed upon as a deductible, co-insurance, or premium in the contract underwritten with the insurers or the Administration.

The insurers and/or health service organizations that contract with the Administration to provide health plans shall not, at any time, increase the premium or reduce benefits in any other policies they provide, in order to subsidize the premium, reduce the cost, or compensate for the loss experienced by the health plan that is authorized in this Act. The premium agreed upon must be actuarially validated as reasonable by the duly qualified actuaries of the Administration according to the standards of the American Academy of Actuaries. For the purpose of structuring and fixing the cost or premium, the insurers and/or health service organizations shall consider the group of beneficiaries of these health insurance plans as a unit that is independent from its other

groups of beneficiaries, and shall maintain a separate accounting system for them. Likewise, the health service providers that contract with the Administration may not reduce the benefits or affect the quality thereof to accommodate patients that are not covered by the Health Plan authorized by this Act.

Failure to comply with the provisions of this Section shall be penalized by the Insurance Commissioner pursuant to the provisions of Act No. 77 of June 19, 1957, as amended, denominated the "Insurance Code of Puerto Rico," or by the provisions of the contract with the Administration, as applicable.

Section 6. — Coverage and Minimum Benefits. (24 L.P.R.A. § 7032) *[Note: Act No. 62-2015; Act No. 177-2016; Act No. 10-2020; Act No. 19-2020; Act No. 69-2021 and Act No. 40-2023 amended this Sec. 6, but the official translation is not available. Please consult the Spanish version]*

Healthcare plans shall have a broad coverage, with a minimum of exclusions. There shall be no exclusions for pre-existing conditions, or waiting periods at the time coverage is granted to a beneficiary.

Coverage A. — The Administration shall establish a coverage of benefits to be offered by the contracted insurers or participating providers. The coverage shall include, among others, the following benefits: outpatient services, hospitalizations, dental health, mental health, Human Papillomavirus vaccines and treatment, studies, testing, and equipment for beneficiaries who require the use of a ventilator for life support, laboratory tests, and X-rays, as well as prescription medications, which shall be dispensed by a participating pharmacy, freely chosen by the insured and licensed under the laws of Puerto Rico. The coverage shall provide for each beneficiary to have available the laboratory tests and immunizations appropriate for his age, sex, and physical condition annually. Provided, however, that the list of medications for HIV/AIDS patients shall be reviewed annually in order to include those new medications, should the Administration deem it pertinent, that are needed for the treatment of said condition which shall be dispensed and offered in 4 accordance with the best medical practices, provided that it does not affect the State Plan executed by the Department of Health and the Health Resources and Services Administration.

The Administration shall revise this coverage periodically.

Coverage B. — Hospital services coverage shall be available twenty-four (24) hours a day, every day of the year.

Coverage C. — In its out-patient coverage, the plans shall include the following, without being a limitation:

(1) Preventive health services:

(a) Vaccination of children and adolescents up to eighteen (18) years of age.

(b) Vaccination against influenza and pneumonia for persons over sixty-five (65) years of age, and/or children and adults with high risk illnesses such as pulmonary, kidney, diabetes and heart diseases, among others.

(c) Visit to the primary physician for a general medical examination once a year.

(d) Screening test to detect gynecologic, breast and prostate cancer, according to acceptable practices.

(e) Sigmoidoscopy in adults over fifty (50) years of age with risk of colon cancer, according to acceptable practices.

(2) Evaluation and treatment of beneficiaries with known diseases:

The initial evaluation and treatment of beneficiaries shall be made by the primary physician chosen by the patient from among the providers of the corresponding plan.

(3) The Administration shall render a report to the Legislature every six (6) months, which shall include, among others, the list of medications, the controversies which have arisen with the State Plan signed by the Department of Health and the Health Resources and Services Administration, and the number of patients that are affected by these controversies.

(4) Access to Human Papillomavirus vaccination treatment, which shall consist of three **(3)** doses to be administered according to the indications of the health professional. This coverage shall not be limited exclusively to the treatment mentioned in this subsection, but rather shall be extended to any other treatment or vaccine that could be developed for the treatment and prevention of Human Papillomavirus.

(5) The Administration shall file a report with the Legislative Assembly every six (6) months, which shall include, among others, the list of medications, any disputes that have arisen with respect to the State Plan executed by the Department of Health and the Health Resources and Services Administration, and the number of patients affected by these disputes.

Primary physicians shall have the responsibility of the out-patient management of the beneficiaries under their care, providing them with continuity of services. Likewise, they shall be the only ones authorized to refer the beneficiary to the supporting physicians and primary purveyors.

Section 7. — *[Note: Act No. 73-2023 hereby added new Sect.7 and renumbered subsequent Sections, but the official translation is not available. Please consult the Spanish version]*

Section 8. — Models for Rendering Services. (24 L.P.R.A. § 7033)

The Administration shall establish, through regulations, the different models for the rendering of services which may be used in offering the health plans created by this Act.

The models for rendering services to be used shall have the following features in common:

(a) Primary care shall be fortified by groups of primary physicians and by primary purveyors, as defined in the applicable legislation, and Federal and local regulations, that are authorized to practice in Puerto Rico.

(b) The emergency room care shall be of high priority, in the ambulance transportation system as well as in the emergency medical care.

(c) The Administration shall only contract with insurers that do not have any direct or indirect financial interest in, or relationship with subsidiary-owners or affiliates of a health facility that renders services to the beneficiaries of the health insurance created by this Act, except with such health service organizations duly defined and authorized by the Insurance Commissioner.

(d) The models to be implemented shall have strict use control measures.

(e) All the models shall be reinforced by a health and prevention education system, with special emphasis on lifestyle, AIDS, drug abuse, and mother and child health. The Department shall be responsible for the promotion of health.

(f) The insurers and/or health service organizations shall include in their model of services to be rendered; the use of all Commonwealth facilities contracted with the private sector in the region.

(g) The insurers shall include in their model of services to be rendered; the use of all Commonwealth facilities contracted with the private sector in the region.

Section 9. — Regionalization System. (24 L.P.R.A. § 7034)

The rendering of services shall be carried out following the regionalization system established by the Administration in coordination with the Department, by progressively establishing a network of participating providers throughout the Island, thus insuring the closest possible service to the patient.

(a) The insurer and/or health service organization shall provide in each region all secondary and tertiary services, as defined by the Department, but only those secondary and tertiary services not provided by the Commonwealth in such region or area. Participating providers shall coordinate with the Administration the extent of the secondary and tertiary services they shall provide as provided in the contract, but only those secondary and tertiary services not provided by the Commonwealth in such region or area.

(b) In the urban areas, diverse hospitals may function as a complementary service entity in order to avoid duplication, control the use of the installations, and reduce the unit cost of services.

(c) The regional facilities of the Department shall continue to render services to populations with special needs, such as detoxification services, mental health centers and others.

(e) In those municipal governments, which have opted to operate or continue to operate the facilities to render health services, shall be subject to the contracting of those health plans executed by the Administration.

(f) Those municipalities in which Community Health Services operate or may operate in the future, may continue rendering services, and contract additional services with the corresponding insurers, or the Administration.

Section 10. — Financing of the Administration and the Health Plan; Other revenues. (24 L.P.R.A. § 7035) *[Note: Act No. 253-2018 and Act No. 29-2019 hereby amended this Section 9, but the official translation is not available. Please consult the Spanish version]*

The Health Insurance Plan established by this Act, and the operating expenses of the Administration, shall be defrayed as follows:

(a) *Health Insurance Plan* **—** for the 1993-94 fiscal year the sum of eighteen million (18,000,000) dollars is hereby appropriated to the Administration from unencumbered funds in the Commonwealth Treasury. For subsequent years, a special self-renewable appropriation shall be consigned in the budget of expenses of the Administration, according to the needs of the health insurance plan. In addition, for the 1993-94 and subsequent fiscal years, the Administration shall be appropriated the savings generated by the Department by establishing of Act No. 103 of June 12, 1985, as amended.

(b) *Operating expenses* **—** For the 1993-94 fiscal year the sum of one million (1,000,000) dollars is hereby appropriated to the Administration from unencumbered funds in the Commonwealth Treasury. For subsequent years, the operating expenses shall be consigned in the Joint Resolution of the General Budget of Expenses of the Government of Puerto Rico.

(c) Any additional unencumbered appropriations received by the government as of the 1993-94 fiscal year from the Federal Medicaid Program and other applicable federal funds.

(d) The budgetary appropriation of the municipal governments for direct health services in areas covered by health insurance plans shall be based on the percentages set forth in the following Table of Regular Funds Budgets of the municipalities, excluding the Special Surtax (CAE, Spanish acronym) and federal funds, using as base the regular funds budget of the previous fiscal year as of July 1, 1997.

0 --	10,000,000 = 5%
10,000,001 --	29,000,000 = 6%
29,000,001 --	39,000,000 = 7%
39,000,001 --	49,000,000 = 8%
49,000,001 --	59,000,000 = 9%
59,000,001 --	79,000,000 = 10%
79,000,001 --	89,000,000 = 12%
89,000,001 --	100,000,000 = 15%
100,000,001 -	henceforth = 17%

The Municipal Revenues Collection Center, henceforth CRIM, shall prorate between the monthly payments a sufficient amount to satisfy the contribution corresponding to each municipality according to the percentage established and shall remit the same on or before the tenth day of each month to the Insurance Health Administration.

While the schedule of the municipal contribution to the cost of the health reform for fiscal year 2005-2006 and for subsequent years is revised, the municipalities shall contribute an amount equal to the percentage established for fiscal year 2004-2005 or the present one, whichever is less, as provided in their budget. In the case of the Municipality of San Juan, it shall contribute the amount resulting from the application of the table to the budget for fiscal year 2004-2005, or the present one, whichever is less. For those municipalities that render direct or indirect preventive health services, CRIM shall withhold the payment to ASES until this institution agrees to return the corresponding contribution of those municipalities, as required by Section 14 of Act No. 3 of January 1, 2003 [24 L.P.R.A. § 3326*l*]. ASES shall totally or partially reimburse to the municipalities any expenses incurred for direct or indirect health services rendered by the municipalities without any restriction whatsoever.

(e) Income of the Administration from contributions by employers and individual employees for the payment of premiums.

(f) Income from funds encumbered by the Department to cover the leasing of medical-hospital facilities which are subleased.

Section 11. — Complaint Procedure. (24 L.P.R.A. § 7036) *[Note: Act No. 78-2021 hereby amended this Section 10, but the official translation is not available. Please consult the Spanish version]*

The Administration shall require insurers, providers, and health service organizations with whom it contracts to establish the procedures to handle and resolve complaints from the participating providers and the beneficiaries.

The Administration shall establish guidelines for the resolution of complaints which shall guarantee due process of law. The findings made regarding these complaints shall be appealable

before the Administration, as provided by regulations or the signed contract. The final findings of the Administration shall be reviewable by the Court of Appeals.

Section 12. — [Renumbered as § 9 on December 9, 2000, No. 463]

Section 13. — [Renumbered as § 10 on December 9, 2000, No. 463]

Section 14. — Orientation for the Beneficiaries. (24 L.P.R.A. § 7036a) *[Note: Act No. 162-2020 hereby amended this Sec. 13, but the official translation is not available. Please consult the Spanish version]*

(1) Insurance companies shall be responsible for the implementation, publication and distribution of informative brochures, at their own expense, in Spanish, including a description of the health coverage and the benefits included in same. Said brochures shall be distributed to each beneficiary, along with their identification cards.
(2) Insurance companies shall be responsible for the implementation and disclosure, at their own expense, of an orientation program for the community that covers the aspects of logistics regarding the structure, use, benefits and accessibility of the health services plan for the beneficiaries in each health region.
(3) The brochures shall serve as certificates and guarantees of the benefits to which the beneficiaries are entitled, and should include, as a minimum, the following:

(a) A list of the coverage benefits
(b) Limitations and exclusions of the benefits program
(c) Rights of the beneficiaries
(d) instructions on access to the benefits for the beneficiaries
(e) List of health care organizations and other providers-participants available to render health care services covered by the benefits program
(f) Description of the procedures for claims
(g) Signature of the beneficiary upon delivery and explanation of the brochure
(h) Right to free selection of service provider

(4) The contents of the informative brochures, as well as the plan for their distribution, shall be approved by the Administration prior to their publication and distribution.
(5) The participating providers, primary care providers, and primary services of the Government's Healthcare system shall display an information, legible, and noticeable sign to all persons who use their facilities, that notifies that the Primary Medical Group has a Preferred Network that includes specialists, laboratories, imaging services (x-rays), and hospitals that may be used by beneficiaries without referral or copayment, as well as any other information related to the healthcare system deemed pertinent by the Administration. The contents of the sign shall be prepared and approved by the Administration.
(6) Every participating provider, primary care provider, and primary services that fails to comply with the provisions of this Section or the regulations promulgated thereunder shall be subject to an administrative fine to be determined by the Administration, which under no circumstance shall exceed ten thousand dollars ($10,000).

Section 15. — Rights of the Beneficiaries. (24 L.P.R.A. § 7036b) *[Note: Act No. 78-2021 hereby amended this Section 14, but the official translation is not available. Please consult the Spanish version]*

All beneficiaries shall be entitled, among others, to the following:
(1) Receive quality medical services when needed
(2) Easy access to medical services
(3) Select their health care services organization
(4) Select their primary physician
(5) Select a specialist physician, jointly with the primary physician
(6) Change their primary physician or their health care services organization
(7) Not to be denied services under their coverage
(8) Easy and immediate access to emergency services
(9) Receive the necessary instructions and information to know all the benefits offered by the health insurance
(10) Not to be discriminated against
(11) Initiate a formal claim procedure before the insurer, if there is a claim or concern regarding the health care services offered by the plan
(12) Appeal any final determination of the insurer before the Administration
(13) Select their pharmacy and laboratory.

Section 16. — Duties of the Beneficiaries. (24 L.P.R.A. § 7036c)

The beneficiaries shall be required to:
(1) Maintain their eligibility information updated when same is required by the Administration
(2) Maintain their good health by keeping a healthy lifestyle
(3) Once notified of being eligible for the program, they shall go to the location indicated by the insurer to complete the subscription process and receive their identification card as beneficiaries
(4) Notify the insurer of any problems that may arise when receiving the benefits under coverage
(5) Appeal any final determination of the insurer before the Administration.

Section 17. — Rights of the Providers. (24 L.P.R.A. § 7036d)

Under this plan, providers have the right to:
(1) Be paid for claims pursuant to the terms set forth in their contract with the insurer.
(2) Appeal any final determination by the insurer before the Administration.

Section 18. — Duties of the Providers. (24 L.P.R.A. § 7036e)

Providers are legally bound to:
(1) Render optimum quality services when necessary and without delay to the beneficiaries of the program.
(2) Render the necessary services for the health care of the beneficiaries
(3) Not discriminate against the beneficiaries of their other patients for any reason
(4) Notify the insurer of the problems that may arise in the rendering of services to the beneficiaries

(5) Notify the insurer or the Administration of any situation that constitutes abuse, misuse or fraud by the beneficiaries.

Section 19. — Inpatient Hospital Care and Medical Billing Denial. (24 L.P.R.A. § 7036f)

It is hereby established that no health insurance company, insurer, health services organization, or other authorized health insurance provider in Puerto Rico, by itself or through its agents, employees, or contractors, who execute contracts with the Administration to manage or implement the Government Health Plan under this Act, shall deny the appropriate authorization for inpatient hospital care, including the length of said hospital stay, and the payment of billed services for a patient's treatment, medication, and appropriate healthcare services when a medical recommendation is issued for such purposes, based on medical necessity as defined in this Code, in cases where these services are covered by the insurer's health insurance plan, the services are rendered while the policy is in effect, and the service is among the categories of covered benefits of said policy. In the case of healthcare professionals, it is hereby established that no primary care physician referral to specialists or subspecialists shall be denied to a patient covered by the Government Health Plan when deemed medically necessary. For the purposes of this Section, the term 'medical necessity' shall mean healthcare services or procedures that a licensed physician, exercising prudent clinical judgment, considers medically necessary, and would provide to a patient for the purpose of preventing, diagnosing, or treating an illness, injury, disease, infirmity, or symptom in such a manner that:

1. Is consistent with generally accepted standards of medical practice, in light of modern communication and teaching mediums;

2. Is clinically appropriate, in terms of type, frequency, extent, site, and duration of the healthcare services or procedures;

3. The determination of "medical necessity" is not issued merely for the convenience of the patient or the physician, or for the financial benefit of the insurer, health services organization, or other health insurance or health care provider, whether for itself or other healthcare provider;

4. It is relevant to the practice and/or specialty of the licensed physician who made the determination of medical necessity; and

5. Such determination of 'medical necessity' is based on supporting clinical evidence duly documented by the patient's attending physician.

ARTICLE VII. — REPORTS.

Section 1. — Annual Reports. (24 L.P.R.A. § 7040)

Within ninety (90) days after the closing of each fiscal year, the Administration shall submit reports to the Governor and to the Legislature on its activities, including the following:

(a) A summary of the work carried out during the fiscal year, in compliance with the purposes of this Act, including a copy of the contracts awarded for health services, as well as a work plan, including specific projects and activities for the following year.

(b) Financial statements audited in accordance with generally accepted accounting principles for government bodies.
(c) A list of capital investments.

Section 2. — Reports by Insurers. — (24 L.P.R.A. § 7040a)

Within sixty (60) days after the closing of each fiscal year, all insurers shall submit to the Administration a statistical report on their activities. Once such information has been compiled and analyzed by the Administration, if required, the Administration shall submit such report to the Governor and the Legislative Assembly. Such statistical report shall at least include the following:

(a) Statistical data on patient access to preventive-outpatient services;
(b) Statistical data on patient access to primary services;
(c) Statistical data on patient access to specialized services;
(d) Statistical data on patient access to emergency rooms;
(e) Statistical data on volume and services rendered to patients with any kind of cancer;
(f) Statistical data on volume and services rendered to patients with heart conditions;
(g) Statistical data on volume and services rendered to patients with hypertension;
(h) Statistical data on volume and services rendered to patients with asthma;
(i) Statistical data on volume and services rendered to patients with drug, nicotine or alcohol addiction;
(j) Statistical data on volume and services rendered to mentally ill patients;
(k) Statistical data on volume and services rendered to patients with diabetes;
(l) Statistical data on volume and services rendered to patients with sexually transmitted diseases;
(m) Statistical data on volume and services rendered to pregnant women, including an account of their ages and marital status;
(n) Statistical data on volume and services rendered to infants;
(o) Statistical data on the number of births;
(p) Statistical data on vaccination of infants, children, teenagers, and adults;
(q) Statistical data on the kinds of diseases treated the most;
(r) Statistical data on medications, which shall include all prescribed medications and an account of their cost.

Any person or insurer who refuses to provide the information described above, or who refuses to produce any document upon request, shall incur a misdemeanor that shall entail a penalty of not more than one thousand dollars ($1,000) and not less than one hundred dollars ($100) or imprisonment for not more than twelve (12) months and not less than one (1) month, or both penalties. The Executive Director of the Administration may resort to the Court of First Instance of Puerto Rico, San Juan Part, in order to compel disclosure of the information thus requested.

(s) Statistical data on volume and services rendered to overweight or obese persons.

ARTICLE VIII. — GENERAL PROVISIONS.

Section 1. — Exemptions. (24 L.P.R.A. § 7041)

The Administration shall be exempted from all types of taxes, tariffs, fees, imposts, duties or charges, including licenses, imposts or those levied by the government or any political subdivision thereof, including all its operations, its real or personal properties, capital, income and surpluses. Said exemption shall not be transferable.

The Administration is hereby exempted from the payment of all types of tariffs or fees required by law for the execution of judicial procedures, the issuing of certifications in government offices and dependencies, and political subdivisions, as well as in granting of public documents and their registration in any Public Registry of Puerto Rico.

Section 2. — Exclusions and Regulations. (24 L.P.R.A. § 7042)

The Administration shall be excluded from the provisions of the Puerto Rico Public Service Personnel Act, the Commonwealth of Puerto Rico Purchases and Supplies Act, and from all the regulations promulgated by virtue of said acts.

Nevertheless, it shall approve General Regulations to implement the provisions of this Act within six (6) months following the effective date hereof. Within that same term, it shall also approve Personnel Regulations based on the merit principle, as well as Regulations for Purchasing, Supplies and Contracting of Services.

Section 3. — Office of the Comptroller. (24 L.P.R.A. § 7043)

The Comptroller shall have full power to audit the operation of the Administration, in order to verify the legality of its transactions. It may, likewise, compel the presentation of documents, and testimony of persons or private entities, when it is indispensable to conduct an audit or intervention in the Administration, or in companies which operate under contract with the Administration in those matters related to the contract.

Section 4. — Separability. (24 L.P.R.A. § 7001 note)

Should any article, section, paragraph, sentence, phrase or provision of this Act be declared unconstitutional by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 4.[bis] — Exchange of Information. (24 L.P.R.A. § 7044)

Every insurer, health service organization or any other entity that renders health services in Puerto Rico, contracting with the Administration and other entities of the Government of Puerto Rico, shall be bound to provide the latter with any information requested, and in the event of

noncompliance, it shall be subject to the penalties provided under Section 2.250 of Act No. 77 of June 19, 1957, as amended, known as the "Insurance Code of Puerto Rico."

If, after the Administration has verified the information furnished, it arises that a Medicaid Program beneficiary is also a private health plan beneficiary or that the services rendered should have been paid by a third party or health plan financed by the Government, other than the Medicaid Program, the Administration or its duly authorized Subcontractor, shall initiate a payment recovery action against the beneficiary's primary plan and such information shall be sent to the Medicaid Office. The beneficiary shall not be responsible for such payment. None of the provisions of this Act shall be construed as a waiver of confidentiality under the "Health Insurance Portability and Accountability Act (HIPAA)." Provided, that a payment recovery action shall be initiated within two (2) years as of the rendering of services to the beneficiary.

Section 5. — Transitory Measures. (24 L.P.R.A. § 7001 note)

The Department shall continue all processes related to the establishing of the pilot health insurance plan until the Board of Directors of the Administration is constituted and in a position to assume the implementation of this Act, at which time the Secretary shall transfer all the books, files, contracts, funds and any other document regarding the implementation of the health insurance plans, to the Administration.

Section 6. — Effectiveness. — This Act shall take effect immediately after its approval.

ARTICLE IX. — CONTRACTING WITH HEALTH PURVEYORS.

Section 1. — Contracts. (24 L.P.R.A. § 7051)

In those contracts executed by the Administration when contracting health service purveyors directly, the Administration may contract with the insurers for them to adjudicate in the processing of payments for services in those contracts between the Administration and the participating purveyors.

Section 2. — Contracting Process. (24 L.P.R.A. § 7051a)

All direct contracting procedures with health services providers shall be executed pursuant to the provisions of this subchapter. Every medical group or provider that wishes to contract directly, pursuant to the provisions of Act No. 105 of July 19, 2002, shall submit a written application that shall include the following:

(a) Cover letter: An official letter that shall include the name and address of the proponent organization, the date of submission of the proposal; and the signature and title of the corporate officer that authorizes the proposal.

(b) Cover page: The artistic rendering of the cover page shall be determined by the proponent organization and shall include the name of the organization.

(c) Title page: This page shall include the letterhead of the organization.
The title of the proposal shall be the following:

PROPOSAL FOR THE DEMONSTRATION PROJECT OF THE RENDERING OF HEALTH SERVICES THROUGH AN AGREEMENT FOR DIRECT CONTRACTING OF PROVIDERS

(d) *Executive summary:* Description of the coordinated care model under an organizational structure similar to that of Health Care Organizations (HCOs), which includes all the components of an integrated health system, the proposed services, and the benefits they represent for beneficiaries and participating providers.

Specific activities to be held to comply with the proposed objectives. Areas in the main body of the proposal shall be itemized in such a way to make the analysis of the areas of greatest impact easier for the Evaluation Committees.

(e) *Table of contents:* Itemized list of the main topics and the pages in which they are found.

(f) *Contents of the proposal:* Clear and brief information on each item specified in each chapter.

Chapter 1: Organization
Chapter 2: Financial Information
Chapter 3: Model for Rendering of Services
Chapter 4: Information Systems
Chapter 5: Quality Improvement
Chapter 6: Customer Service
Glossary of Terms
Attachments

(g) Binding: The proposal shall be submitted in the original and 3 copies in 2 inch wide, 3-ring binders. The content shall be written in double-spaced 13 CG Times New Roman [font].

Every proposal duly submitted to the Administration shall be studied and analyzed for contracting purposes within a strictly unpostponable term of thirty-five (35) working days.

(h) A certification on the absence of any outstanding debt or on the existence of a payment plan with the Puerto Rico Medical Services Administration (ASEM) attesting to the fact that the plan is being complied with and is not past due. The date of issue of said certification shall not exceed sixty (60) days prior to the proposed effectiveness of the contract to be awarded by the Puerto Rico Health Insurance Administration (ASES). The applicability of this subsection shall be contingent upon the Puerto Rico Medical Services Administration's certification of the corresponding debt. Furthermore, the contracting healthcare service provider or insurer shall not be eligible for contracting if it has any debt that has been over sixty (60) days past due, as certified by the Puerto Rico Medical Services Administration (ASEM); additionally, it shall satisfy any other requirement set forth in Act No. 237-2004. For purposes of this subsection, debt shall be understood as any contractual obligation that entails the payment of a certain and specific amount of money that has become due and payable by the insurer or healthcare service provider.

The foregoing notwithstanding, an obligation shall not be deemed to be an overdue debt if there is an ongoing process of invoice and payment reconciliation between the insurer or the healthcare service organization and the Puerto Rico Medical Services Administration (ASEM)

Section 3. — Evaluation Criteria. (24 L.P.R.A. § 7051b)

The evaluation process performed by the Administration shall be determined taking into consideration the regional area for which direct contracting is requested, the number of persons for whom the rendering of services is requested, physical facilities, financial capacity, capital for the financing of services, and the ability to provide risk management services. The following elements shall be considered in the evaluation process:

(a) Capacity, efficiency and pertinence of the information system used to register appointments and to process claims electronically.

(b) Availability and efficiency of cost control programs, including the review of use and quality control programs.

(c) Administrative and financial capacity of the proponent organization, including the network of coordinated care providers.

(d) Availability of preventive medicine programs.

(e) Availability of primary physicians and specialists.

(f) Availability of emergency rooms.

(g) Availability of beneficiary complaints and grievances programs, and compliance plan pursuant to applicable local and federal statutes.

Section 4. — Demonstrative Model; Authorization. (24 L.P.R.A. § 7052)

Complemented by, and without impairing the provisions of this Act, the Administration is hereby authorized to execute pilot plans for direct contracting with health purveyors, within the year counting from the effective date of the Act that creates this Article IX, with the purpose of allowing the negotiation and contracting of health insurance plans by the Administration with purveyors of the health services as defined by this Act. Every six (6) months from the approval of this act, the Administration shall inform the Legislature of Puerto Rico on the evaluation, viability and the possibility of extending it to other areas or regions of the Island.

Section 5. — Payments. (24 L.P.R.A. § 7053)

Pursuant to the provisions of the above Section 2, the Administration shall consider transferring to the health services provider the premium dollar percent appropriated to the medical sub-fund; without prejudice to same for invoices and/or charges related to the other items of the medical fund, such as ancillary services for emergency room and hospital visits, laboratories, X-rays, pharmacies, support physicians, and other health services providers.

The Administration shall also consider taking charge of the Catastrophic Illness Fund, the Institutional Fund and the ancillary services mentioned above. With regard to the safety measures taken by the Administration, they shall be limited exclusively to reserves that are proportional to the actuarial risk assumed in the contracting.

Likewise, the Administration shall consider the negotiation of rates with different supporting physicians based on the methods of paying for services rendered or per capita payment, having to its credit, the administration and reserves funds in order to mitigate the fluctuations of payments.

Section 6. — Medications. (24 L.P.R.A. § 7054)

The Administration is hereby authorized to call for bids as necessary, pursuant to its own regulations, for the purchase of medications and medical products. Medications and medical products shall be those published in the forms as established by the Administration. Such bidding shall be held as soon as the direct contracting project includes fifty (50) percent of the total number of lives in the health reform.

See also the **Original version Act**, as approved by the Legislature of Puerto Rico.