

Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
San Juan, Puerto Rico

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Approved: Reinaldo Paniagua-Diez
Secretary of State
By Lourdes I de Pierluisi
Assistant Secretary of State

Regulation

Article 1. By virtue of the provisions of Section 54 of Public Law No. 52, enacted on May 9, 1942, as amended, I hereby notify the insurance industry, the insured public, and the public in general of the approval of the Regulation for the Authorization and Operation of Non-Profit Associations to Provide Hospitalization and Medical and Surgical Services, to read as follows:

Section 1. In order for a non-profit association organized under the provisions of Public Law 152, enacted on May 9, 1942, as subsequently amended, to obtain a certificate of authorization to provide hospitalization and/or medical and surgical services in Puerto Rico, the association must submit a written application to the Office of the Commissioner of Insurance, using the form provided by the Office, signed by the Chair and Secretary of the Board of Directors of the association, along with the following documents:

- A- By-laws of the Association;
- B- A certified copy of the articles of incorporation;

- C- A model contract to be executed with the enrollees, showing a table of the rates to be charged and the benefits to which they will have a right.
- D- A model contract to be executed by the Association and the hospital or group of hospitals and/or group of physicians, indicating the conditions under which the services will be provided.
- E- Financial statement of the association, including contributions paid or pledged to the association for working capital and the name or names of the donors and the terms of each contribution.
- F- A statement of revenues from membership fees, direct service costs, and administrative expenses that the Association is expected to have during the first six months following the authorization.
- G- A list showing the names of staff and officers who will manage or have custody of the funds of the Association and an estimate of the maximum amount that will be managed or held in custody by such staff and officers at a given time and the bond required for each of them.

BY-LAWS

Section 2. No non-profit association that is organized to provide hospitalization and/or medical or surgical services may include in its by-laws any provision or clause that conflicts in any way with this Regulation; Public Law 152, enacted on May 9, 1942; Public Law 98, enacted on June 25, 1962; or Public Law 95, enacted on June 29, 1963, as they have been or may be subsequently amended.

ARTICLES OF INCORPORATION

Section 3. The Articles of Incorporation of all non-profit associations that are organized to provide hospitalization and/or medical or surgical services shall be signed and

acknowledged before a notary-attorney by thirteen or more persons of legal age who have voluntarily formed an association to incorporate such, and the absolute majority of such individuals must be United States citizens residing in Puerto Rico, and such must not be contrary to the public interest.

Section 4. The articles of incorporation must contain:

- A- The name of the association which may not be the name used by any other Association, or similar to such, which may give rise to confusion or uncertainty.
- B- The city or town where the Main Offices will be located, which shall be within the territorial jurisdiction of Puerto Rico.
- C- The purpose for which the association is constituted shall be limited to the purposes set forth in Public Law No. 152, enacted on May 9, 1942, as it has been or may be subsequently amended.
- D- Initial working capital shall be the amount set by the Commissioner of Insurance, subject to a minimum amount of \$5,000 and shall be reimbursed only in the manner as provided in paragraph (d) of the third paragraph of Section 6 of Public Law No. 152, enacted on May 9, 1942, and this Regulation, as they may have been or may be subsequently amended.
- E- The manner in which the powers of the Association will be exercised, including the faculties and duties of the directors, of which four will act as the chair, vice chair, treasurer, and secretary of the board— and all of such functions and positions and the

designations made for such positions shall be of a provisional nature during the organization period of the association, until there has been an annual meeting of the representatives of the hospitals that have contracted with such associations; the associated physicians who are not included in the above group; and representatives of the enrollees for the hospitalization and/or medical and surgical services.

F- Any other provision that the incorporators may see fit to include to regulate the administration of the affairs of the Association; the election of the directors; and the rights of the enrollees, provided that such provisions are not in contravention of Public Law No. 152, enacted on May 9, 1942, and this Regulation as they have been or may be subsequently amended.

D- The term for the existence of the Association, if any.

Section 5. If in the judgment of the Commissioner such articles of incorporation are contrary to the public interest, the Commissioner will return such unapproved and will order their modification or amendment by the incorporators, as the Commissioner may deem fit within the terms and purposes of Public Law No. 152, enacted on May 9, 1942, and this Regulation, as they may have been or may be subsequently amended.

REGISTRATION AND LEGAL PERSONALITY:

Section 6. If the Commissioner of Insurance should deem that the articles of incorporation are in compliance with the law, the Commissioner will approve such and proceed to file the articles at the Office of the Commissioner of Insurance, and it

will be deemed that the incorporation has taken place. A copy of the articles of incorporation will be delivered to the Office of the Secretary of State and another copy will be sent to the association.

Section 7. The Association that is so registered will acquire legal personality and shall have such powers that are provided in Public Law No. 152, enacted on May 9, 1942, as it may have been or may be subsequently amended, and subject to the limitations of such law:

- A- To exist as a legal person for the time indicated in the articles of incorporation.
- B- To appear as a plaintiff or a defendant before local or federal court.
- C- To have and use a seal, as such legal person, that will be registered at the Office of the Commissioner of Insurance.
- D- To acquire, possess, and transfer real and personal property, to carry out the purposes that are provided in Public Law No. 152, enacted on May 9, 1942, as it has been or may be subsequently amended, and subject to the limitations of such law.
- E- To elect directors and appoint administrators and such officers and/or employees that may be required for the operations of the Association and set the necessary bonds for such according to their duties and responsibilities.
- F- To assign such compensation to the administrators and employees as may be deemed fair and adequate.
- G- To promulgate rules as provided by the Law regarding the number, faculties, and duties of its directors, officers, administrators or employees and with regard to the management, regulation, and governance of the funds, assets, and operations of the association,

which shall be according to the Law and this Regulation.

- H- Establish such offices as may be necessary for the appropriate expansion of the operations of the association in the jurisdiction covered by its operations.
- I- Exercise, subject to the limitations and responsibilities provided in Public Law No. 152, enacted on May 9, 1942, as it has been or may be subsequently amended; in its Articles of Incorporation; in this Regulation; and in any other law in Puerto Rico, all such incidental and ancillary powers to carry out the operations of the Association and any action that may be derived from such operations, but no association may engage in any transaction to provide hospitalization and/or medical and surgical services until it has been formally organized and received an authorization certificate from the Commissioner of Insurance further to payment of the corresponding fees.
- J- Enter into contracts.
- K- Promulgate rules that are not contrary to the laws of Puerto Rico and this Regulation.
- L- Dissolve the association, whether voluntarily under the supervision of the Commissioner of Insurance or by provision of law, and it is further provided that in the event of a voluntary dissolution, all available funds in banks and other assets of the association will be immediately frozen and such funds and/or assets may only be disposed of under prior authorization by the Commissioner of Insurance. It is further provided that in the event of an involuntary dissolution the assets of the Association will be frozen until the Court assumes jurisdiction in the matter.

MEETING:

Section 8. The General Meeting and the Board of Directors of any association that may be organized according to Public Law No. 152, enacted on May 9, 1942, as it has been or may be

subsequently amended, will be constituted in the following manner:

(1) When the association operates a hospitalization and medical and surgical services plan:

- (a) Representatives of the associated hospitals selected by the administrators, directors, overseers, or representatives of the hospitals that have contracted with the association to provide services to its enrollees.
- (b) Associated physicians that are not included in group (a), equal in number to the persons in group (a), selected by and among the physicians who have contracted with the association to provide services to its enrollees.
- (c) Representatives of the enrollees, equal in number to the total number of persons in groups (a) and (b) as set forth above, who may not be physicians, administrators, overseers, representatives or employees of the associated hospitals that participate in the plan.

(2) When the association operates a hospitalization plan only:

- (a) Representatives of the associated hospitals selected by the administrators, directors, overseers, or representatives of the hospitals that have contracted with the association to provide services to its enrollees.
- (b) Representatives of the enrollees, equal in number to the number of persons in group (a), who may not be physicians, administrators, overseers, representatives or employees of the associated hospitals that participate in the plan.

(3) When the association operates a medical and surgical services plan only:

- (a) Associated physicians selected by and from among physicians who have contracted to provide services to enrollees.

- (b) Representatives of the enrollees, who may not be physicians, administrators, overseers, representatives or employees of the hospitals that participate in any other plan that is organized under the provisions of Public Law 152 of 1942, as amended, that will be selected by the enrollees in a number equal to the persons in group (a).

The distribution of the representatives at the General Meeting will be approved in a resolution of the Board of Directors and will be filed with the Office of the Commissioner of Insurance no later than March 31 of every year.

The members of the Board of Directors of the Association will have the right to speak and vote at the meetings and will be considered to be delegates for such purposes.

The representatives of the Board of Directors will be elected separately for each group in the manner set forth in Article 3 of Public Law 152, as amended.

Section 9. One month before the annual meeting to be held under the rule, the Board must notify the associated physicians and enrollee groups of the representatives to which they have a right so that they may elect their representatives or delegates for such annual meeting and for any other meeting that may be called during the year.

Section 10. The Board of Directors will publish a notice calling for a general meeting of its members in the daily

newspaper with the largest circulation on the Island at least twice during the same week, at least fifteen (15) days before the date stated in the notice.

ANNUAL REPORT

Section 11. The Annual Report required under Article 7 of Public Law 152, enacted on May 9, 1942, as it has been and may be subsequently amended, must be prepared according to the provisions of said article and as approved by the National Association of Insurance Commissioners of the United States for this kind of association and filed with the Office of the Commissioner of Insurance no later than March 31 of the calendar year following the year covered in the report.

EXAMINATIONS, LIQUIDATION, AND DISSOLUTION:

Section 12. Any association organized under Public Law 152, enacted on May 9, 1942, as it has been and may be subsequently amended, will be subject to examination as provided in Article 8 of that law.

Section 13. The directors, officers, executives or employees of an association that is so organized will allow and facilitate the free inspection and examination of its documents, books, records, accounts, and affairs by the Commissioner of Insurance or the duly authorized representatives of the

Commissioner, when so ordered. If as a result of such examination the business operations of the association are found to be detrimental to the interests of the enrollees, due to any deficiency in the capital of the association or its reserves or failure to comply with any order to replenish such by the Commissioner or any other reason that would have that effect, the Commissioner may request that the Puerto Rico Superior Court to appoint a Judicial Administrator or Receiver for the liquidation and dissolution of the association under the powers and duties to be set by the Court.

ADMINISTRATION AND OPERATION:

Section 14. The members of the Board of Directors of a non-profit association that provides hospitalization and/or medical and surgical services may not receive any compensation for services as directors.

Section 15. Initial working capital may be provided by individuals, hospitals, savings associations, councils, and other civic agencies. The capital may be reimbursed only from the surplus on revenue, after discounting operational expenses and Hospital and Medical services expenses and such reserves as the Commissioner of Insurance may deem to be appropriate or as provided in Public Law 152, enacted on May 9, 1942, as amended.

Section 16. In no given year will the Association use more than 20% of its revenues from Enrollment fees for administrative Expenses, and it shall be understood that the term "revenue" on which such percentage will be based means the fees earned during the year before the budget year.

Section 17. No organization or individual who advances funds for initial capital may attempt to influence or exercise pressure on the administration of an association of this nature because of having provided financial assistance. The Association shall be free of any influence and independent from any other corporate body.

Section 18. Initial working capital must be sufficient to cover all production costs and administrative expenses for at least six months following the initiation of operations.

Section 19. Any association that is organized to provide hospitalization and/or medical and surgical services shall provide equal opportunity to all institutions with acceptable standards, as well as to physicians, to join as Associated Hospitals, Associated Clinics, and Associated Physicians. Enrollees will be free to select the Associated Hospital, Physician or Clinic of their choice. "Acceptable standards" shall be deemed to be such hospitals as have received prior

approval by the Department of Health and doctors of medicine who are authorized to provide services in Puerto Rico.

Section 20. To ensure an adequate distribution of risk and efficient administration and effective coordination, each association is required to serve the greatest number possible of areas or districts as allowed by law and their financial condition.

Section 21. The area of operation of an association to provide hospitalization and/or medical and surgical services will be subject to approval by the Commissioner of Insurance.

Section 22. The staff of all associations shall be selected and compensated according to standards set by the Board of Directors.

Section 23. Any person who collects or receives or is in charge of or holding the funds of the association shall post a bond in the amount to be set by the Board of Directors in proportion to the amount of money that at a given moment may be accessible to or in the power of such individual.

CONTRACTS:

Section 24.

- (A) The agreements of the association with hospitals and physicians shall contain a clause specifying that the contracts between the association and its enrollees constitute a direct obligation of the hospitals and the physicians.
- (B) The model contracts with enrollees must have prior approval by the Commissioner.

BUDGET:

Section 25.

- (A) All budgets shall be prepared for a calendar year and a budget for one year may never be extended partially to another year. The budget shall be adjusted at all times to the limitations provided by law.
- (B) All associations shall annually file a budget with the Office of the Commissioner of Insurance no later than the 31st of December of the year before the budget year.

SERVICE RESPONSIBILITIES TO ENROLLEES

Section 26. Associated hospitals and physicians with which the Association has contracted to provide services to its members will be directly responsible to the enrollees, upon signing of the contract with the association.

Section 27. Any contract between the association and the associated hospitals and physicians is subject to the following provisions:

- A. Services to be provided to enrollees will be expressly stipulated in the terms of all agreements.
- B. If during an epidemic or a disaster it is physically impossible for the associated hospitals to provide services, these may be provided by non-associated hospitals. It is further provided that if the latter are unable to provide services either, arrangements will be made so that the interests of the enrollees are protected, without prejudice to the stability and continuity of the Association. This provision will not affect the right of enrollees to be served at non-associated hospitals and by non-associated physicians, when they so prefer, in which cases the responsibility of the Association shall be clearly set forth in the Enrollment Agreement.
- C. No distinction or exception shall be made among enrollees in the same group who are in equal condition, with regard to services to be provided by the hospitals and physicians that are under contract.

ENROLLMENT

Section 28. Group enrollment will be used preferentially with regard to other modalities, provided that such restrictions, monitoring, and appropriate management may be effected to protect the interests of the enrollees, the hospitals, and the physicians.

Section 29. On December 31 of every year, the association will submit to the Commissioner of Insurance the experience of such agreements that may be requested, which will principally show information on the following:

- A. Number of enrollees
- B. Number of participants
- C. Number of claims
- D. Number of days of hospitalization
- E. Total premium earned during the period
- F. Cost of services provided

ACCOUNTING

Section 30.

- A. All Associations have the obligation to maintain accounting books and records at their principal offices, as well as subsidiary records or books at the operating branches.

- B. Accounts must be kept according to the system accepted by the National Association of Insurance Commissioners.
- C. Necessary and essential statistics must be kept for the management of this kind of association and to produce the income and expense statements and balance sheets as may be required at any time by the Commissioner of Insurance.
- D. The system will also include such books or records as may be required by the Commissioner of Insurance in order to carry out such interventions as provided by law by means of its examiners.

RESERVES

Section 31.

- A. All Associations created under Public Law 152, enacted on May 9, 1942, as amended, shall establish a contingency reserve and a reserve for prospective maternity, which will be considered the legal reserves of such Association.
- B. The contingency reserve, as well as the prospective maternity reserve, shall be created from the annual profits that the Organization may have.
- C. The contingency reserve shall be used solely to cover expenses incurred in the event of an epidemic or a catastrophe.
- D. The prospective maternity reserve shall be used solely to cover prospective maternity benefits in the event of the liquidation of the Association and shall be accumulated until the reserve is equivalent to seventy-five (75) percent of the expenses for maternity services for the immediately preceding year.
- E. The legal reserves will be created on the basis of four (4) percent of all earned fees collected for hospitalization and or medical or surgical services and

such amounts that the Board of Directors may authorize when the results of the Association's operations so permit and the reserves shall be accumulated until they are equivalent to thirty-five (35) percent of the cost of hospitalization and/or medical and surgical services for the immediately preceding year.

- F. Four (4) percent of all fees collected for hospitalization and/or medical and surgical services as established in Subsection E, *supra* will be deposited in the Guarantee Fund as set forth in Section 32 of this Regulation, as well as other amounts as may be authorized by the Board of Directors.
- G. When in any given accounting period the results of the operations do not allow for increasing the legal reserves in an amount equivalent to four (4) percent of all earned and collected premium for hospitalization and/or medical and surgical services, the balance of such will be adjusted at the end of such period to the actual and effective amount permitted by the net result of the operations.

GUARANTEE FUND

Section 32.

- A. A Guarantee Fund shall be established to support the legal reserves established under this regulation, whose sources of income will be the following:
 - 1. The amount that shall be separated on the effective date of this Regulation to guarantee such net legal reserves under the Regulation and previous provisions of the Commissioner of Insurance of Puerto Rico.
 - 2. Four (4) percent of all earned premium collected for hospitalization and/or medical and surgical services.

3. Such amounts as may be authorized by the Board of Directors in excess of the four (4) percent mentioned in the above paragraph, when the results of the Association's operations so permit.
- B. The Guarantee Fund created in this manner shall be kept in a special separate account in the books of the Association and shall be deposited in special bank accounts which may not be drawn against without prior authorization by the Commissioner of Insurance or in securities as provided in Public Law 152, enacted on May 9, 1942, as amended, which may not be redeemed without the appropriate authorization of the Commissioner of Insurance.
- C. The Guarantee Fund created in this manner may be used solely with the previous authorization of the Commissioner of Insurance for the purposes for which the Contingency Reserve and Prospective Maternity Reserve were created, as provided in Subsections C and D of Section 31 of this Regulation and to pay claims and administrative expenses that are not related to an epidemic or catastrophe, only according to a plan that is acceptable to the Commissioner to replenish the amount that may be permitted to be used.
- D. The Guarantee Fund shall be accumulated until it is equivalent to thirty-five (35) percent of the costs of hospitalization and/or medical and surgical services of the preceding year.
- E. When as a result of the operations the reserves that are created according to section 31 of this regulation do not cover four (4) percent of the fees that were earned and collected in any given accounting period, the balance of the guarantee fund will be adjusted to the actual balance of the legal reserves.

UNASSIGNED FUNDS

Section 33.

- A. Unassigned funds will be deemed to be the funds remaining after having provided for all of the

obligations, legal reserves, and special assigned funds.

- B. At no time will the unassigned funds exceed five (5) percent of the total premium collected during the year, and it is further provided that any excess will be used to increase benefits or reduce fees.

SUBMISSION OF INVOICES

Section 34.

- A. The hospital or physician has the obligation to send an original invoice to the Association within 30 days of the date of discharge of the patient.
- B. Any invoice that is sent after the first 30 days from the date of discharge of the patient must be approved by the Board of Directors or the Committee designated by the Board.

PENALTIES

Section 35.

- A. Any violation of this regulation will carry an administrative fine of ten (10) dollars.
- B. The publication of a report that is not in conformance with this regulation will be considered to be a violation thereof, and the Commissioner of Insurance, without prejudice to any other legal action, will demand public retraction of the report within ten days of the notification to the party, by the same means and prominence as the publication to be retracted.

INTERPRETATION

Section 36.

- A. Any issue regarding the interpretation of this regulation shall be submitted to the Commissioner of Insurance for clarification.

APPROVAL

Section 37. This Regulation is promulgated according to the applicable provisions of Public Law 152, enacted on May 9, 1942, as subsequently amended, and upon approval by the Secretary of Justice and filing with the Office of the Secretary of the Department of State of Puerto Rico, will have the force of law.

Section 38. If any of the sections of this Regulation were to be contested as contravening the Constitution of the United States of America and/or the Constitution of the Commonwealth of Puerto Rico, and any court may so rule or decide to such effect, it shall only be deemed that the section or sections or part thereof affected by such ruling or decision to be null, and the remainder of the Regulation shall be in full effect.

Article 2. This amendment will enter into effect 30 days after filing.

August 29, 1977

ROLANDO CRUZ

Commissioner of Insurance