

Commonwealth of Puerto Rico
Department of Health

Medical Services Administration of
Puerto Rico

Board of Participating Entities
Committee for Medical
Administration and Policy of
the Puerto Rico Medical Center

No. 3314

Date: May 27, 1976 11:45 A.M.

Approved: Héctor Luis Acevedo
Secretary of State

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REGULATIONS TO RULE OVER THE RETAILING
OF MERCHANDISE, SERVICES, COMMERCIAL
PROMOTIONS AND SOLICITING BY PRIVATE
PERSONS AT THE PUERTO RICO MEDICAL CENTER

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EXPOSITION OF REASONS

The institutions and programs engaging in medical treatment, medical, paramedical and nursing education and scientific investigation operating on the grounds where the Puerto Rico Medical Center is located have as their primary purpose guaranteeing the health, the welfare, the security, peace and tranquility of the persons visiting the Medical Center, particularly the patients, their escorts, their relatives, the officials and employees of the medical-hospital complex and the visitors.

For said reason, every activity carried out in the therapeutic situation which is the Medical Center, must be aimed, directly or indirectly, towards the attainment of the mentioned purpose. Thus, for example, activities such as the humane treatment due to the patient, the recognition and protection of his or her rights; the adornment of the environment; the elimination of unnecessary noises and architectural barriers; the preservation of public order; the productivity of employees, the due degree of institutional asepsis; the circulation of persons in the hallways and external halls for intercommunication among institutions; security in the offices, workshops and work areas; the privacy in the areas of medical treatment and hospitalization; the retailing of merchandise and the promotions and soliciting of a commercial nature by private persons

significantly exert an influence on the patient, who is the main reason for the being and the existence of the Medical Services Administration and the Puerto Rico Medical Center.

Law 66 of June 22, 1978 as amended, known as the Law of the Medical Services Administration of Puerto Rico grants faculties to the Secretary of Health to regulate activities such as those mentioned.

Through these Regulations the ordering of those activities is decided, based on the principles of public policy mentioned below and which have been endorsed by the Board of Entities Participating in the Medical Center:

1. It is the unavoidable duty of each of the Entities composing the System of the Medical Center to promote the patient's welfare with all of the legal means available.

2. The Medical Services Administration and the System of the Puerto Rico Medical Center acknowledge the fact that the primary interest of the Commonwealth of Puerto Rico is on the protection of the integrity of the human being, and part of this is the preservation of health. Consequently, both the Administration as well as the System understand and accept their roles in that task and will discharge them completely.

3. To promote the patient's welfare and to preserve his or her health the Medical Center of Puerto Rico and each

of the different direct or subsidiary activities carried out there for the purposes mentioned are declared as therapeutic situations. In accordance with this, every activity not geared towards those purposes is excluded from and completely forbidden on the grounds of the Medical Center.

4. Declared as excluded and not proper of the therapeutic situation that is the Medical Center are all activities of door-to-door sales and all other commercial promotions or soliciting or political promotions of every type. Those activities are considered as sources of disturbance and perturbation.

Considered in these Regulations is the Law which rules over door-to-door sales in Puerto Rico, Law Number 56 of July 21, 1978, 10 LPRA, Section 2001 et. seq. since it recognizes that the Medical Services Administration in this case, as the owner of the grounds where the Medical Center is located, has the right and faculty to prohibit the door-to-door commercial sales, promotions and soliciting at the Medical Center.

Considering that prohibition and in view of the fact that it is based on the above-mentioned law and on the faculties granted to the Administrator by its authorizing statute, it is understood that in everything else, Law 56 --which is only related to the regulation of door-to-door

sales in Puerto Rico-- is not in accordance with these Regulations.

Article I : Name of these Regulations

These Regulations will be known and mentioned as "Regulations to Rule over the Retailing of Merchandise, Services, Commercial Promotions and Soliciting by Private Persons at the Puerto Rico Medical Center".

Article II : Legal Authority

These Regulations are set forth according to the faculties for contracting and/or regulation granted by law or regulation to the following Entities Participating in the Puerto Rico Medical Center:

- (a) Puerto Rico Medical Services Administration, Article 8, Sections (b) and (e), Law 66 of June 22, 1978, 24 L.P.R.A. 342 and ss.
- (b) Department and/or Secretary of Health of Puerto Rico, Law 81 of May 14, 1912, Article 12, 3 L.P.R.A. 178 and Article 3, first paragraph and 8, Sections (b) and (e), Law 66, ante.
- (c) Department and/or Secretary of Social Services, Law 171 of June 30, 1968, Arti-

- cle 4, Section (d), 3 L.P.R.A. 211 c.
- (d) Municipality and/or Mayor of San Juan, Law 142 of June 21, 1960, Article 35, sections 4 and 5, 21 L.P.R.A. 1254 (4) and (5).
 - (e) Department and/or Secretary of Social Services, Law 60 of May 30, 1973, Article 7, as amended, section (d) 18 L.P.R.A. 401 f (d).
 - (f) University of Puerto Rico - Medical Sciences Campus - Powers of Regulation granted to the Rector and to the administrative organisms of the University of Puerto Rico.
 - (g) American Red Cross - Powers of operational Regulation granted to the Puerto Rico Chapter and its Blood Bank by the National Red Cross.
 - (h) State Insurance Fund - Powers of Regulation granted to the Administrator of the State Insurance Fund.

Article III: Definitions

Each one of the following phrases or terms will have the meaning given in each case, unless a different one can be assumed from the given text.

- 1) Administration - Puerto Rico Medical Services Administration, created by Law Number 66 of June 22, 1978, as amended.

- 2) Department - Department of Health of the Commonwealth of Puerto Rico.
- 3) Secretary - Secretary of Health of the Commonwealth of Puerto Rico.
- 4) Board - Board of Entities Participating in the Puerto Rico Medical Center, constituted by the highest chiefs of the entities who operate one or more institutions at the Puerto Rico Medical Center and by the consumers of health services and the President of the Committee on Medical Administration and Policy.
- 5) Participating Entities - The organisms or institutions which operate one or more institutions and facilities at the Puerto Rico Medical Center.
- 6) Committee - Committee for Medical Administration and Policy of the Puerto Rico Medical Center, the organism constituted by the main Medical Directors and Administrators of the Consuming Institutions and which is the forum to identify, take care of and solve situations and problems of said institutions in their interaction with the Administration and among themselves, with the purpose of attaining the most effective

interinstitutional coordination and cooperation.

- 7) Consuming Institutions - the institutions located on the grounds of the Administration which use its services and/or which provide basic services of medical and hospital care, training, education and investigation in the field of health.
- 8) Puerto Rico Medical Center - the system of medical hospital, teaching and scientific investigation institutions located at Barrio Monacillos of the Municipality of San Juan, as specified in Article 6 of Law 66, ante. The geographical boundaries of the Medical Center cover the South side of the grounds occupied by the Psychiatric Hospital and including those, along a section to the left by State Road Number 21; it has boundaries on the South-West with grounds granted by the ASEM to the Veterans Hospital; on the West with Reparto Metropolitano; on the North with Americo Miranda Avenue and on the East with the access Road to the West Sector of the Villa Nevarez Urbanization.
- 9) ASEM = Acronym designating the Medical Services Administration of Puerto Rico.

- 10) Person - will refer to every natural or juridical person.
- 11) Concession - authorization given through a contract to a natural or juridical person to retail certain products or services at the Medical Center, once the requirements adopted in these Regulations are complied with.
- 12) Concessionaire - every natural or juridical person who has been granted a concession.
- 13) Contract for Concessionaire - contract made between the Administration or a concerned institution and the private natural or juridical person to whom a concession is granted to retail a certain merchandise on the grounds of the Medical Center.
- 14) Grounds of the Medical Center - for the effects of these Regulations, means the facilities mentioned in Article IV, Jurisdiction and in Article 6 of Law Number 66, ante.
- 15) Security Officer - means the officer in charge of the supervision of the public order and security (non-industrial) and protection work of persons and property in each one of the institutions and programs located at the Medical Center.

- 15) Traveling sales - every commercial retail sales operation of products or services, without a fixed and permanent establishment, in moving units, by hand or in places in which the product or the instruments to offer the service cannot be maintained for more than 24 hours. For the effects of these Regulations, the term also includes all types of commercial and political soliciting.
- 16) Registry - Registry of Candidates for Concessionaires established by these Regulations under the custody and preservation of the Financing Division of the ASEM.

Article IV: Jurisdiction

These Regulations will be applicable on the inside and on the outside of each one of the institutions and programs which operate in and from the Medical Center of Puerto Rico, including, but not limited to, the internal, external and intercommunication halls, open spaces, green areas, the intercommunication walkways, streets, sidewalks, accesses, curbs, lobbies, passive recreation areas, public sheds, work and waiting areas, offices, wards for hospitalization and medical treatment and parking areas. The Veterans Hospital is excluded from the jurisdiction of these Regulations.

Article V: General Pertinent Rules

1. The powers of regulation conferred on the Secretary and the Board are executive faculties which cannot be delegated.

2. The authorization for the retailing of any merchandise by private natural or juridical persons on the grounds of the Medical Center will always respond to criteria of need, usefulness and convenience in reference to the interests and purposes of the consuming institutions and the service programs operating at the Puerto Rico Medical Center.

3. Traveling sales of merchandise or services of any nature will not be permitted on the grounds of the Medical Center.

4. If a concessionary were operating at the Medical Center and at the same time violating some law, order or regulation, including this one, after the fact is proven, the concession will be immediately revoked.

5. Considered a violation of these Regulations will be every retail of merchandise not done through a concession granted with the approval of the Executive Director if the retailing takes place in community facilities or under the jurisdiction of the ASEM or of the representatives of the concerned consuming institution at the Committee for Medical Administration and Policy, in addition to the approval of the Board under the conditions which in the case in question were agreed on.

6. When a concession granted is to be operated within the physical facilities of a consuming institution, this institution will be a necessary party in the contract and will be represented in same by the main executive officer of the participating entity and of the concerned consuming institution.

7. Every concession will be granted only through a formal and written contract and the dispositions of these Regulations will be part of that. Any violation of that or of this will be ruled by the law of obligations and contracts.

8. The Security Officers of the consuming institutions and programs of the Medical Center under the jurisdiction of these Regulations and their subordinates must implement same with the aid of the Puerto Rico Police Department, the San Juan Municipal Guard and the other available Security and Protection officials.

9. Concessionaires are bound to:

(a) report to the Security Officer nearest to his concession of any beginning, enlargement or establishment, expansion or diversification not authorized of a certain retail enterprise.

(b) collaborate with the ASEM and with the other institutions and programs located at the Medical Center in the steps taken to

avoid violations to these Regulations.

10. All open or undercover behavior in a concessionaire aimed at or resulting in the establishment of unauthorized retailing will be considered as a violation to these Regulations.

Article VI : Forbidden Sales

1. Traveling sales activities are forbidden in the Puerto Rico Medical Center.

2. The above prohibition includes every traveling sales activity and specifically strictly forbidden are the following activities: loans of money, sales of tickets or vouchers for games or raffles, bingos or table games involving money, the sale of cigarettes, ice cones, ice cream to be sold traveling, all types of soft drinks and alcoholic beverages, the operation of gambling machines and the sale of merchandise forbidden by law or even if they were not, they would be damaging to the concept of therapeutic community which distinguishes the Medical Center.

Article VII : Criteria and Rules to be observed in the granting of Concessions

1. The following criteria will serve as the basis for the award of a concession at the Puerto Rico Medical Center.

- a) The effective lack of discrimination because of age, race, national origin, social condition, sex or political or religious ideas, maintaining a strict observance of the laws applicable in each case.
- b) The suitability of the applicant for the concession, in its widest sense, as the only requirement for the recognition of his right to opt for the concession under equal conditions with other applicants.
- c) The previous determination by the Administration Committee in the sense that the retail of any merchandise or service is useful and/or necessary and/or convenient for the purposes of Law 66, ante; for the welfare of the patient and for the good function of each of the institutions or programs operating under the system of the Puerto Rico Medical Center.
- d) The recognition and observance of the principle of free contracting.
- e) The due recognition and respect to the concept of operational autonomy of each one of the insti-

tutions using the Medical Center, with the understanding that each institution responds to the participating entity which sponsors its operation.

- f) The recognition of the legal disposition which orders the ASEM to allow the use of the grounds of the Medical Center only according to the purposes of its constituting law, Law Number 66 of June 22, 1978 as amended, and with its institutional purposes, described in that same law.
- g) The assertion that the purposes which have been the reason for being of the institutions located in the Medical Center are public, but each one, because of its nature and the particular scope of services, seeks definite public purposes always related to health.

2. Every concession to make sales of any nature must be based on the criteria stated in section 1 of this Article VII and on any other laws, regulations or rules that were pertinent to the case.

3. The diversification of inventories and the occupation of additional physical or air space by a concessionaire will require the prior authorization of the Committee for Medical Administration and Policy and from the consuming institution involved if any. The necessary contract modifications will also be required.

4. The concessionaire contracts will be for a term; not free of charge; non-transferable; without automatic renewal and without privilege of exclusivity of sale, the latter unless the nature of the merchandise or service being retailed determines the contrary.

5. The failure to pay the fee by a concessionaire will not be the object of any sanction other than the cancellation or termination of the concession.

6. Nothing in the contents of these Regulations will be interpreted to affect the operational autonomy of each of the institutions or programs established at the Medical Center.

7. In accordance with that stated in the above paragraph, we recognize the faculty of each of the consuming institutions and their respective participating entity to grant concessions within their premises, through the endorsement of the Committee for Medical Administration and Policy and the okay of the Board.

8. Every concessionaire will allow for and facilitate a periodical eye inspection of the place of the concession by a representative authorized by the Committee for Medical Administration and Policy and/or a person authorized by the corresponding institution.

Article VIII: Commercial promotions and soliciting

1. Soliciting funds and the distribution of notices, fliers and written or oral propaganda of a commercial or political nature are forbidden.

2. Excepted from the above prohibition are the official promotions from the Consuming Institutions or the Participating Entities and those of public, civic, humane or work interest and which are not gainful which are expressly authorized by the Committee.

Article IX: Public Order and the Observance of Laws

1. Every concessionaire will be bound to the strict observance of the following rules of public order:

- a) Will not promote nor participate in arguments nor fights.
- b) Will be kind and friendly with the patients,

with their sponsors and with their fellow concessionaires.

- c) Will not yell, insult nor use obscene nor indecorous language.
- d) Will not carry firearms, nor weapons with offensive intentions nor explosives.
- e) Will give due respect to the general public, including ladies, the aged, children and the employees of the Medical Center.
- f) Will observe the rules of asepsis and cleanliness required by the Committee.
- g) Will circumscribe his activities as a concessionaire to the physical area or space described in his contract.
- h) Will carefully observe the laws and regulations applicable to him and the contract which rules over his concession.
- i) Will be very careful not to interfere in the free circulation of persons.
- j) Will protect the surrounding green areas.
- k) Will obtain the permits, certificates, authorizations and licenses that were necessary prior to using his concession.

- 1) Will inform the Board as to any change in his physical and mailing addresses.

Article X: Asepsis

Every concessionaire is bound to strictly observe the following rules for asepsis:

- a) Will obtain and carry with him a Health Certificate.
- b) Will be always dressed with visible cleanliness and decorum.
- c) Will preserve and handle every article for human consumption in an adequate manner and with his hands clean.
- d) Will always keep the area where he is located and the surrounding space, twenty feet around clean.
- e) Will observe all applicable Health laws and regulations.
- f) Will obtain the necessary and adequate equipment to display his products in an ordered manner and with an aesthetic sense.
- g) Will engage in every other rationally necessary activity he can possibly engage in for the

cleanliness of the environment and the health of his patrons.

Article XI : Termination of the Concession

1. A concession granted under these Regulations may be terminated by the Secretary:

- a) if the concessionaire violates his contract, a law or a regulation applicable to him, including these Regulations.
- b) if the concessionaire committed a felony.
- c) if the concessionaire abandons the physical space assigned to him or transfers it openly or deceptively.
- d) if it were determined by the Secretary, by the Board, or by the Executive Director that the concession has stopped being useful, or necessary or convenient or proper for the service, comfort or convenience of the population of the Medical Center or of a sector of that population.
- e) if the operation of the concession were against the law, security, public order, public peace and interest, aesthetics, asepsis or vehicular, pedestrian or patient traffic.

f) if it is proven that the concession was obtained providing false information or through any other fraudulent, criminal or in any way illegal means.

g) if the concessionaire fails to make or is late in the payment of his fees.

2. The Committee, with the acceptance of the Board and the approval of the Secretary as per recommendation of the former, will establish a procedure for the granting and the termination of a concession. Said procedure must comply with the minimum requirements of the due process of law and will be an integral part of every contract through which a concession is granted.

Article XIII: Creation and utilization of the Registry of Candidates for Concessionaires

1. The Registry for Candidates for Concessionaires, is created, which will be integrated by natural or juridical persons who show to the Committee an interest on a written application presented to the Administration's Financing Division.

2. When the Committee determines the need, utility and convenience the retail of a certain product or service has for the Medical Center, it will inform the concerned officer with the corresponding mechanisms for Auction and

the Financing Division of the ASEM (as custodian of the Registry) so that the established rules are followed for the authorization of the retail enterprise.

3. The Registry will be active during the period covered each fiscal year and will be renewed on July first of each year having as its members the natural or juridical persons who have presented the written application mentioned in Section 1 of this Article during the month of June of the corresponding natural year.

4. No concession will be granted without the previous determination of usefulness, need and convenience of it for the System of the Medical Center and/or for the concerned institution by the Committee.

5. The candidates for concessionaires duly registered will be notified in due time, simultaneously and in writing regarding the determination mentioned in Section 4 above, with the disposition that if among the candidates for concessionaires registered there is none who according to public interest meets the conditions of ability and suitability established on the documents and Procedures of Auction that are pertinent, then proposals from other interested parties will be invited.

Article XIII: Reconsideration of decisions made in accordance with these Regulations

1. When a decision is made under these Regulations and it affects a person and he or she were to show non-conformity, he or she must abide by it.

2. After abiding by the decision, the person in disagreement will be in a condition to be able to ask the Committee to reconsider the decision.

3. Every application will be made in writing, will be duly supported and all of the documents will be attached or added which in the applicant's opinion support the basis of his pretensions.

4. The request for reconsideration will be processed by the applicant and sent to the Committee Secretary within 15 calendar days after that on which the objected decision was taken.

5. The Committee will make a decision regarding the request for reconsideration on its next ordinary meeting and the Committee Secretary will notify the decision on the reconsideration to the interested party in writing and by regular mail the following working day after that in which the Committee's decision was made.

6. The processing of a request for reconsideration will not have the effect of extending the duration of a concessionaire's contract.

Article XIV: Judicial Review

1. After the decision of reconsideration, the interested party may request a judicial review, recurring within the period of thirty (30) days after the date of notification to the San Juan Section of the Superior Court with an Appeal for Review prepared according to the pertinent procedural law.

2. The processing of an Appeal for Review will not have the effect of extending the duration of a concessionaire's contract.

Article XV: Exception Clause

1. If any of the dispositions of these Regulations were declared null or illegal by a competent court of law, the remaining dispositions will remain in force and effect.

Article XVI: Amendments

From time to time the committee may promote, and the Secretary may approve according to his legal faculties, the amendments it may consider necessary in these Regulations,

to make sure it effectively responds to social dynamics. The Committee is bound to publish every amendment approved so that it is possible for every interested party to be heard regarding this. On its own, or at the request of the parties, the Committee will hold public hearings to hear the interested parties regarding any amendment proposed.

Article XII: Temporary dispositions

1. The persons who on or before November 14, 1985 were doing traveling retail sales at the Medical Center may enter the Registry for Candidates for Concessionaires at any time within the 365 days following the date of registration of these Regulations at the Department of State of Puerto Rico, with the disposition that they will have an entry on said Registry for a fiscal year additional to that in which they filed their application for admission to the Registry.

2. Every other person not mentioned on Section 1 above and who wants to be taken into consideration to be granted a concession must, so as to be included in the Registry for Candidates for Concessionaires, submit the information required by the Committee:

- a) initially, within the thirty days after the registration of these Regulations at the De-

- partment of State of Puerto Rico and,
- b) subsequently, within the 30 calendar days prior to the beginning of the next fiscal year and will have an entry on the Registry during the mentioned fiscal year.

Article XVIII: Duration of these Regulations

These Regulations will be enforced thirty (30) calendar days after the date in which the Department of State of Puerto Rico certifies its registration.

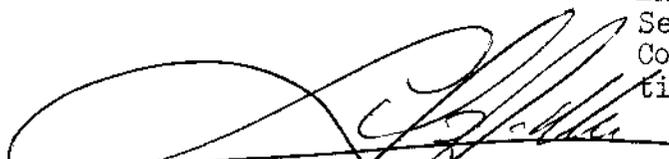
CERTIFICATION

I, LAURA E. TORRES DE MORALES, Secretary of the Committee for Medical Administration and Policy of the Puerto Rico Medical Center, CERTIFY that:

- (a) The above is and covers the total true and authentic text of the Regulations to Regulate the Retail of Merchandise, Services, Commercial Promotions and Soliciting by Private Persons at the system known as the Puerto Rico Medical Center;
- (b) Was recommended for the approval of the Board by the Committee for Medical Administration and Policy;

- (c) Was approved by the Board and submitted for final approval to the Secretary of Health on February 12, 1986.
- (d) The Secretary of Health approved it on February 19, 1986.
- (e) It was registered at the Department of State of the Commonwealth of Puerto Rico on _____
May 27, 1986.
- (f) Public notice was given of the existence of these Regulations on the Edition of Newspaper _____ on _____, 19____.
- (g) These Regulations consist of twenty-six (26) letter-sized pages.


(Signed) Laura E. Torres de Morales
LAURA E. TORRES DE MORALES
Secretary
Committee for Medical Administration and Policy


APPROVED: (Signed)
HON. LUIS IZQUIERDO-MORA, M. D.
Secretary of Health and
President
Board of Participating Entities