

(H. B. 1462)
(Conference)

(No. 62)

(Approved August 23, 2005)

AN ACT

To amend the fourth paragraph of Article 41.050 of the “Puerto Rico Insurance Code,” Act No. 77 of June 19, 1957, as amended, and to amend subsection (a) of Section 2 of Act No. 104 of June 29, 1955, as amended, in order to include the Cardiovascular Center Corporation of Puerto Rico and the Caribbean within the medico-hospital malpractice civil liability limits to which the Commonwealth of Puerto Rico is subject.

STATEMENT OF MOTIVES

The Cardiovascular Center of Puerto Rico and the Caribbean (hereinafter “the Center”) is at present the only institution specialized in the treatment of cardiovascular conditions in Puerto Rico. The Center is a motive of great pride for all Puerto Ricans since the quality of its services, together with the dedication and care it offers its patients, is recognized not only in Puerto Rico, but throughout the entire Caribbean.

Act No. 51 of June 30, 1986, as amended, created the Cardiovascular Center Corporation of Puerto Rico and the Caribbean for the purpose of offering the People of Puerto Rico the advances in the treatment of cardiovascular diseases. Among the powers delegated to the Corporation by this Act is the operational planning of the Center. The principal aspect of said planning consists in drafting an annual budget proposal and a budget appropriation, granted by the Legislature, to subsidize the payment of the

rent of the building where the Corporation is located, leaving the remaining operations to be subsidized by the income generated by the Center.

The budget appropriation was provided for several years and as of 1998 it was eliminated, thus leaving the Center devoid of financial aid, and having to defray all regular administrative and operating expenses in addition to the million dollar portion corresponding to its rent. Services have continued to be rendered with the excellence and professionalism that have characterized this Center since it opened in 1992. However, the financial resources for its operation are limited like in other hospitals of the public system that serve the people of Puerto Rico, including the Puerto Rico Medical Services Administration. It is essential that this Legislature provide all the assistance needed so that the operation of this Center may continue.

Among the purposes of its enabling Act is the research and educational function of the Center in the formation of specialized health professional in the fields of cardiology and cardiovascular surgery. In order to comply with these purposes, the Center has an affiliation agreement with the Medical Sciences Campus of the University of Puerto Rico through which members of its faculty, students and residents use the physical facilities as teaching and university research workshops. At the same time, they render services to the people, making the same accessible and thus complying with the public purpose of rendering medical services. For all the previously stated, the Center is exposed to financial risks for claims due to culpable or negligent professional malpractice.

At present, the Center responds in an unlimited manner for damages suffered by patients that are caused by negligent acts. In those cases in which the Center responds unlimitedly for claims for culpable or negligent medico-hospital malpractice, enormous sums of money are disbursed, which

could be used in direct services for patients suffering from cardiovascular conditions.

Our laws limit the liability of the Commonwealth of Puerto Rico to the sum of seventy-five thousand (75,000) dollars for damages suffered by a person or his/her property and up to one hundred fifty thousand (150,000) dollars when the damage is caused to more than one person, or when there are several causes of action to which a single injured party is entitled. Through subsequent legislation, the University of Puerto Rico was included within these limits in cases of claims for professional malpractice. This institution serves the same public purpose as the Center, to wit: rendering specialized health services to the people and serving as a practice and research workshop for professionals in the field of health in Puerto Rico. In equal conditions with the Center, this public institution does not have large financial resources to defray its operations.

Being the Cardiovascular Center of Puerto Rico and the Caribbean a public corporation responsible for offering the best services for the effective treatment of cardiovascular conditions, for serving as an educational and research workshop for health professionals in the field of cardiology and for preparing and generating its own operating budget, being it allowed to carry out all acts permissible by law to defray its expenses and comply with the purposes set forth in its enabling Act, the Legislature deems it meritorious and necessary to extend the State's immunity to the Cardiovascular Center of Puerto Rico and the Caribbean.

The purpose of the immunity herein granted is to allow the Cardiovascular Center of Puerto Rico and the Caribbean to protect its resources and permit the latter to continue its function as an educational center. For this reason, the protection of government immunity is extended

to the Corporation as Institution and to the students and residents who work therein, but not to the physicians, who, as independent contractors render services in the institution.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- The fourth paragraph of Article 41.050 of the “Puerto Rico Insurance Code,” Act No. 77 of June 19, 1957, as amended, is hereby amended to read as follows:

“In any civil action in which damages are claimed against the University of Puerto Rico or the Cardiovascular Center of Puerto Rico and the Caribbean; in any case in which a judgment is pronounced for acts which constitute hospital-medical malpractice committed by the employees, faculty members, residents or students of the Medical Sciences Campus of the University of Puerto Rico or physicians rendering services under contract to the University of Puerto Rico in the performance of its institutional duties; in any case in which a judgment is pronounced for acts or omissions which constitute medico-hospital malpractice incurred by the employees of the Cardiovascular Center of Puerto Rico and the Caribbean, any student or resident of the University of Puerto Rico working therein or any government employee assigned to, and performing duties in said Center; or when a judgment is pronounced for acts or omissions which constitute a fault or negligence directly related to the operation of a health care institution by the University of Puerto Rico, the latter or the Cardiovascular Center of Puerto Rico and the Caribbean shall be subject to the liability limits and conditions which Act No. 104 of June 29, 1955, as amended, imposes to demand that the Commonwealth of Puerto Rico be made liable in similar circumstances...”

Section 2.- Subsection (a) of Section 2 of Act No. 104 of June 29, 1955, as amended, is hereby amended to read as follows:

“Section 2.- Claims and Suits Against the Commonwealth—
Authorization

Authorization is hereby granted to sue the Commonwealth of Puerto Rico before the Court of First Instance of Puerto Rico for the following causes:

- (a) Actions for damages to a person or property up to the sum of seventy-five thousand (75,000) dollars caused by a culpable or negligent act or omission of any official, agent, or employee of the Commonwealth, or of any other person acting in an official capacity within the scope of his/her duty, office, or employment; or actions for damages caused by alleged acts of medical-hospital malpractice against health professionals who work exclusively in the areas of obstetrics, orthopedics, general surgery or trauma in public health institutions property of the Commonwealth of Puerto Rico, its dependencies, instrumentalities and/or municipalities regardless of whether said institutions are administered or operated by a private entity; or in any civil action in which damages are claimed against the Cardiovascular Center of Puerto Rico and the Caribbean, where such action or omission causes damages to more than one person, or where a single injured party is entitled to several causes of action, the compensation for damages caused by such action or omission shall not exceed the sum of one hundred fifty thousand (150,000) dollars. If from the findings of the court it arises that the sum of the damages

caused to each one of the persons exceeds one hundred fifty thousand (150,000) dollars, the court shall proceed to prorate said sum among the plaintiffs, taking as basis the damages sustained by each. When an action is brought against the Commonwealth for damages to persons or property, the court shall direct, through the publication of edicts in a newspaper of general circulation, that all persons having a common interest shall appear together before the court on the date set in the edicts for the purpose of distributing the sum of one hundred fifty thousand (150,000) dollars among the plaintiffs, as provided in this Act.”

Section 3.- Section 6 of Act No. 51 of June 30, 1986, as amended, known as the “Cardiovascular Center Corporation of Puerto Rico and the Caribbean Act,” is hereby amended in order to add a third paragraph, to read as follows:

“Section 6.- Exemptions

...

At the same time, an exemption is granted to the Corporation from the payment corresponding to any sums in excess of those allowed by Act No. 104 of June 29, 1955, as amended, known as the “Commonwealth of Puerto Rico Liability Act”.”

Section 4.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 62 (H.B. 1462) (Conference) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to amend the fourth paragraph of Article 41.050 of the “Puerto Rico Insurance Code,” Act No. 77 of June 19, 1957, as amended, and to amend subsection (a) of Section 2 of Act No. 104 of June 29, 1955, as amended, in order to include the Cardiovascular Center Corporation of Puerto Rico and the Caribbean within the medico-hospital malpractice civil liability limits to which the Commonwealth of Puerto Rico is subject,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 20th of January of 2006.

Francisco J. Domenech
Director