

74. For each postponement by order or by consent:

1° without attendance: \$50

2° with attendance, per half-day: \$200

75. For each additional half-day for proof and hearing that lasts more than one day: \$200

DIVISION IV

TRANSITIONAL AND FINAL PROVISIONS

76. Divisions I and II of this tariff shall apply to every action instituted after (*insert here the date of coming into force of this regulation*); they shall not apply to a new proceeding in an action instituted before that date.

77. Divisions I and III of this tariff shall apply to every appeal lodged after (*insert here the date of coming into force of this regulation*); they shall not apply to a new proceeding in an appeal instituted before that date.

78. This regulation shall replace the Tariff of judicial fees of advocates (R.R.Q., 1981, c. B-1, r. 13).

79. This regulation shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

2631

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Psychologists

— Conciliation and arbitration procedure for accounts

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the conciliation and arbitration procedure for the accounts of psychologists, the text of which appears below and was made by the Bureau of the Ordre des psychologues du Québec, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

According to the Ordre des psychologues du Québec, the purpose of the Regulation is to replace the Regulation respecting the procedure for conciliation and arbitration of accounts of psychologists (R.R.Q., 1981, c. C-26, r. 151) and to establish a conciliation and arbitration procedure for the accounts of psychologists in accordance with the provisions of the Professional Code. It provides, in particular, that a client may take advantage of the procedure even though the account has already been paid and that arbitration will take place before a council of three arbitrators, where the amount in dispute is \$2 500 or more, and before a single arbitrator where it is less.

The draft Regulation also provides that proceedings concerning an account may not be instituted by a psychologist as long as the dispute can be settled by conciliation or arbitration. However, it enables the council of arbitration, as stipulated in the Professional Code, to add interest to its arbitration award interest and an indemnity calculated in accordance with the Civil Code of Québec.

In the opinion of the Order, the impact of those measures will mainly be to better protect the interests of a psychologist's client by making available an account conciliation and arbitration mechanism. It will help prevent possible irregularities in the fixing and recovering of accounts by psychologists and ensure that an application for arbitration and conciliation of accounts is equitable both for the psychologist and the client. Finally, the mechanism is a more flexible and less expensive means of settling disputes.

Further information may be obtained by contacting Mr. René Corriveau, Director general and Secretary of the Ordre des psychologues du Québec, 1100, avenue Beaumont, bureau 510, Mont-Royal (Québec) H3P 3H5; telephone: (514) 738-1881 or 1 800 363-2644; fax: (514) 737-6431.

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. Those comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be forwarded to the professional order that made the Regulation and to the interested persons, departments and agencies.

JEAN-K. SAMSON,
*Chairman of the Office
des professions du Québec*

Regulation respecting the conciliation and arbitration procedure for the accounts of psychologists

Professional Code
(R.S.Q., c. C-26, s. 88)

SECTION I GENERAL PROVISIONS

1. The syndic of the Ordre des psychologues du Québec shall send a copy of this Regulation to any person who sends him an application for conciliation, as well as the form prescribed in Schedule I.

In this Regulation, “syndic” includes the assistant syndic and the corresponding syndic of the Order.

2. A client or the person who has a dispute with a member of the Order concerning the amount, in whole or in part, of an account for professional services may request conciliation by the syndic, even if the amount has been paid.

Where the dispute is not settled by conciliation, the client or the person may apply for arbitration.

3. A member of the Order may not institute proceedings concerning an account as long as the dispute can be settled by conciliation or arbitration, except with authorization of the syndic if there is any risk that, without those proceedings, the fees could not be recovered.

A member of the Order may however request provisional measures in accordance with article 940.4 of the Code of Civil Procedure (R.S.Q., c. C-25).

SECTION II CONCILIATION PROCEDURE

4. An application for conciliation must be sent to the syndic on the form prescribed in Schedule I within 45 days from the date on which the client received the account.

Where the payment of the account has been withdrawn or withheld by the member of the Order from the funds he holds or receives for or on behalf of the client, the period runs from the day on which the client becomes aware of the withdrawal or withholding.

An application for conciliation in respect of an account that was not paid in full may be sent to the syndic after the expiry of 45 days provided that it is sent before the client is served with proceedings concerning the account.

5. Within 10 days of receiving an application for conciliation, the syndic shall notify the member of the Order personally or, if unable to do so, shall notify his office.

6. The syndic shall proceed with the conciliation using such procedure as he considers appropriate.

For that purpose, he may require of the member of the Order or of the client or of the person mentioned in section 2, any information or document that he deems necessary.

7. Any agreement reached during conciliation shall be put in writing on a form similar to that prescribed in Schedule II, shall be signed by the client or the person mentioned in section 2 and the member of the Order and shall be filed with the syndic.

8. Where conciliation does not lead to an agreement within 45 days from the date of receipt of the application for conciliation, the syndic shall send his conciliation report to the client or the person mentioned in section 2 and to the member of the Order by registered mail within the next 20 days.

The report shall contain the following information, where applicable:

(1) the amount of the account at the origin of the dispute;

(2) the amount that the client or the person mentioned in section 2 acknowledges owing;

(3) the amount that the member of the Order acknowledges having to reimburse or is willing to accept as a settlement of the dispute;

(4) the reason why the Regulation does not apply to the application for conciliation.

In addition, the syndic send to the client or the person mentioned in section 2 the form prescribed in Schedule III and shall inform him of the arbitration procedure and the deadline for submitting the dispute to arbitration.

9. The syndic may, for valid motives, extend the deadlines provided for in this division. In such case, he shall inform the client or the person mentioned in section 2 and the member of the Order thereof by registered mail.

DIVISION III ARBITRATION PROCEDURE

§1. Application for arbitration

10. Where the conciliation procedure did not lead to an agreement, the client or the person who forwarded the application for conciliation which did not result in an agreement, may, within 30 days of receiving the conciliation report, apply for arbitration of the account by sending the duly completed form prescribed in Schedule III to the secretary of the Order.

The application shall be accompanied with the conciliation report and, if applicable, the deposit of the amount that he acknowledged owing during conciliation, as stated in the syndic's report.

11. Within 10 days of receiving an application for arbitration, the secretary of the Order shall send a notice to the member of the Order in question by registered mail, and, if applicable, the notice shall be accompanied with the amount deposited in accordance with section 10. The arbitration shall proceed only to the amount still in dispute.

12. To withdraw his application, the client or the person mentioned in section 2 shall so notify the secretary of the Order in writing.

13. A member of the Order who acknowledges having to reimburse an amount shall deposit that amount with the secretary of the Order, who shall then remit it to the party in favour of which this acknowledgement was made.

In such case, the arbitration shall proceed only to the amount still in dispute.

14. Any agreement reached between the client or the person mentioned in section 2 and the member of the Order that occurs after the application for arbitration has been filed shall be put in writing, on a form similar to that prescribed in Schedule II, shall be signed by the parties and shall be filed with the secretary of the Order. If the agreement is reached after the council of arbitration has been formed, the agreement shall be recorded in the arbitration award.

§2. Appointment of the council of arbitration

15. A council of arbitration shall be composed of three arbitrators where the amount in dispute is \$2 500 or more, and of a single arbitrator where the amount is less than \$2 500.

16. The administrative committee shall appoint the member or members of the council of arbitration from among the members of the Order and, if the council is composed of three arbitrators, shall designate the chairman thereof.

The administrative committee shall also appoint a clerk to assist the council of arbitration.

17. The secretary of the Order shall send written notice to the arbitrators and to the parties informing them of the formation of the council.

18. Before acting, the member or members of the council of arbitration shall take the oath or make the solemn affirmation of office and discretion prescribed in Schedule IV.

19. A request that an arbitrator be recused may be filed only for a reason provided for in article 234 of the Code of Civil Procedure. The request shall be sent to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 10 days of receipt of the notice provided for in section 17 or of the day on which the reason for the request becomes known.

The administrative committee shall decide on the request and, where applicable, shall see that the arbitrator is replaced.

20. Should an arbitrator die or be unable to act, the other arbitrators shall bring the matter to completion. Where the arbitrator is the chairman of the council of arbitration, the administrative committee shall designate one of the two other arbitrators to act as chairman.

If the council consists of a single arbitrator, he shall be replaced by a new arbitrator and the dispute shall be reheard.

§3. Hearing

21. The council of arbitration shall fix the date, time and place of the hearing. The clerk shall give the parties at least 10 days's notice of the date of the hearing by registered mail.

22. The parties are entitled to be represented or assisted by an advocate.

23. The council of arbitration shall, as soon as possible, hear the parties, receive their evidence or record their default. For those purposes, it shall follow such rules of procedure and rules of evidence as it considers appropriate.

Every hearing shall be public. However, the council of arbitration may, of its own initiative or upon request, order that a hearing be held *in camera*, in particular to preserve professional secrecy or to protect a person's privacy or reputation.

24. The council may ask the parties to submit, within a given time limit, a statement of their claims with supporting documents.

25. The clerk shall draw the minutes of the hearing and shall have them signed by the member or members of the council.

26. The party requesting that the testimony be recorded shall assume the organisation and the cost thereof.

§4. Arbitration award

27. The council shall issue its award within 60 days of the end of the hearing unless the parties agree in writing to extend that period which may not, however, exceed 90 days after the end of the hearing.

28. The award shall be a majority award of the members of the council of arbitration; failing that, it shall be granted by the chairman of the council.

The award shall give reasons and shall be signed by all the members; where a member refuses or is unable to sign, the others shall mention that fact and the award shall have the same effect as though it were signed by all the members.

29. In its award, the council of arbitration may uphold, reduce or cancel the account in dispute, determine the reimbursement or payment to which a party may be entitled, and rule on the amount that the client or the person mentioned in section 2 had acknowledged owing.

Where the account in dispute is upheld in whole or in part, or when a reimbursement is granted, the council of arbitration may add the interest and indemnity determined in accordance with the terms and conditions of articles 1618 and 1619 of the Civil Code of Québec, from the date of the application for conciliation.

The council may decide the arbitration expenses, which are the expenses incurred by the Order for the arbitration. The total expenses may not exceed 25 % of the amount of the account to which the arbitration pertains. However, in all cases, these expenses are of a minimum of \$50.

Where an agreement is reached between the parties before the decision of the council of arbitration is rendered, the latter shall nevertheless adjudge on the arbitration fees in accordance with this section.

30. The arbitration award is binding on the parties and is subject to compulsory execution after having been homologated in accordance with the procedure provided for in articles 946.1 to 946.5 of the Code of Civil Procedure.

31. The council of arbitration shall file the arbitration award with the secretary of the Order, who, within 10 days, shall send a true copy thereof to the parties or their advocates, the syndic and the administrative committee.

32. The costs incurred by a party for the arbitration shall be borne by that party.

33. This regulation replaces the Regulation respecting the procedure for conciliation and arbitration of accounts of psychologists (R.R.Q., 1981, c., C-26, r. 151), but the latter Regulation continues to govern the conciliation and arbitration procedure for disputes where conciliation was applied for before the coming into force of this Regulation.

34. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I

(ss. 1 and 4)

APPLICATION FOR CONCILIATION

I, the undersigned, _____
(name and domicile of the client)

declare that:

(1) _____
(name and domicile of the member of the Order)
has claimed from me the sum of _____ for professional services rendered between _____ and _____ as attested to by:

(Check the appropriate box)

the account, a copy of which is attached hereto.

the document, a copy of which is attached hereto, indicating that the sum was withdrawn or withheld.

(2) I am contesting the sum claimed for the following reasons:

but (where applicable) I acknowledge owing the sum of _____ for the professional services rendered.

(Check the appropriate box)

- (3) I did not pay the account.
- I paid the account in full.
- I paid the account up to the sum of _____

(4) I hereby apply for conciliation by the syndic, pursuant to Division II of the Regulation respecting the conciliation and arbitration procedure for accounts of psychologists.

Signed on _____
(Signature of the client)

SCHEDULE II
(ss. 7 and 14)

**AGREEMENT RELATIVE TO A DISPUTE
SUBMITTED FOR CONCILIATION
OR ARBITRATION**

(name and domicile of the client)
hereinafter referred to as "the client"

and

(name and domicile of the member of the Order)

member of the Ordre des psychologues du Québec, hereinafter referred to as "the psychologist", who declare and agree to the following:

An agreement was entered into by the client and the psychologist concerning the dispute submitted for _____ applied for on _____
(conciliation or arbitration) (date)

The agreement provides for the following terms and conditions:

The client and the psychologist request that the procedures relating to the dispute referred to above be stayed.

Signed at _____ Signed at _____
(place) (place)

on _____ on _____
(date) (date)

(signature of the client) (signature of the psychologist)

Signed at _____
(place)

on _____
(date)

(signature of the syndic)

SCHEDULE III
(ss. 8 and 10)

**APPLICATION FOR ARBITRATION
OF AN ACCOUNT**

I, the undersigned, _____
(name of the client)

(domicile)

declare that:

(1) _____
(name of the member of the Ordre)
is claiming from me (or refuses to reimburse me) a sum of money for professional services.

(2) I have enclosed a copy of the conciliation report and, where applicable, a certified cheque payable to the member of the Order, in the amount of _____, which represents the sum of money that I acknowledge owing and that is stated in the conciliation report.

(3) I am applying for arbitration of the account under the Regulation respecting the conciliation and arbitration procedure for the accounts of psychologists.

(4) I have received a copy of the above Regulation and have taken cognizance thereof.

(5) I agree to submit to the procedure provided for in the Regulation and, where required, to pay to _____ the amount of the arbitration award.
(name of the member)

Signed on _____
(date) (signature of the client)

SCHEDULE IV

(s. 18)

**OATH OR SOLEMN AFFIRMATION
OF OFFICE OR DISCRETION**

I swear (or solemnly affirm) to perform all my duties and to exercise all my powers as an arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I swear (or solemnly affirm) that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.

Where an oath is taken, add "So help me God"

(signature of the arbitrator)

Oath or solemn affirmation sworn before me _____

(name and position, profession or capacity)

at _____ the _____
(municipality) (date)

(signature of the person administering
oath or solemn affirmation)