

**Draft Regulation**

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

**Acupuncturists  
— Conciliation and arbitration procedure for the  
accounts of acupuncturists**

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 acupuncturists, adopted by the Bureau of the Ordre des acupuncteurs du Québec, the text of which appears below, may be submitted to the Government, which may approve it with or without amendment upon the expiry of a 45-day period following this publication.

According to the Ordre des acupuncteurs du Québec, the purpose of the Regulation is to establish a procedure for the conciliation and arbitration of the accounts of members of the Ordre des acupuncteurs du Québec available to persons who use their services.

The Regulation is required to ensure greater public protection and improved monitoring of the profession. The Regulation will have no impact on businesses, in particular small and medium-sized businesses.

Further information may be obtained by contacting Mtre. François Houle, Secretary General of the Ordre des acupuncteurs du Québec, 1001, boulevard De Maisonneuve Est, bureau 403, Montréal (Québec) H2L 4P9; telephone: (514) 523-2882; fax: (514) 523-9669.

Any person having comments to make is asked to submit them, before the expiry of the 45-day period, to Mtre. Jean-K. Samson, Chair, Office des professions du Québec, 800, place D'Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. The Office will transmit the comments to the Minister responsible for the administration of legislation respecting the professions; the Office may also send them to the professional order that adopted the Regulation as well as to the interested persons, departments and bodies or agencies.

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

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**Regulation respecting the conciliation  
and arbitration procedure for the  
accounts of acupuncturists**

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

**DIVISION I  
GENERAL**

- 1.** The purpose of this Regulation is to establish a conciliation and arbitration procedure for the accounts of the members of the Ordre des acupuncteurs du Québec available to persons who use their services.
- 2.** The Order shall give a copy of this Regulation to any person who requests it.
- 3.** A patient who has a dispute with an acupuncturist concerning the amount of an account for professional services must apply for conciliation by the syndic before applying for arbitration of the account.

In this Regulation, “syndic” includes the associate syndic and the correspondent syndic.

- 4.** As of receipt by the syndic of an application for conciliation in respect of an account, the acupuncturist may not institute an action for recovery of fees so long as the dispute can be settled by conciliation or arbitration, except with the authorization of the syndic when there is reason to believe that failure to institute an action will jeopardize recovery of the fees.

The acupuncturist may however apply for provisional measures in accordance with article 940.4 of the Code of Civil Procedure (R.S.Q., c. C-25).

**DIVISION II  
CONCILIATION**

- 5.** An application for conciliation in respect of an account for professional services must be sent to the syndic within 60 days following receipt of the account by the patient.

An application for conciliation in respect of an account or a portion of an account that has not been paid in full may be sent to the syndic after the expiry of the 60-day period, provided that it is done before the patient is served with an action for recovery of fees.

**6.** The application for conciliation must be in the form set out in Schedule I and sent to the syndic by registered or certified mail.

**7.** Within 5 days of receipt of an application for conciliation, the syndic shall send a copy of the application by registered or certified mail to the acupuncturist whose account is in dispute and send a copy of this Regulation to the patient.

**8.** The syndic shall proceed with the conciliation in the manner he or she considers most appropriate.

**9.** Any agreement reached by the patient and the acupuncturist during conciliation must be in writing, in terms substantially identical to those of Schedule II, signed by the parties and filed with the secretary of the Order.

**10.** If conciliation does not lead to an agreement within 45 days of receipt of the application for conciliation by the syndic, the syndic shall, within the following 30 days, send a conciliation report to the patient and the acupuncturist by registered or certified mail.

The report must contain, where applicable, the following information:

- (1) the amount of the account for fees in dispute;
- (2) the amount that the patient acknowledges owing;
- (3) the amount that the acupuncturist acknowledges having to reimburse or is willing to accept in settlement of the dispute; and
- (4) the amount suggested by the syndic during conciliation as payment to the acupuncturist or reimbursement to the patient.

The syndic shall also send the patient a form consistent with the content of Schedule III and indicate to the patient the procedure and deadline for submitting the dispute to arbitration.

### **DIVISION III ARBITRATION**

#### **§1. Application for Arbitration**

**11.** If conciliation does not lead to an agreement between the parties, the patient may apply for arbitration within 30 days of receipt of the conciliation report from the syndic.

The application for arbitration must be in the form set out in Schedule III and sent to the secretary by registered or certified mail.

The patient shall enclose a copy of the conciliation report with the application and, where applicable, the amount that the patient acknowledged owing in conciliation and that is stated in the syndic's report.

**12.** Within 5 days of receipt of an application for arbitration, the secretary shall so notify the acupuncturist concerned by registered or certified mail, enclosing, where applicable, the amount deposited in accordance with section 11. The arbitration shall proceed and shall pertain only to the amount still in dispute.

**13.** A patient who wishes to withdraw an application for arbitration must so notify the secretary in writing.

**14.** An acupuncturist who acknowledges having to reimburse a patient shall deposit the amount with the secretary, who shall then remit it to the patient.

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

**15.** Any agreement reached by the patient and the acupuncturist after the application for arbitration is submitted must be in writing, in terms substantially identical to those of Schedule II, signed by the parties and filed with the secretary; if the agreement is reached after the council of arbitration has been appointed, the agreement shall be recorded in the arbitration award.

#### **§2. Council of Arbitration**

**16.** The council of arbitration shall be composed of three arbitrators when the amount in dispute is \$1000 or more and of a single arbitrator when the amount in dispute is less than \$1000.

**17.** The secretary shall appoint the member or members of the council of arbitration from a list of acupuncturists drawn up for that purpose by the Bureau and, if the council consists of three arbitrators, the secretary shall appoint the chair.

The secretary shall, within 10 days of the decision, inform the arbitrators and the parties by registered or certified mail that a council has been appointed.

**18.** Before acting, the member or members of the council of arbitration shall take the oath of office and discretion provided for in Schedule IV.

**19.** An application for the recusation of an arbitrator may be made only on one of the grounds provided for in article 234 of the Code of Civil Procedure. It must be sent in writing to the secretary, to the council of arbitration and to the parties or their advocates within 10 days of receipt of the notice provided for in the second paragraph of section 17 or 10 days after the cause for recusation becomes known.

The Bureau shall rule on such applications and, where required, the secretary shall see to the replacement of the recused arbitrator.

**20.** In the event of an arbitrator's death or inability to act, the other arbitrators shall see the matter to its completion. If that arbitrator is the chair of the council of arbitration, the secretary shall designate one of the other two members to act as chair.

If the council of arbitration consists of a single arbitrator, that arbitrator shall be replaced by a new arbitrator appointed by the secretary and the dispute shall be reheard.

### §3. *Hearing*

**21.** The council of arbitration shall set the date, time and place of the hearing. The secretary shall give the parties at least 10 days' written notice thereof by registered or certified mail.

**22.** The council of arbitration may require the parties to submit to it, within a specified time limit, a statement of their claims together with supporting documents.

**23.** A party may be represented or assisted by an advocate.

**24.** The council of arbitration shall, with diligence, hear the parties, receive their evidence or record their failure to appear; to that end it shall follow the procedure it considers most appropriate.

**25.** If a party requires the recording of testimony, it must request it at least 5 days before the scheduled hearing date and pay the cost thereof.

### §4. *Arbitration Award*

**26.** The council of arbitration shall issue its award within 15 days after completion of the hearing.

**27.** The award shall be rendered by a majority of the members of the council; should there not be a majority, the award shall be rendered by the chair.

The award must be reasoned and signed by all the members; if an arbitrator refuses or is unable to sign, the others shall indicate that fact and the award shall have the same effect as though signed by all the arbitrators.

**28.** In its award, the council of arbitration may confirm, 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 patient has acknowledged owing and has remitted with the application for arbitration.

The council of arbitration may rule on the arbitration expenses, namely the expenses incurred by the Order for the arbitration. However, the total amount of the expenses must not exceed 15% of the amount in dispute.

When the account in dispute is confirmed in whole or in part or when a reimbursement is awarded, the council of arbitration may also add interest and an indemnity in accordance with articles 1618 and 1619 of the Civil Code of Québec, calculated from the date of the application for conciliation.

**29.** Each party shall assume its own costs incurred for the arbitration.

**30.** The arbitration award is binding on the parties but is not enforceable unless it is homologated in accordance with the procedure provided for in articles 946.1 to 946.6 of the Code of Civil Procedure.

**31.** The council of arbitration shall file the award with the secretary, who shall send a certified copy of the award to the parties or their advocates, to the syndic and to the Bureau within 10 days after the filing of the award.

The council of arbitration shall also send the secretary the complete arbitration record.

## DIVISION IV FINAL

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

**SCHEDULE I**

(s. 6)

**APPLICATION FOR CONCILIATION**

I, the undersigned,  
 \_\_\_\_\_ declare under oath:  
 (*name and address of patient*)

1. \_\_\_\_\_ (*name and address of acupuncturist*)  
 has claimed from me the sum of \$ \_\_\_\_\_ for  
 professional services rendered between \_\_\_\_\_  
 and \_\_\_\_\_ (*date*).

As evidenced by:

- the account a copy of which is attached hereto  
 or  
 the document a copy of which is attached hereto,  
 indicating that the amount has been withdrawn  
 or withheld

2. I am contesting the amount claimed for the following  
 reasons:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

but (*where applicable*) I acknowledge owing the sum  
 of \$ \_\_\_\_\_ for the professional services;

3. (a)  I have not paid the account  
 or  
 (b)  I have paid the account in full  
 or  
 (c)  I have paid a portion of the account, in the  
 amount of \$ \_\_\_\_\_

4. I am applying for conciliation by the syndic under  
 Division II of the Regulation respecting the conciliation  
 and arbitration procedure for the accounts of acupunc-  
 turists.

And I have signed

Oath taken before

\_\_\_\_\_  
 (*name and position, profession  
 or quality*)

on \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_  
 (*date*) (*place*) (*date*)

\_\_\_\_\_  
 (*patient's signature*) (*signature*)

**SCHEDULE II**

(ss. 9 and 15)

**AGREEMENT RESPECTING A  
DISPUTE SUBMITTED**

TO CONCILIATION   
 OR TO ARBITRATION

Entered into between \_\_\_\_\_  
 (*name and address of patient*)

hereinafter referred to  
 as "the patient" and \_\_\_\_\_  
 (*name and address  
 of acupuncturist*)

hereinafter referred to as "the acupuncturist", who make  
 the following statements and agreements:

An agreement has been entered into between the patient  
 and the acupuncturist concerning the dispute submitted:

to conciliation   
 to arbitration  applied for on \_\_\_\_\_  
 (*date*)

The agreement provides for the following terms and  
 conditions:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The patient and the acupuncturist request that the

conciliation   
 arbitration

proceedings be stayed.

\_\_\_\_\_  
 (*signature of patient*) (*signature of acupuncturist*)

Signed at \_\_\_\_\_ Signed at \_\_\_\_\_  
 (*place*) (*place*)

on \_\_\_\_\_ on \_\_\_\_\_  
 (*date*) (*date*)

**SCHEDULE III**

(ss. 10 and 11)

**APPLICATION FOR ARBITRATION OF AN ACCOUNT**

I, the undersigned, \_\_\_\_\_  
 (name and address of patient)

Declare under oath that :

1. \_\_\_\_\_ has claimed 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 made out to the Order in the amount of \$ \_\_\_\_\_, which amount I acknowledge owing and is stated in the conciliation report.

3. I am applying for arbitration of the account under Division III of the Regulation respecting the conciliation and arbitration procedure for the accounts of acupuncturists, a copy of which I have received and have taken cognizance.

4. I agree to abide by the procedure provided for in the Regulation and, where required, to pay to the \_\_\_\_\_ amount of the arbitration award.  
 (name of acupuncturist)

And I have signed

Oath taken before

\_\_\_\_\_  
 (name and position, profession or quality)

on \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_  
 (date) (place) (date)

\_\_\_\_\_  
 (signature of patient)

\_\_\_\_\_  
 (signature)

**SCHEDULE IV**

(s. 18)

**OATH OF OFFICE AND DISCRETION**

I swear that I will discharge all the duties and exercise all the powers of arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I also swear that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may have knowledge in the performance of my duties and the exercise of my powers.

Oath taken before

\_\_\_\_\_  
 (signature of arbitrator) \_\_\_\_\_  
 (name and position, profession or quality)

at \_\_\_\_\_ on \_\_\_\_\_  
 (place) (date)

\_\_\_\_\_  
 (signature)

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**Draft Regulation**

Environment Quality Act  
 (R.S.Q., c. Q-2)

**Public wading and swimming pools  
— Amendments**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act (R.S.Q., c. Q-2), that the Regulation to amend the Regulation respecting wading and swimming pools, the text of which appears below, may be made by the Government upon the expiry of 60 days following this publication.

The purpose of the Regulation is to delete the standards respecting the materials that may be used for the bottom and walls of public wading and swimming pools and for the surface of decks and dressing rooms, because they are obsolete.