

3.07.03 A dental technician who grants a request referred to in section 3.07.02 shall give the client access to the documents, free of charge. However, the dental technician may, with respect to a request referred to in paragraph 2 of section 3.07.02, charge from the client reasonable fees not exceeding the cost for reproducing or transcribing the documents or the cost for transmitting a copy.

The dental technician who charges such fees shall, before proceeding with the copying, transcribing or sending of the documents, inform the client of the approximate amount that must be paid.

3.07.04 A dental technician who, pursuant to the second paragraph of section 60.5 of the Professional Code, denies a client access to the information concerning such client contained in any record established in the client's respect, shall notify the client in writing of the reasons for the refusal.

3.07.05 In addition to the special rules prescribed by law, a dental technician shall respond promptly, and no later than within 30 days of its receipt, to any request made by a client:

(1) to cause to be corrected, in any document concerning the client and included in a record established in the client's respect, any information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected;

(2) to cause to be deleted any information that is outdated or not justified by the object of the record established in the client's respect; or

(3) to file in the record established in the client's respect the written comments made by the client.

3.07.06 A dental technician who grants a request referred to in section 3.07.05 shall issue to the client, free of charge, a copy of the document or part of the document to allow the client to see for himself or herself that the information was corrected or deleted or, as the case may be, an attestation that the written comments of the client were filed in the record.

3.07.07 Upon request by a client, a dental technician shall send a copy free of charge of the corrected information or an attestation that the information was deleted or, as the case may be, that the written comments were

filed in the record to any person from whom the dental technician received the information that was subject to the correction, deletion or comments and to any person to whom the information was provided.

3.07.08 A dental technician shall respond promptly to any written request made by a client to retrieve a document given by the client.

The dental technician shall indicate in the client's record, where applicable, the reasons supporting the client's request."

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

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Gouvernement du Québec

O.C. 188-2003, 19 February 2003

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

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

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

WHEREAS, under section 88 of the Professional Code (R.S.Q., c. C-26), the Bureau of the Ordre des acupuncteurs du Québec must establish, by regulation, a conciliation and arbitration procedure for the accounts of the members of the order which may be used by persons having recourse to the services of the members;

WHEREAS the Bureau of the Ordre des acupuncteurs du Québec adopted the Regulation respecting the conciliation and arbitration procedure for the accounts of acupuncturists;

WHEREAS, under section 95.3 of the Professional Code, a draft Regulation was sent to every member of the order at least 30 days before its adoption by the Bureau;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 2 October 2002 with a notice that it could be submitted to the Government for approval upon the expiry of a period of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office des professions du Québec submitted its recommendations;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation respecting the conciliation and arbitration procedure for the accounts of acupuncturists, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

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 which may be used by persons having recourse to the services of the members.
- 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 an assistant syndic and a corresponding 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 as provided in 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 pertain to, where applicable,

- (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 refund 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 refund to the patient.

The syndic shall also send the patient a form that reproduces 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 of the Order by registered or certified mail.

The patient shall enclose a copy of the conciliation report with the application and, where applicable, a certified cheque in the amount the patient acknowledged owing in conciliation, as indicated in the syndic's report.

12. Within 5 days of receipt of an application for arbitration, the secretary shall notify the acupuncturist concerned in writing thereof and, where applicable, enclose the amount deposited in compliance with section 11. The arbitration shall pertain only to the amount still in dispute.

13. A patient may not withdraw an application for arbitration unless he or she notifies the secretary in writing, with the consent of the acupuncturist.

14. An acupuncturist who acknowledges owing a refund to a patient shall deposit the amount with the secretary, who shall then remit it to the patient.

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

15. Any agreement reached by the patient and the acupuncturist after the application for arbitration 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 formed, 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 \$1,000 or more and of a single arbitrator when the amount in dispute is less than \$1,000.

17. The secretary shall appoint the member or members of the council of arbitration from among 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 formed.

18. Before proceeding, the member or members of the council of arbitration shall take the oath of office and discretion set out 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 remaining 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 remaining 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, 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 the council shall follow the procedure it considers most appropriate.

25. If a party requires the recording of testimony, it must notify the council 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 30 days after completion of the hearing.

27. The award shall be rendered by a majority of the members of the council; failing 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 refund 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 decide the arbitration expenses, namely the expenses incurred by the Order for the arbitration. The total amount of the expenses must not, however, exceed 15% of the amount in dispute.

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

29. Each party shall bear the expenses it incurs for the arbitration.

30. The arbitration award is binding on the parties but is not enforceable unless it is homologated pursuant to the procedure provided for in articles 946 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 and to the syndic within 10 days of the filing of the award.

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

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 acupuncturists.

And I have signed

Oath taken before

(name and function, profession, or capacity)

on _____
(date)

at _____ on _____
(place) (date)

(patient's signature)

(signature)

SCHEDULE II

(ss. 9 and 15)

AGREEMENT RESPECTING A DISPUTE SUBMITTED

TO CONCILIATION

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 state and agree as follows :

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 _____
(place)

Signed at _____
(place)

on _____
(date)

on _____
(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 refund to 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 indicated 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

on _____
 (date)

at _____ on _____
 (place) (date)

 (signature of patient)

 (signature)

SCHEDULE IV

(s. 18)

OATH OF OFFICE AND DISCRETION

I declare under oath 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 declare under oath that I will not disclose or make known, unless authorized by law, anything that may come to my knowledge in the performance of my duties and the exercise of my powers.

Oath taken before

 (signature of arbitrator)

 (name and function, profession, or capacity)

at _____ on _____
 (place) (date)

 (signature)