

If the interest of the person or persons exposed to the danger so requires, the dental hygienist shall consult a colleague, a member of another professional order, or any other qualified person, provided the consultation will not prejudicially delay the communication of the information.

**32.2.** A dental hygienist who, pursuant to section 32.1, communicates information protected by professional secrecy to prevent an act of violence shall

(1) enter the following particulars in the client's record, in a sealed envelope :

(a) the reasons supporting the decision to communicate the information, including the name of the person who caused the dental hygienist to communicate the information and the name of the person or group of persons exposed to a danger ; and

(b) the date, time and content of the communication, the mode of communication, and the name of the person to whom the information was given ; and

(2) within five days of the communication, send the syndic a notice regarding the communication that includes the reasons supporting the decision to communicate the information and the date and time it was communicated.”.

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

5631

## Draft Regulation

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

### Midwives

#### — Conciliation and arbitration of 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 midwives, adopted by the Bureau of the Ordre des sages-femmes du Québec, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

The purpose of the Regulation is to establish a procedure for the conciliation and arbitration of accounts that will apply if a person has a dispute with a midwife concerning the amount of an account, even if the account has been paid in whole or in part.

The Regulation provides, in particular, for the establishment of a council of arbitration that may uphold, reduce or cancel the amount of an account in dispute and determine, where appropriate, the reimbursement or payment to which a party may be entitled.

According to the Order, the Regulation will have no impact on businesses, including small and medium-sized businesses.

Further information may be obtained by contacting Raymonde Gagnon, President and Director General of the Ordre des sages-femmes du Québec, 430, rue Sainte-Hélène, bureau 405, Montréal (Québec) H2Y 2K7, telephone: (514) 286-1313 or 1 877 711-1313; fax: (514) 286-0008.

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

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

## Regulation respecting the conciliation and arbitration procedure for the accounts of midwives

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

### DIVISION I GENERAL

**1.** The syndic of the Ordre des sages-femmes du Québec shall give a copy of this Regulation to any person who requests it and to the person who makes an application for conciliation.

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

**2.** A person who has a dispute with a midwife concerning the amount of an account for professional services must apply for conciliation by the syndic, even if the account has been paid in whole or in part.

When such conciliation has not settled the dispute, the person may apply for arbitration.

**3.** A midwife may not institute proceedings in respect of an account

(1) before the expiry of the period granted for the application for conciliation in section 4;

(2) if there is an application for conciliation, before the expiry of the 30-day period provided for the application for arbitration in the first paragraph of section 9; and

(3) if there is an application for arbitration, until a decision is rendered by the council of arbitration.

Despite the preceding, a midwife may institute proceedings in respect of an account, with the authorization of the syndic, if the recovery of her fees could be jeopardized failing the institution of such proceedings.

## **DIVISION II CONCILIATION**

**4.** An application for conciliation must be sent to the syndic within 45 days of receipt of the account by the person referred to in section 2.

When the payment of the account has been withdrawn or withheld by the midwife from the funds she holds or receives for or on behalf of the woman, the period runs from the day on which the latter becomes aware of the withdrawal or withholding.

An application for conciliation in respect of an account for which no payment, withdrawal or withholding has been carried out may be sent to the syndic after the expiry of the 45-day period, provided that it is sent before proceedings in respect of an account are served.

**5.** Upon receipt of an application for conciliation, the syndic shall send a copy of the application by registered or certified mail to the midwife.

**6.** The syndic shall proceed with the conciliation in the manner considered most appropriate.

**7.** Any agreement reached during conciliation must be in writing, signed by the person referred to in section 2 and the midwife, and filed with the secretary of the Order.

**8.** When conciliation does not lead to an agreement within 45 days of receipt of the application for conciliation, the syndic shall, within the 20 following days, send a conciliation report by registered or certified mail to the person referred to in section 2 and to the midwife.

The syndic’s conciliation report must pertain to, where applicable,

(1) the amount of the account in dispute;

(2) the amount that the person referred to in section 2 acknowledges owing;

(3) the amount that the midwife 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 midwife or refund to the person referred to in section 2.

The syndic shall also send the person referred to in section 2 the form in Schedule I and indicate the procedure and deadline for submitting the dispute to arbitration.

## **DIVISION III ARBITRATION PROCEDURE**

### *§1. Application for arbitration*

**9.** When conciliation did not lead to an agreement, the person referred to in section 2 may, within 30 days of receipt of the conciliation report, apply for arbitration of the account by sending by registered or certified mail the duly completed form prescribed in Schedule I to the secretary of the Order.

The person referred to in section 2 shall enclose a copy of the conciliation report with the application and, where applicable, the deposit of the amount the person acknowledged owing in conciliation, as indicated in the syndic's report.

**10.** Upon receipt of the application for arbitration, the secretary of the Order shall notify the midwife concerned by certified or registered mail and, where applicable, enclose the amount deposited in accordance with the second paragraph of section 9.

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

**11.** An application may only be withdrawn in writing and with the consent of the midwife.

**12.** A midwife who acknowledges owing a refund shall deposit the amount with the secretary of the Order, who shall then remit it to the person referred to in section 2.

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

**13.** Any agreement reached between the person referred to in section 2 and the midwife after the application for arbitration has been filed must be in writing, signed by the parties, and filed with the secretary of the Order or, if the agreement is reached after a council of arbitration has been formed, the agreement shall be recorded in the arbitration award.

### *§2. Establishment of the council of arbitration*

**14.** The council of arbitration shall be composed of three arbitrators when the amount in dispute is \$2,500 or more and of a single arbitrator when the amount is less than \$2,500.

**15.** The Bureau shall appoint the member or members of the council of arbitration from among the members of the Order and, if the council consists of three arbitrators, the Bureau shall appoint the chair.

**16.** The secretary of the Order shall inform in writing the arbitrators and the parties that a council has been formed.

**17.** Before acting, the member or members of the council of arbitration shall take the oath prescribed in Schedule II to the Professional Code (R.S.Q., c. C-26).

**18.** 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 (R.S.Q., c. C-25). It must 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 16 or 10 days after the cause for recusation becomes known.

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

### *§3. Hearing*

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

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

**21.** 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 rules of procedure and rules of evidence it considers appropriate.

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

**23.** The party requesting that the testimony be recorded shall assume the organization and cost thereof.

**24.** 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 Bureau shall designate one of the remaining two arbitrators to act as chair.

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

### *§4. Arbitration award*

**25.** The council of arbitration shall issue its award within 45 days after completion of the hearing.

**26.** The award shall be rendered by a majority of the members of the council of arbitration. Failing a majority, the award shall be rendered by the chair.

In its award, the council of arbitration may confirm, reduce or cancel the account in dispute and may also determine, where applicable, the refund or payment to which a party may be entitled.

The award must be reasoned and signed by all the members; if a member 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 members.

**27.** Each party shall bear the expenses it incurs for the arbitration.

**28.** In its award, the council of arbitration has full discretion to rule on the arbitration expenses, which are the expenses incurred by the Order for the arbitration. The total amount of the expenses to be borne by a party may not exceed 15% of the amount to which the arbitration pertains.

However, in any case where expenses are awarded, those expenses shall equal a minimum of \$50.

**29.** When an agreement is reached between the parties before the council of arbitration renders its decision or when the application for arbitration is withdrawn in writing, the council shall nonetheless award the arbitration expenses in accordance with section 28.

**30.** When the account in dispute is confirmed in whole or in part or when a refund is awarded, the council of arbitration may 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.

**31.** The arbitration award is final and binding on the parties. It is also subject to compulsory execution after having been homologated pursuant to the procedure provided for in articles 946.1 to 946.6 of the Code of Civil Procedure.

**32.** Within five days of its issue, the arbitration award shall be filed with the secretary of the Order who, within 10 days after it is filed, shall send a certified copy of the award to the parties or their advocates, to the syndic and to the Bureau.

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

## SCHEDULE I

(ss. 8 and 9)

### APPLICATION FOR ARBITRATION OF AN ACCOUNT

I, the undersigned \_\_\_\_\_

\_\_\_\_\_  
(name of woman)

\_\_\_\_\_  
(domicile)

declare that

1. \_\_\_\_\_  
(name of member of the Order)

is claiming 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 to the member of the Ordre des sages-femmes du Québec representing the amount that I acknowledge owing and indicated 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 midwives.

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

5. 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 member)

5630

## Draft Regulation

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

### Nurses

#### — Professional act that may be performed by a person acting on behalf of Héma-Québec

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des infirmières et infirmiers du Québec, at its meeting held on February 20 and 21, 2003, adopted the “Regulation respecting a professional act that may be performed by a person acting on behalf of Héma-Québec”.