

Draft Regulation

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

**Physicians
— Procedure for the 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 procedure for the conciliation and arbitration of accounts of physicians, adopted by the Bureau of the Collège des médecins 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 45 days following this publication.

In accordance with article 88 of the Professional Code (R.S.Q., c. C-26), this proposed regulation establishes the procedure for the conciliation and arbitration of accounts of physicians which may be used by persons calling upon their services. Specifically, the proposed regulation allows a person to use this procedure if the account has been paid in full or in part and provides for the formation of an arbitration board which may, if so determined, establish the reimbursement due to a person. The proposed regulation also states that, depending on the amount in dispute, the arbitration may be decided by a board made up of one or three members.

Further information may be obtained by contacting M^c Christian Gauvin, Director of the Judicial Services Division, Collège des médecins du Québec, 2170, boulevard René-Lévesque Ouest, Montréal (Québec) H3H 2T8; tel.: 1 888 633-3246 or (514) 933-4441; fax: (514) 933-3112.

Any interested person having comments to make is requested to send them, 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) GIR 5Z3. These 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 has adopted the regulation, as well as to the persons, departments and agencies concerned.

GAÉTAN LEMOYNE,
*Chairman of the Office des
professions du Québec*

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

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

**DIVISION I
CONCILIATION**

1. The syndic shall transmit a copy of this Regulation to any person who requests it.

2. A client who has a dispute with a physician as to the amount of an account for professional services must, before seeking arbitration of the account, apply for conciliation by the syndic.

3. A physician may not institute an action on an account of fees before the expiry of a period of 60 days following the date of receipt of the account by the client or the date on which the client became aware that a sum had been withdrawn or withheld by the physician directly from the funds he holds or receives for or on behalf of this client.

Nor may he institute an action on an account of fees once the syndic has received an application for conciliation with regard to an account.

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

4. An application for conciliation with regard to an account for professional services, which has been unpaid or partially paid, must be transmitted to the syndic within the 60-day period stipulated in section 3.

An application for conciliation of an account or part of an account which has not been paid may be transmitted to the syndic after expiry of the 60-day limit stipulated in section 3, provided it is done before the client is notified of an action on an account of fees.

In a case where a physician has agreed with the client on a treatment plan spread out over several sessions, payable in one or several payments, the application for conciliation may be made within 60 days of the last treatment received, provided that not more than one year has elapsed since the day the account was received.

Notwithstanding the first paragraph of this section, when a decision of the Régie de l'assurance maladie du Québec or of another insurer is made to refuse reimbursement of an account, either in whole or in part, the application for conciliation must be transmitted to the syndic within the 30-day period following this decision.

5. All applications for conciliation must be formulated in writing. Upon receipt of such application, the syndic shall transmit to the client this Regulation and a copy of Schedule I, to be completed and returned to the syndic as additional information.

6. The syndic must notify the physician of the application for conciliation as soon as possible.

7. The syndic proceeds with the conciliation in the manner he deems most appropriate.

8. An agreement reached between the client and the physician during the conciliation is acknowledged in written form. This written form may consist of a letter from the syndic to the client and the physician acknowledging the agreement.

If the syndic considers it necessary, he may ask that the agreement reached between the client and the physician be acknowledged in terms similar to those in Schedule II of this Regulation.

9. If the conciliation has not led to an agreement within 45 days of the date of receipt of the application for conciliation, the syndic shall transmit, by registered or certified mail, a report on the dispute to the client and the physician.

This report shall concern, as applicable, the following elements:

1° the amount of the account of fees at the origin of the dispute;

2° the amount which the client acknowledges owing;

3° the amount which the physician acknowledges having to reimburse or is ready to accept in order to settle the dispute;

4° the amount proposed by the syndic, during the conciliation, as payment to the physician or reimbursement to the client.

The syndic shall also transmit to the client the form provided for in Schedule III, indicating the procedure and the time limit for submitting the dispute to arbitration.

DIVISION II ARBITRATION

§1. *Application for arbitration*

10. In a case where the conciliation has not led to an agreement, the client may request arbitration of the account within thirty days of receiving the syndic's conciliation report.

The request for arbitration shall be transmitted to the secretary of the Collège des médecins du Québec, by registered or certified mail, and shall reproduce the content of Schedule III.

11. The secretary must, upon receipt of a request for arbitration, advise the physician concerned of such.

12. A request for arbitration may be withdrawn in writing only and with the consent of the physician.

13. A physician who acknowledges having to reimburse an amount to a client must consign the amount to the secretary who, in turn, will remit it to the client.

In such case, the arbitration continues on the sole amount still in dispute.

14. An agreement reached between the client and the physician after the request for arbitration shall be acknowledged in writing, in terms similar to those in Schedule II, signed by them and filed with the secretary.

When the agreement is reached after formation of the arbitration board, it shall be integrated into the arbitration award, and the board shall decide on costs in the manner provided for in section 28.

§2. *Formation of arbitration board*

15. An arbitration board shall be composed of 3 arbitrators when the amount in dispute is \$5 000 or more, and of only one when the amount is less than \$5 000.

16. The president of the Collège shall appoint, from among the members of the order, the member or members of an arbitration board and, when the latter is composed of 3 arbitrators, he shall designate its chairperson.

The secretary shall notify in writing the member or members of the arbitration board and the parties, of the constitution of the arbitration board.

17. Before acting, the arbitrators shall take the oath prescribed in Schedule II of the Professional Code (R.S.Q., c. C-26).

18. A request for recusation of an arbitrator may not be made unless it is for one of the reasons stipulated in article 234 of the Code of Civil Procedure, paragraph 7 of this article excepted. It must be communicated in writing to the secretary, to the arbitration board and to the parties within 10 days of receiving the notice stipulated in the second paragraph of the section 16 or of learning of the grounds for disqualification.

The president of the Collège shall rule on this request and, if necessary, provide for a replacement of the recused arbitrator.

19. In the event of death, absence, or inability to act of an arbitrator, the others shall complete the case. In a case where this arbitrator is chairperson of the arbitration board, the president of the Collège shall appoint one of the two remaining arbitrators to act as chairperson.

In the case of an arbitration board formed of one arbitrator only, the latter shall be replaced by a new arbitrator appointed by the president of the Collège, and the hearing of the dispute shall begin again.

§3. *Hearing*

20. The arbitration board shall give the parties written notice of at least 10 days of the date, time and place of the hearing.

21. The parties are entitled to be represented by a lawyer or to have one present.

22. The arbitration board may ask each party to hand over to it, within a specified period of time, a statement of their claims with supporting documents.

23. The arbitration board shall promptly hear the parties, receive their evidence or note their default. For these purposes, it shall apply the rules of evidence of civil jurisdiction tribunals, adopt the procedure that appears most appropriate and award according to the rule of law.

24. The parties shall each respectively assume the costs of holding the arbitration, and the opposing party may not recover these costs.

If one party requests the recording of evidence, he or she shall assume its costs.

§4. *Arbitration award*

25. The arbitration board must render its award within the 30 days following the end of the hearing.

26. An award shall be made by a majority of members of the arbitration board; if there is no majority, it shall be made by the board's chairperson.

An award must contain reasons and be signed by the single arbitrator or the arbitrators executing it. If one among them refuses to sign or cannot sign, the award must make mention of such and has the same effect as if it were signed by all. However, a dissenting member may register in the award the reasons for his refusal.

27. In the award, the arbitration board may maintain or decrease the account under dispute; it may also determine, if applicable, the reimbursement to which a party may be entitled. For these purposes, it may take into account the quality of the services rendered but not pass judgment on the latter in the award.

28. In the award, the arbitration board may decide on the costs of arbitration, that is, the expenses incurred by the Collège in holding the arbitration.

The sum total of expenses may not exceed 15% of the amount involved in the arbitration. However, when payment is ordered, these costs shall be a minimum of \$100.

The arbitration board may also, when the account in dispute is maintained in whole or in part, or when a reimbursement is granted, add to it the interest and the calculated indemnity stipulated in articles 1618 and 1619 of the Civil Code of Québec, with effect from the application for conciliation.

29. The arbitration award is final, without appeal, binds the parties and is executory in accordance with articles 946 to 946.6 of the Code of Civil Procedure.

30. The arbitration board shall file its award with the secretary, who shall transmit a copy of such to each of the parties and to the syndic.

It shall also transmit to the secretary the complete arbitration file, copies of which may be transmitted solely to the parties and the syndic.

31. This Regulation replaces the Regulation respecting the procedure for the conciliation and arbitration of accounts of physicians, approved by Order-in-Council 1322-96 of October 16, 1996. However, this Regulation

continues to govern the procedure for the conciliation and arbitration of accounts for which conciliation by the syndic or a request for arbitration was made before the date of coming into force of this Regulation.

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

SCHEDULE I

(s. 5)

APPLICATION FOR CONCILIATION

I, the undersigned, declare that:
(name and address of client)

1. Doctorlaims the sum of
(name and address of physician)

\$ for professional services rendered between andas
(date) (date)

attested by :

the account, of which a copy is attached hereto

or

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

I contest this account for the following reasons:
.....
.....
.....

3. I acknowledge owing the sum of \$.....
for the professional services mentioned in this account.

4. a) I have not paid this account.

or

b) I have paid this account in full.

or

c) I have paid this account to a limit of \$.....

or

d) The sum of \$..... was withdrawn or
withheld directly from the funds which the
physician holds or receives for or on my name.

5. I apply for conciliation by the syndic pursuant to the Regulation respecting the procedure for the conciliation and arbitration of accounts of physicians.

Signed on.....

.....
(client's signature)

SCHEDULE II

(s. 8, 14)

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

Reached between :

.....
(client's name and address)

hereinafter called the "client",

and

.....
(physician's name and address)

both of whom declare and agree to the following :

Agreement has been reached between the client and the physician as

to the dispute submitted to conciliation

or

to arbitration

requested on
(date)

This agreement sets forth the following terms and conditions :

.....
.....
.....

The client and the physician request that conciliation

or

arbitration

procedures be stopped

Signed in Signed in

(place) (place)

on on

(date) (date)

.....

(client's signature) (physician's signature)

SCHEDULE III

(s. 9, 10)

REQUEST FOR ARBITRATION OF ACCOUNT

I, the undersigned

(client's name and address)

having duly taken an oath, declare that :

1. Doctor.....

(physician's name and address)

claims (or refuses to reimburse) a sum of money relative to professional services.

2. A copy of the conciliation report is attached hereto.

3. I request arbitration of this account pursuant to the Regulation respecting the procedure for the conciliation and arbitration of accounts of physicians, a copy of which I have received and read.

4. I agree to submit to the procedure provided for in this regulation and, if applicable, to pay the physician concerned the amount fixed by the arbitration award.

Signed on

(client's signature)

6107

Draft Regulation

Public Health Act
(R.S.Q., c. S-2.2)

Tooth decay — Optimum fluoride concentration

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 prescribing the optimum fluoride concentration to prevent tooth decay, the text of which appears below, may be made by the Minister on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to prescribe the optimum fluoride concentration in drinking water when it is fluoridated to prevent tooth decay.

Further information may be obtained by contacting Dr. Bernard Laporte, dental consultant, Direction générale de la santé publique, ministère de la Santé et des Services sociaux, 1075, chemin Sainte-Foy, 11^e étage, Québec (Québec) G1S 2M1; telephone : (418) 266-6758; fax : (418) 266-4609; e-mail : bernard.laporte@msss.gouv.qc.ca

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Health and Social Services, 1075, chemin Sainte-Foy, 15^e étage, Québec (Québec) G1S 2M1.

PHILIPPE COUILLARD,
*Minister of Health
and Social Services*

Regulation prescribing the optimum fluoride concentration to prevent tooth decay

Public Health Act
(R.S.Q., c. S-2.2, s. 57)

1. For the purposes of section 57 of the Public Health Act (R.S.Q., c. S-2.2), the optimum fluoride concentration to prevent tooth decay is fixed at 0.7 milligrams per litre of water.

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

6123