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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

## Bill 41

(2004, chapter 15)

### **An Act to amend the Professional Code**

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**Introduced 24 March 2004**

**Passage in principle 11 June 2004**

**Passage 17 June 2004**

**Assented to 17 June 2004**

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## EXPLANATORY NOTES

*This bill enables the Bureau of a professional order or a committee it creates to that effect to provisionally strike a professional off the roll or provisionally restrict or suspend the right to engage in professional activities in cases that require immediate action to protect the public, when the physical or mental condition of the professional is incompatible with the practice of the profession. The decision will apply until a final decision is made on the basis of a medical examination ordered by the Bureau or the committee. The bill provides for the right of a professional to submit observations and to appeal the provisional decision.*

*Also, the bill makes it easier for the Bureau or the syndic, as the case may be, to intervene when a professional is declared guilty of a criminal offence or is subject to a disciplinary decision described in section 55.1 of the Professional Code.*

*Lastly, the bill enables the syndic to require that the committee on discipline provisionally restrict the right to engage in professional activities in all the cases now giving rise to a provisional striking off the roll.*

## Bill 41

### AN ACT TO AMEND THE PROFESSIONAL CODE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

**1.** The Professional Code (R.S.Q., chapter C-26) is amended by inserting the following sections after section 52 :

**“52.1.** The Bureau may, when it considers that the physical or mental condition of a professional requires immediate action to protect the public, provisionally strike the professional off the roll or restrict or suspend his right to engage in professional activities until a decision is rendered following the medical examination ordered under section 48.

However, the Bureau may not render a provisional decision under the first paragraph before informing the professional of the facts brought to its attention and giving the professional an opportunity to submit observations in the manner and within the time limit it indicates.

The provisional decision rendered under the first paragraph is served in accordance with the Code of Civil Procedure. Unless it has been served beforehand, the order to submit to a medical examination under section 50 is served at the same time. In all cases, the procedure under section 49 is maintained and the decision is rendered as soon as possible.

**“52.2.** The Bureau may, by resolution, delegate to a committee made up of at least three members of the order the powers provided in section 52.1. In that case, the powers provided under sections 48 to 50 are also delegated to the committee.

Each member of the committee takes the oath provided in Schedule II.”

**2.** Section 53 of the said Code is amended by replacing “or the second paragraph of section 52” by “, the second paragraph of section 52 or section 52.1”.

**3.** Section 55.1 of the said Code is amended

(1) by inserting the following sentence at the end of the second paragraph :  
“A certified copy of a judicial or disciplinary decision referred to in the first paragraph, when rendered in Canada, is proof that the offence was committed and that any facts reported in the decision are true.”;

(2) by inserting the following paragraphs after the second paragraph :

“The Bureau may require from the professional any document or information it considers necessary for the purposes of this section. Should the professional fail to provide the document or information, the Bureau may strike the professional off the roll or restrict or suspend his right to engage in professional activities until the document or information is provided.

The Bureau shall inform the syndic of any decision made under subparagraph 1 or 2 of the first paragraph, which serves as a request made under section 128. The decision is valid

(1) until the syndic or assistant syndic decides not to lodge a complaint ;

(2) until the committee on discipline or the Professions Tribunal renders a final, executory decision on the complaint lodged by the syndic or assistant syndic ; or

(3) until the decision made under subparagraph 1 or 2 of the first paragraph is quashed in appeal.” ;

(3) by replacing “The Bureau must make its decision within six months after the day on which it is informed of the decision. The Bureau’s decision” in the last paragraph by “A decision made by the Bureau under this section”.

**4.** Section 130 of the said Code is amended by inserting “or the immediate provisional restriction of the respondent’s right to engage in professional activities” after “the respondent”.

**5.** Section 133 of the said Code is amended

(1) by inserting “or provisional restriction of the right to engage in professional activities” after “roll” in the first paragraph ;

(2) by inserting “or provisional restriction of the right to engage in professional activities” after “roll” wherever it appears in the second, third and fourth paragraphs ;

(3) by inserting “or provisional restriction of the right to engage in professional activities” after “roll” in the fifth paragraph.

**6.** The said Code is amended by inserting the following section after section 149 :

**“149.1.** The syndic or assistant syndic may, by way of a complaint, seize the committee on discipline of any decision of a Canadian court declaring the professional guilty of a criminal offence which, in the opinion of the syndic or assistant syndic, is related to the practice of the profession. A certified copy of the judicial decision is proof before the committee on

discipline that the offence was committed and that any facts reported in the decision are true. The committee on discipline then imposes on the professional, where expedient, one of the sanctions prescribed by section 156.”

**7.** Section 164 of the said Code is amended by inserting “or provisional restriction of the right to engage in professional activities” after “roll” in subparagraph 1 of the first paragraph.

**8.** Section 166 of the said Code is amended by inserting “or provisional restriction of the right to engage in professional activities” after “roll” in subparagraph 1 of the second paragraph.

**9.** Section 180 of the said Code is amended by inserting “or provisional restriction of the right to engage in professional activities” after “striking off” in the second last line of the first paragraph.

**10.** Section 182.1 of the said Code is amended by inserting “, section 52.1” after “section 52” in subparagraph 1 of the first paragraph.

**11.** Section 182.2 of the said Code is amended

(1) by inserting “or section 52.1” after “section 51” in the first line of the third paragraph;

(2) by inserting “where applicable,” after “report,” in the third line of the third paragraph.

**12.** Section 182.3 of the said Code is amended by inserting “, section 52.1” after “section 51” in the second paragraph.

**13.** Section 192 of the said Code is amended by inserting the following paragraph at the end of the first paragraph:

“(9) a committee established by the Bureau under section 52.2 or a member of that committee.”

**14.** Section 193 of the said Code is amended by inserting the following paragraph at the end:

“(11) a committee established by the Bureau under section 52.2 or a member of that committee.”

**15.** This Act comes into force on the day it is assented to.