



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 12

(2007, chapter 25)

An Act to amend the Professional Code and the Pharmacy Act

Introduced 15 June 2007
Passed in principle 6 November 2007
Passed 28 November 2007
Assented to 4 December 2007

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EXPLANATORY NOTES

This bill amends the Professional Code to set the minimum and maximum disciplinary fines at \$1,000 and \$12,500 and to double these amounts in the case of a subsequent offence. It also sets at \$1,500 and \$20,000 the minimum and maximum penal fines imposable on natural persons, and at \$3,000 and \$40,000 the minimum and maximum penal fines imposable on legal persons. Penal fines are also doubled in the case of a subsequent offence.

The bill provides that a person who knowingly helps or leads a member of a professional order to contravene the order's code of ethics is guilty of an offence.

The bill amends the Pharmacy Act to extend the regulatory powers of the Ordre des pharmaciens regarding certain contracts entered into by pharmacists in or for the practice of their profession. It also introduces rules applicable to the relocation of a pharmacy, and gives more flexibility to the rules relating to the control and supervision of pharmaceutical services provided in a pharmacy.

Finally, the bill establishes a transition period concerning certain rents accorded to physicians under agreements entered into prior to the coming into force of the Act.

LEGISLATION AMENDED BY THIS BILL:

- Professional Code (R.S.Q., chapter C-26);
- Pharmacy Act (R.S.Q., chapter P-10).

Bill 12

AN ACT TO AMEND THE PROFESSIONAL CODE AND THE PHARMACY ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PROFESSIONAL CODE

1. Section 156 of the Professional Code (R.S.Q., chapter C-26) is amended

(1) by replacing “of not less than \$600 nor more than \$6,000” in subparagraph *c* of the first paragraph by “of not less than \$1,000 nor more than \$12,500”;

(2) by adding the following sentence at the end of the third paragraph: “In the case of a subsequent offence, the minimum and maximum fines prescribed in that subparagraph are doubled.”

2. Section 188 of the Code is amended

(1) by replacing “of not less than \$600 nor more than \$6,000” by “of not less than \$1,500 nor more than \$20,000 or, in the case of a legal person, of not less than \$3,000 nor more than \$40,000”;

(2) by adding the following paragraph at the end:

“In the case of a subsequent offence, the minimum and maximum fines are doubled.”

3. The Code is amended by inserting the following section after section 188.2:

“188.2.1. Every person who knowingly helps or, by encouragement, advice or consent, or by an authorization or order, but otherwise than by soliciting or receiving professional services from a member of an order, leads a member of a professional order to contravene a provision of the code of ethics adopted under section 87 is guilty of an offence and is liable, for each day the code of ethics is contravened, to the fine prescribed in section 188.”

4. Section 188.3 of the Code is amended by replacing “188.1.2 or 188.2” by “188.1.2, 188.2 or 188.2.1”.

5. Section 189.1 of the Code is amended by adding “or 188.2.1” at the end.

6. Section 191 of the Code is amended

(1) by inserting “, 188.2.1” after “188.2” in the first paragraph;

(2) by replacing “officers, agents” in the first paragraph by “directors, officers, representatives, attorneys”.

PHARMACY ACT

7. Section 12 of the Pharmacy Act (R.S.Q., chapter P-10) is amended by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) determine standards for certain contracts that pharmacists may enter into in or for the practice of their profession, the cases in which a contract must be sent to the secretary of the Order, including at the secretary’s request, and the terms governing their sending, including the filing of a report or accompanying information.”

8. Section 31 of the Act is amended by replacing “unless every pharmaceutical service rendered therein is under the control and continuous supervision of a pharmacist” by “unless every pharmaceutical service provided in the establishment is rendered under the control and continuous supervision of a pharmacist or in accordance with the provisions of a regulation made under paragraph *h* of section 94 of the Professional Code”.

9. Section 32 of the Act is amended

(1) by replacing “or permanently closes” in the first sentence of subsection 1 by “, permanently closes or relocates” and “or closing” in that sentence by “, closing or relocation”;

(2) by inserting the following sentence after the first sentence of subsection 1: “In the case of a relocation, the person must also state where the pharmacy will be situated.”;

(3) by replacing paragraphs *a* and *b* of subsection 1 by the following paragraphs:

“(a) in the case of the opening, closing or relocation of a pharmacy, at least 30 days but not later than 90 days before the opening, closing or relocation;

“(b) in the case of the acquisition or sale of a pharmacy, not later than the date of possession.”;

(4) by inserting “or company” after “partnership” in the first line of subsection 2, “or shareholder” after “partner” in the second line of that subsection and “or shareholders” after “partners” in the fourth line of that subsection.

FINAL PROVISIONS

10. No penal proceeding based on section 188.2.1 of the Professional Code, enacted by this Act, nor any complaint lodged under section 128 of that Code, may be instituted or brought if all of the following conditions are met:

(1) the alleged contravention is a contravention of paragraph 3 of section 73 of the Code of Ethics of Physicians as it reads on (*insert the date of coming into force of this section*) with regard to a benefit defined in section 73.1 of that Code;

(2) the agreement under which the benefit is granted was entered into before (*insert the date of coming into force of this section*) and was not modified or renewed, with the same benefit, after that date.

11. This Act comes into force on 4 December 2007 except sections 3 to 6 and 10, which come into force on the date to be set by the Government but no later than 1 March 2008. However, section 10 ceases to have effect on 4 December 2008.