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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

## Bill 34

(2009, chapter 29)

### **An Act to amend various legislative provisions concerning specialized medical centres and medical imaging laboratories**

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**Introduced 24 March 2009**  
**Passed in principle 3 June 2009**  
**Passed 18 June 2009**  
**Assented to 19 June 2009**

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## EXPLANATORY NOTES

*This Act proposes certain adjustments to the legislative provisions applicable to specialized medical centres and medical imaging laboratories.*

*It amends certain provisions concerning the voting rights attached to the shares of a legal person or the interests in a partnership operating a specialized medical centre or a medical imaging laboratory, provisions concerning the physicians who make up the board of directors or internal management board of such a legal person or partnership and provisions concerning the appointment of the medical director of such a centre or laboratory.*

*This Act also sets out the responsibilities of the board of directors or internal management board of a legal person or partnership operating a specialized medical centre or a medical imaging laboratory and the obligations of the operator of a specialized medical centre where only physicians who have opted out of the health insurance plan practise.*

*Moreover, the Act specifies that the specialized medical treatments that can be provided in a specialized medical centre will from now on be determined by the Government. It also specifies the types of medical imaging examinations using diagnostic radiology or magnetic resonance imaging that can be carried out in a medical imaging laboratory. In addition, it sets out the conditions under which a community organization may offer termination of pregnancy services on its premises.*

*This Act introduces a prohibition against remuneration by the Régie de l'assurance maladie du Québec for insured services provided by a physician in a specialized medical centre or a laboratory operating without a permit or for which the permit has been suspended or cancelled or has not been renewed.*

*Lastly, this Act contains transitional and consequential provisions.*

**LEGISLATION AMENDED BY THIS ACT:**

- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (R.S.Q., chapter L-0.2);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act to amend the Act respecting health services and social services and other legislative provisions (2006, chapter 43).

**REGULATIONS AMENDED BY THIS ACT:**

- Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, chapter A-29, r. 1);
- Regulation respecting the specialized medical treatments provided in a specialized medical centre (2008, G.O. 2, 2941).



## Bill 34

### AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING SPECIALIZED MEDICAL CENTRES AND MEDICAL IMAGING LABORATORIES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

**1.** Section 333.1 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by replacing “Minister” in the first, third and fourth paragraphs by “Government”.

**2.** The Act is amended by inserting the following section after section 333.1:

**“333.1.1.** Specialized medical treatment not provided for in a regulation under the first paragraph of section 333.1 may be provided only in an institution operating a hospital centre if general, spinal or limb block, excluding digital block, anaesthesia is used.”

**3.** Section 333.2 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“333.2.** A physician who is a member of the Collège des médecins du Québec is the only natural person who may operate a specialized medical centre. If the operator of the centre is a legal person or a partnership, more than 50% of the voting rights attached to the shares of the legal person or the interests in the partnership must be held

(1) by physicians who are members of that professional order;

(2) by a legal person or a partnership all of whose voting rights attached to the shares or interests are held

(a) by physicians described in subparagraph 1; or

(b) by another legal person or partnership all of whose voting rights attached to the shares or interests are held by such physicians; or

(3) both by physicians described in subparagraph 1 and by one or more legal persons or partnerships described in subparagraph 2.”;

(2) by replacing the first independent clause of the second paragraph by the following independent clause: “The affairs of a legal person or a partnership that operates a specialized medical centre must be administered by a board of directors or internal management board a majority of whose members are physicians practising in the centre;”;

(3) by inserting the following paragraph after the second paragraph:

“The shareholders of a legal person or the partners in a partnership that operates a specialized medical centre may not enter into an agreement that restricts the power of the directors of the legal person or the partnership.”

**4.** The Act is amended by inserting the following section after section 333.4:

**“333.4.1.** The operator of a specialized medical centre must ensure that the medical services provided in the centre meet generally recognized standards of quality and safety.”

**5.** Section 333.5 of the Act is amended

(1) by replacing “a member of the Collège des médecins du Québec” in the first paragraph by “chosen from among the physicians practising in the centre”;

(2) by inserting “, under the authority of the operator,” after “The medical director” at the beginning of the second paragraph.

**6.** Section 333.6 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“333.6.** The operator of a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 must offer persons who have surgery or receive some other specialized medical treatment referred to in section 333.1 in the centre, either directly or through another private resource with which the operator has entered into an agreement and to which the operator refers those persons, all the preoperative and postoperative services normally associated with the surgery or treatment, excluding any services associated with complications, and all the rehabilitation services and home care support services needed for complete recovery. The operator of the centre must also inform a person who wishes to receive such surgery or specialized medical treatment in the centre that the person must also obtain the preoperative, postoperative, rehabilitation and home care support services either in the centre or from another private resource. In addition, the operator of the centre must inform the person of the total foreseeable cost of the preoperative, postoperative, rehabilitation and home care support services that the person must obtain either in the centre or from another private resource.”;

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

“The cost of medical services obtained from a private resource under the first or second paragraph may not be assumed by the Régie de l’assurance maladie du Québec.”

**7.** Section 333.7 of the Act is replaced by the following section:

**“333.7.** Only the following medical services may be provided in a specialized medical centre:

(1) medical services necessary for surgery or any other specialized medical treatment referred to in section 333.1 and entered on the permit issued to the operator of the specialized medical centre under section 441;

(2) medical services identified in section 333.6 that are associated with such surgery or such specialized medical treatment; and

(3) medical services corresponding to activities permitted in a private health facility.

The operator of a specialized medical centre must ensure compliance with the first paragraph.”

**8.** The Act is amended by inserting the following section after section 333.7:

**“333.7.1.** Not later than 31 March each year, the operator of a specialized medical centre must send the Minister and the agency in the centre’s territory a report on the centre’s activities for the preceding calendar year. The report must include the name of the medical director, the name of the general practitioners and the specialists, by specialty, who practised in the centre, the number of specialized medical treatments provided in the centre, by type of treatment entered on the permit, and any other information required by the Minister.

The information provided under the first paragraph must not allow the centre’s clientele to be identified.”

**9.** The Act is amended by inserting the following section after section 338:

**“338.1.** Despite any inconsistent provision of this Act or the regulations, a community organization may offer termination of pregnancy services on its premises if it obtains authorization from the Minister.

A community organization seeking that authorization must send its application to the agency so the agency may determine whether the needs in its region justify those services.

After approving the application, the agency shall send it to the Minister, who shall grant the authorization if of the opinion that it is in the public interest.

The authorization is valid until it is revoked.

Sections 333.4, 333.5, 333.8, 446.1 to 450 and 489 apply, with the necessary modifications, to such a community organization, as the operator for the purposes of those sections.”

**10.** Section 440 of the Act is amended

(1) by inserting “the number of operating rooms it can provide,” after “the centre is operated,” in the second paragraph;

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

“The Minister shall make public the information required under this section.”

**11.** Section 441 of the Act is amended by adding the following paragraph at the end:

“The Minister may not issue a specialized medical centre permit authorizing more than five beds, or issue a permit that would increase the total number of beds within a single facility to more than five.”

**12.** Section 446.1 of the Act is amended by adding the following paragraphs at the end:

“(5) the operator or any of the physicians practising in the specialized medical centre has been convicted of an offence under the fourth or ninth paragraph of section 22 or under section 22.0.0.1 of the Health Insurance Act (chapter A-29), for an act or omission that concerns the centre; or

“(6) the operator fails to maintain control over the operation of the specialized medical centre, for instance if the Minister ascertains that the operator is not the owner or lessee of the centre’s facilities, is not the employer of the personnel required for the operation of the centre or does not have the authority required to allow physicians who apply to practise in the centre to do so.”

**13.** Section 449 of the Act is amended by adding the following paragraph at the end:

“If the permit is a specialized medical centre permit, the Minister shall also mention in the notice that the prohibition against remuneration if a permit is suspended, cancelled or not renewed, set out in the first paragraph of section 22.0.0.0.1 of the Health Insurance Act (chapter A-29), applies.



The notice may be sent to the physicians practising in the specialized medical centre concerned. Similarly, a decision by the Minister to suspend, cancel or refuse to renew the permit must state that the prohibition against remuneration applies. The Minister shall send a copy of any such decision without delay to the Régie de l'assurance maladie du Québec, which, upon receiving it, shall inform the physicians practising in the specialized medical centre concerned that the prohibition against their being remunerated applies. An operator whose permit is suspended, cancelled or not renewed must immediately inform the clientele of the specialized medical centre concerned of the fact.”

**14.** Section 489 of the Act is amended by adding “, including, in the case of a specialized medical centre, any document proving that the operator controls the operation of the centre” at the end of subparagraph 2 of the second paragraph.

**15.** The Act is amended by inserting the following section after section 489.1:

“**489.2.** If, following an inspection, the Minister is informed that a specialized medical centre is being operated without a permit, the Minister shall immediately notify the Régie de l'assurance maladie du Québec in writing for the purposes of the prohibition against remuneration set out in the first paragraph of section 22.0.0.0.1 of the Health Insurance Act (chapter A-29). On receiving the notice, the Régie shall inform the physicians practising in the specialized medical centre concerned that the prohibition against their being remunerated applies.”

**16.** Section 505 of the Act, amended by section 2 of chapter 8 of the statutes of 2008, is again amended by inserting the following paragraph after paragraph 21.1:

“(21.2) determine the other specialized medical treatments that may be provided in a specialized medical centre under section 333.1;”.

**17.** Section 531 of the Act is amended by inserting “section 333.1.1,” after “of section 135,” in the first paragraph.

**18.** Section 531.3 of the Act is amended

(1) by inserting “, the first or second paragraph of section 333.6” after “of section 333.5” in the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“If the third paragraph of section 333.2 is contravened, each shareholder or partner that is party to the agreement is guilty of an offence and is liable to the penalty prescribed in the first paragraph.”;

(3) by replacing “third” in the second paragraph by “fourth”.

ACT RESPECTING MEDICAL LABORATORIES, ORGAN, TISSUE,  
GAMETE AND EMBRYO CONSERVATION, AND THE DISPOSAL  
OF HUMAN BODIES

**19.** Section 30.1 of the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (R.S.Q., chapter L-0.2) is amended by inserting “determined by government regulation” after “examinations”.

**20.** Section 30.2 of the Act is amended

(1) by replacing the last two sentences of the first paragraph by the following: “If the physician acts for the benefit of an association, all the members of the association must hold such a certificate. If the physician acts for the benefit of a legal person or a partnership, more than 50% of the voting rights attached to the shares of the legal person or the interests in the partnership must be held

(1) by physicians holding such a certificate;

(2) by a legal person or a partnership all of whose voting rights attached to the shares or interests are held

(a) by physicians described in subparagraph 1; or

(b) by another legal person or partnership all of whose voting rights attached to the shares or interests are held by such physicians; or

(3) both by physicians described in subparagraph 1 and by one or more legal persons or partnerships described in subparagraph 2.”;

(2) by replacing “that includes a majority of physicians who hold a specialist’s certificate in diagnostic radiology issued by the Collège des médecins du Québec; such physicians” in the second paragraph by “a majority of whose members are radiologists practising in the laboratory; such radiologists”;

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

“The shareholders of a legal person or the partners in a partnership for which a medical imaging laboratory permit is issued may not enter into an agreement that restricts the power of the directors of the legal person or the partnership.”

**21.** The Act is amended by inserting the following section after section 30.4:

**“30.4.1.** The operator of a medical imaging laboratory must ensure that the medical imaging services provided in the laboratory meet generally recognized standards of quality and safety.”

**22.** Section 30.5 of the Act is amended

(1) by replacing “hold a specialist’s certificate in diagnostic radiology issued by the Collège des médecins du Québec” in the first paragraph by “be chosen from among the radiologists practising in the laboratory”;

(2) by inserting “, under the authority of the operator,” after “The medical director” at the beginning of the second paragraph.

**23.** Section 34 of the Act is amended by adding the following sentence at the end of the second paragraph: “If the application is for a medical imaging laboratory permit, the person shall also mention the types of medical imaging examinations using diagnostic radiology or magnetic resonance imaging that are to be carried out in the laboratory.”

**24.** Section 35 of the Act is amended by adding the following paragraph at the end:

“A medical imaging laboratory permit must also state the types of medical imaging examinations using diagnostic radiology or magnetic resonance imaging that may be carried out in the laboratory.”

**25.** Section 38 of the Act is amended by adding the following paragraph at the end:

“A legal person, partnership or association for which a permit is issued must ensure that the permit holder fulfils the obligations imposed by this Act or the regulations.”

**26.** The Act is amended by inserting the following section after section 39:

“**39.1.** The permit holder must carry on activities in accordance with the permit.”

**27.** Section 40.3.2 of the Act is amended

(1) by adding the following subparagraph at the end of the first paragraph:

“(f) acts for the benefit of a legal person, partnership or association for which a permit is issued who fails to fulfil the obligations imposed by this Act or the regulations.”;

(2) by adding the following subparagraph at the end of the second paragraph:

“(3) fails to maintain control over the operation of the laboratory, for instance if the Minister ascertains that the holder or the legal person, partnership or association for whose benefit the holder acts is not the owner

or lessee of the laboratory facilities, is not the employer of the personnel required for the operation of the laboratory or does not have the authority required to allow radiologists who apply to practise in the laboratory to do so.”;

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

“If the permit is a laboratory permit, the Minister shall also mention in the notice that the prohibition against remuneration if a permit is suspended, cancelled or not renewed, set out in the second paragraph of section 22.0.0.0.1 of the Health Insurance Act (chapter A-29), applies. The notice may be sent to the physicians practising in the laboratory concerned. Similarly, a decision by the Minister to suspend, cancel or refuse to renew the permit must state that the prohibition against remuneration applies. The Minister shall send a copy of any such decision without delay to the Régie de l’assurance maladie du Québec, which, upon receiving it, shall inform the physicians practising in the laboratory concerned that the prohibition against their being remunerated applies. An operator whose permit is suspended, revoked or not renewed must immediately inform the clientele of the laboratory concerned of the fact.”

**28.** The Act is amended by inserting the following section after section 67:

“**67.1.** If, following an inspection, the Minister is informed that a laboratory is being operated without a permit, the Minister shall immediately notify the Régie de l’assurance maladie du Québec in writing for the purposes of the prohibition against remuneration set out in the second paragraph of section 22.0.0.0.1 of the Health Insurance Act (chapter A-29). On receiving the notice, the Régie shall inform the physicians practising in the laboratory concerned that the prohibition against their being remunerated applies.”

#### HEALTH INSURANCE ACT

**29.** Section 15.1 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing “determined by the Minister” in the first paragraph by “determined by a regulation made”.

**30.** The Act is amended by inserting the following section after section 22:

“**22.0.0.0.1.** Despite the first paragraph of section 22, a physician is not entitled to be remunerated for an insured service the physician furnished in a specialized medical centre being operated without a permit or whose specialized medical centre permit has been suspended or cancelled or has not been renewed, unless it is a medical service described in subparagraph 3 of the first paragraph of section 333.7 of the Act respecting health services and social services (chapter S-4.2).

The same applies for all insured services furnished by a physician in a laboratory operated without a permit or whose permit has been suspended or cancelled or has not been renewed.

The prohibition against remuneration set out in the first and second paragraphs applies upon receipt by the Board of the copy of the Minister's decision to suspend, cancel or refuse to renew the permit or the Minister's notice informing it that the specialized medical centre or the laboratory is being operated without a permit."

#### ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AND OTHER LEGISLATIVE PROVISIONS

**31.** Section 55 of the Act to amend the Act respecting health services and social services and other legislative provisions (2006, chapter 43) is repealed.

#### TRANSITIONAL AND FINAL PROVISIONS

**32.** A person or partnership that, on 31 December 2007, operated a private health facility in which one of the types of surgery mentioned in section 333.1 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) was performed has until 30 September 2009 to obtain a permit, in accordance with section 441 of that Act, authorizing it to operate a specialized medical centre.

A permit issued to a person or partnership referred to in the first paragraph is valid from 30 September 2009.

**33.** A community organization within the meaning of section 334 of the Act respecting health services and social services that, on 24 March 2009, offered pregnancy termination services on its premises is deemed to have obtained the authorization required by section 338.1 of the Act respecting health services and social services, enacted by section 9.

**34.** Despite section 333.3 of the Act respecting health services and social services, a physician subject to an agreement entered into under section 19 of the Health Insurance Act (R.S.Q., chapter A-29) may continue to practise in a specialized medical centre described in subparagraph 2 of the first paragraph of section 333.3 of the Act respecting health services and social services if

(1) the operator of the specialized medical centre obtained a permit on or before 30 September 2009;

(2) on 31 December 2007, the specialized medical centre was a private health facility in which both physicians subject to an agreement entered into under section 19 of the Health Insurance Act and non-participating physicians within the meaning of that Act practised;

(3) the number of non-participating physicians in the specialized medical centre was equal to or greater than the number of physicians subject to an agreement entered into under section 19 of the Health Insurance Act; and

(4) not later than 120 days after the issue of the permit referred to in subparagraph 1, the physician sent the Minister of Health and Social Services an application for recognition in order to be authorized to practise in the specialized medical centre covered by the permit, together with sufficient proof of compliance with the conditions set out in subparagraphs 2 and 3.

After analyzing the application, the Minister grants the recognition requested if all the conditions set out in the first paragraph have been met. The recognition is valid only for a specialized medical centre described in the first paragraph. It belongs exclusively to the physician who applied for it and may in no case be transferred.

The medical services rendered in a specialized medical centre described in the first paragraph by a physician to whom recognition has been granted are deemed, despite any inconsistent provision, to be rendered by a non-participating physician within the meaning of the Health Insurance Act.

**35.** A physician who, at the time of obtaining recognition under section 34, has also been appointed to practise in a centre operated by an institution must, as of that time and for the duration of any subsequent reappointment, at all times fulfil the obligations attached to the privileges the physician enjoys.

The institution's director of professional services must inform the Minister immediately of any failure to comply with this section on the part of the physician. In such a case, after giving the physician an opportunity to submit observations in writing, the Minister may withdraw the recognition granted.

**36.** Until the types of medical imaging examinations using diagnostic radiology or magnetic resonance imaging that may be carried out in a medical imaging laboratory are determined by the Government under section 30.1 of the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (R.S.Q., chapter L-0.2), as amended by this Act, those types of examinations are as follows:

- (1) magnetic resonance imaging;
- (2) mammography;
- (3) osteodensitometry;
- (4) general radiography;
- (5) fixed radioscopy (fixed fluoroscopy);

- (6) mobile radioscopy (mobile fluoroscopy); and
- (7) tomodensitometry.

**37.** The holder of a medical imaging laboratory permit issued before 19 June 2009 must, on the renewal of the permit, provide the Minister with proof of the types of medical imaging examinations using diagnostic radiology or magnetic resonance imaging that were carried out in the laboratory on 24 March 2009 that is sufficient for the Minister to enter them on the permit.

**38.** Section 1 of the Regulation respecting the specialized medical treatments provided in a specialized medical centre, made by Order 2008-08 of the Minister of Health and Social Services (2008, G.O. 2, 2941), is amended by striking out paragraph 3.

**39.** Section 22 of the Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, chapter A-29, r. 1) is amended by adding the following subparagraph at the end of paragraph *r*:

“(iii) if it is provided in a laboratory under an agreement entered into with the operator of a specialized medical centre under the first paragraph of section 333.6 of the Act respecting health services and social services (R.S.Q., chapter S-4.2).”

**40.** The provisions of this Act come into force on 19 June 2009, except paragraph 2 of section 3, paragraph 1 of section 5, paragraph 2 of section 20 and paragraph 1 of section 22, which come into force on 1 January 2010.