

Gouvernement du Québec

O.C. 754-2019, 3 July 2019

Professional Code
(chapter C-26)

Notaries Act
(chapter N-3)

Digital official signature of a notary

Regulation respecting the digital official signature of a notary

WHEREAS, under subparagraph 1 of the first paragraph of section 98 of the Notaries Act (chapter N-3), the board of directors of the Chambre des notaires du Québec must make regulations prescribing the conditions and procedure for authorizing the use of an official signature affixed by means of a technological process and those for revoking such authorization, and determining the technological process that must be used to affix it and the minimal conditions a certification service provider must meet;

WHEREAS, under section 94.1 of the Professional Code (chapter C-26), the board of directors of a professional order may, in a regulation that it is authorized to make under the Code or under an Act constituting the professional order, make compulsory a standard established by a government or body and provide that reference to such a standard includes any subsequent amendment made to it;

WHEREAS the board of directors of the Chambre des notaires du Québec made the Regulation respecting a notary's digital official signature on 3 December 2018;

WHEREAS, under the second paragraph of section 98 of the Notaries Act, regulations under subparagraph 1 of the first paragraph of that section are submitted to the Government, which may approve them with or without amendment, on the recommendation of the ministers responsible for the Act respecting registry offices (chapter B-9) made after consultation with the Office des professions du Québec;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting a notary's digital official signature was published in Part 2 of the *Gazette officielle du Québec* of 9 January 2019 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice and the Minister of Energy and Natural Resources:

THAT the Regulation respecting the digital official signature of a notary, attached to this Order in Council, be approved.

YVES OUELLET,
Clerk of the Conseil exécutif

Regulation respecting the digital official signature of a notary

Professional Code
(chapter C-26, s. 94.1)

Notaries Act
(chapter N-3, s. 98, 1st par., subpar. 1)

DIVISION I
PURPOSE

1. The purpose of this Regulation is to determine, in addition to the provisions in the Act to establish a legal framework for information technology (chapter C-1.1), the technological process to be used by a notary to affix his or her official signature using such means, the conditions and procedure for authorizing the use of an official signature affixed by means of such a technological process, those for revoking such authorization, and the minimal conditions a certification service provider must meet.

DIVISION II
TECHNOLOGICAL PROCESS

2. The technological process by means of which a notary may affix his or her official signature is an asymmetric cryptographic system supported by a public-key infrastructure.

The signature affixed by a notary using that process constitutes the notary's digital official signature.

DIVISION III
AUTHORIZATION TO USE AND REVOCATION

§1. *Authorization to use*

3. The secretary of the Order authorizes the notary who makes an application to that effect, using the document established by the Order, to use a digital official signature using the process described in section 2.

To obtain the authorization, the notary must have his or her identity verified by another notary and must attach the attestation of the verification to the application.

In the application, the notary must undertake

- (1) to use his or her digital official signature only in the practice of the profession;
- (2) not to allow the use of the signature by a third person;
- (3) to ensure the security and the confidentiality of every password or secret element related to his or her digital official signature.

In addition, if the notary becomes aware that the security or the confidentiality of any password or secret element related to the digital official signature has been compromised or if the notary has reasonable grounds to believe so, the notary undertakes to immediately notify

- (1) the secretary of the Order;
- (2) the certification service provider;
- (3) any person who may have received a document bearing the notary's digital official signature while, in fact, it was affixed by a third person.

The notary must pay the fees relating to the application for an authorization.

§2. Revocation of the authorization

4. The secretary of the Order must revoke the authorization given to a notary in any of the following cases:

- (1) on the written application of the notary;
- (2) the notary has been removed from the roll of the Order;
- (3) the notary fails to fulfil one of the undertakings provided for in section 3;
- (4) any situation where the notary is informed that the confidentiality or the security of the password or of the secret elements related to the digital official signature has been compromised;
- (5) on the written application of the certification service provider, where the notary fails to pay the fees relating to the use of the digital official signature.

The secretary of the Order must inform the notary and the certification service provider of the revocation.

DIVISION IV CERTIFICATION SERVICE PROVIDER

5. Only a certification service provider that has been authorized by the Order may issue the keys and certificates allowing a notary to affix his or her digital official signature using the process described in section 2.

6. The Order authorizes a certification service provider that enters into an agreement with the Order determining the administrative procedures necessary for the application of this Regulation and that meets the following minimal conditions:

- (1) it has a certification policy that complies with documents RFC 3647 and RFC 3280 developed by the Internet Engineering Task Force and that includes a procedure for identity verification;

- (2) it issues keys and certificates by means of a public-key infrastructure;

- (3) it has a certificate directory that complies with the International Telecommunication Union (ITU) Recommendation X.500;

- (4) it issues certificates that comply with the ITU Recommendation X.509;

- (5) it issues keys that consist of a unique and indissociable pair of keys, one public and the other private, which allow the signing of technology-based documents and the identification of the signatory;

- (6) it issues certificates that include, in particular, the following elements:

- (a) the distinguishing name of the notary combined with a unique code;

- (b) a mention to the effect that he or she is a notary;

- (7) it enters the certificates into a directory held on a medium based on information technology and keeps it up-to-date. The directory must include, in particular, the serial numbers of the certificates that are valid, suspended, cancelled, or archived.

The reference to a standard provided for in subparagraphs 1, 3 and 4 of the first paragraph includes any subsequent amendments made thereto.

7. The certification service provider must make sure that the notary has the authorization of the secretary of the Order before it issues the keys and certificates allowing the notary to affix his or her digital official signature.

8. The certification service provider who has knowledge of one of the cases of revocation of the authorization provided for in section 4 notifies the secretary of the Order and the notary.

9. The certification service provider revokes the keys and certificates allowing the notary to affix his or her digital official signature in particular where the secretary of the Order informs the provider of the revocation of the authorization made in accordance with section 4.

If the certification service provider revokes them for a reason other than a case referred to in section 4, the certification service provider so informs the secretary of the Order and the notary.

DIVISION V TRANSITIONAL AND FINAL

10. The personal code or mark assigned to a notary by the secretary of the Order before 1 October 2019 is the notary's digital official signature.

The notary is authorized to use the signature if

(1) the notary undertakes in writing in accordance with section 3; and

(2) the certification service provider that issued the keys and certificates allowing to affix the signature meets the conditions provided for in sections 5 and 6.

11. This Regulation comes into force on 1 October 2019.

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Gouvernement du Québec

O.C. 759-2019, 3 July 2019

An Act respecting health services and social services (chapter S-4.2)

Minister of Health and Social Services — Information that institutions must provide — Amendment

Regulation to amend the Regulation respecting the information that institutions must provide to the Minister of Health and Social Services

WHEREAS, under subparagraph 26 of the first paragraph of section 505 of the Act respecting health services and social services (chapter S-4.2), the Government may, by

regulation, prescribe the personal and non-personal information that an institution must provide to the Minister concerning the needs for and utilization of services;

WHEREAS, under section 433 of the Act, in performing the Minister's duties under section 431 of the Act, the Minister may require an institution to furnish, at the time and in the form the Minister determines, the information, whether personal or not, prescribed by regulation under subparagraph 26 of the first paragraph of section 505 of the Act concerning needs for and utilization of services;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the information that institutions must provide to the Minister of Health and Social Services was published in Part 2 of the *Gazette officielle du Québec* of 10 April 2019 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation to amend the Regulation respecting the information that institutions must provide to the Minister of Health and Social Services without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT the Regulation to amend the Regulation respecting the information that institutions must provide to the Minister of Health and Social Services, attached to this Order in Council, be made.

YVES OUELLET,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the information that institutions must provide to the Minister of Health and Social Services

An Act respecting health services and social services (chapter S-4.2, ss. 433 and 505, 1st par., subpar. 26)

1. The Regulation respecting the information that institutions must provide to the Minister of Health and Social Services (chapter S-4.2, r. 23) is amended by inserting the following after section 5.1:

“**5.1.1.** An institution operating a hospital of the general and specialized class of hospitals and offering oncology services must provide the Minister with the information in Schedule V.1 in respect of a user suffering from cancer who receives such services.