

CONSIDERING that the Chief Justice of Québec, the Chief Justice of the Superior Court and the Chief Judge of the Court of Québec have given their agreement on the extension of the measures provided for in this Order;

CONSIDERING that the Barreau du Québec and the Chambre des notaires du Québec have been consulted and their opinion has been taken into consideration;

ORDERS AS FOLLOWS:

THAT the effective period of the measures provided for in the first five paragraphs of the operative part of Order 2020-4304 dated 31 August 2020 be extended for one more year, that is, from 1 September 2022 to 31 August 2023.

Québec, 24 August 2022

SIMON JOLIN-BARRETTE
Minister of Justice

105983

M.O., 2022

Order 4824 of the Minister of Justice dated 28 July 2022

Code of Civil Procedure
(chapter C-25.01)

Model pleadings and other documents established by the Minister of Justice pursuant to article 393 of the Code of Civil Procedure (chapter C-25.01)

THE MINISTER OF JUSTICE,

CONSIDERING article 393 of the Code of Civil Procedure (chapter C-25.01), which provides that an application relating to the personal integrity, status or capacity of a person of full age or a minor 14 years of age or older must be accompanied by a notice, in keeping with the model established by the Minister of Justice, informing the person of their rights and obligations, including their right to be represented;

CONSIDERING that such models are provided for in the Model pleadings and other documents established by the Minister of Justice pursuant to article 393 of the Code of Civil Procedure (chapter C-25.01, r. 2);

CONSIDERING section 46 of the Act to amend the Civil Code, the Code of Civil Procedure, the Public Curator Act and various provisions as regards the

protection of persons (2020, chapter 11), which repeals Division III of Chapter III of Title Four of Book One of the Civil Code, comprising articles 281 to 284 of that Code, repeals the notion of curatorship and comes into force on 1 November 2022 under Order in Council 240-2022 dated 9 March 2022;

CONSIDERING that it is expedient to amend the model pleadings established pursuant to article 393 of the Code of Civil Procedure by striking out the word “curator”;

CONSIDERING that it is expedient to make minor amendments in form to these model pleadings;

ORDERS AS FOLLOWS:

THAT the model Notice accompanying an application relating to the personal integrity, status or capacity of a person of full age or a minor 14 years of age or older - Application presented before a notary provided for in Schedule 5 to those models be replaced by the model established by Schedule 1 to this Order;

THAT the model Notice accompanying an application relating to the personal integrity, status or capacity of a person of full age or a minor 14 years of age or older - Application presented before the court provided for in Schedule 6 to those models be replaced by the model established by Schedule 2 to this Order;

THAT this Order come into force on 1 November 2022.

Québec, 28 July 2022

SIMON JOLIN-BARETTE
Minister of Justice

SCHEDULE 1

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

Notice accompanying an application relating to the personal integrity, status or capacity of a person of full age or a minor 14 years of age or older

Application presented before a notary (article 393 C.C.P.)

General duties of a notary

The notary seized of this application must act in your best interests while protecting your rights and safeguarding your autonomy.

Right to be heard

Before drawing up minutes of notarial operations and conclusions, the notary must hear you in person to allow you to make representations, give your opinion or answer questions. However, if it is impossible or clearly inexpedient to hear you because of the urgency of the situation or your state of health, the notary is not required to hear you.

If you are of full age and living in a remote location, the notary may delegate the responsibility of hearing you to another notary in order to avoid excessive travel expenses.

If the notary is not sufficiently fluent in your language, the notary may also mandate a notary who speaks the language. If necessary, the notary seized of the application or the other notary may retain the services of an interpreter.

Right to be represented

If you are an incapable person of full age, a notary who considers that you need to be represented by a lawyer or another notary or by a tutor ad hoc must inform the interested persons so that the appropriate measures may be taken. The notary may continue to act if the latter are not opposed to it.

Right to be assisted

If you are an incapable person of full age, a notary who considers that you need to be assisted by a trusted third person must inform the interested persons so that the appropriate measures may be taken. The notary may continue to act if the latter are not opposed to it.

Right of opposition

In the 10 days preceding the date specified by the notary for the filing of the minutes with the court office, it is possible to oppose the minutes by applying to the court.

Recourse against a judgment granting, rejecting or amending the conclusions set out in a notary's minutes

If a decision concerning your capacity is rendered by a special clerk, an application for review may be filed at the office of the court within 10 days after the date of the decision.

A judgement or order made concerning this application may be appealed within 30 days after the date of the notice of judgment or after the date of the judgment if it was rendered at the hearing.

You can request the review of a judgment concerning your personal integrity or capacity when you, or any interested party, are able to present new facts sufficient to result in the varying of the judgment.

SCHEDULE 2**MODEL ESTABLISHED BY THE MINISTER OF JUSTICE****Notice accompanying an application relating to the personal integrity, status or capacity of a person of full age or a minor 14 years of age or older****Application presented before the court**
(article 393 C.C.P.)**Right to personal integrity**

A party cannot require you to undergo a physical or mental examination unless your physical or mental condition must be considered in order to rule on a judicial application. Even in such a case, the physical or mental examination must be warranted given the nature, complexity and purpose of the judicial application.

Right to be heard

Before making a decision, the court must hear you in person to allow you to make representations, give your opinion or answer questions. However, if it is impossible or clearly inexpedient to hear you because of the urgency of the situation or your state of health, or if it is shown that requiring you to testify could be harmful to your health or safety or that of other persons, the court is not required to hear you.

If the application concerns the provision of care or the alienation of a body part and if you refuse, the court must respect your refusal unless the care is required by your state of health.

Right to be represented

If the application follows contentious proceedings, you may be represented by a lawyer. If it follows non-contentious proceedings, you may be represented by a lawyer or notary.

If you are not represented by a tutor or mandatary, the court may order the appointment of a lawyer to represent you if it considers you incapable and considers it necessary to safeguard your rights and interests. The court will rule on the lawyer's fee, depending on the circumstances.

Right to be assisted

If you are a minor or an incapable person, you may be accompanied by someone capable of providing assistance or reassurance when the court is to hear you.

If a hearing concerning your personal integrity or capacity takes place *in camera*, you may be accompanied by someone capable of providing assistance or reassurance. However, if circumstances so require, the court may exclude such persons to prevent serious prejudice to a person whose interests may be affected by the application or by the proceeding.

Right to privacy

Access to documents pertaining to your health or psychosocial situation is restricted if they have been filed in the court record in a sealed envelope. The documents may only be consulted or copied by the parties, by their representatives, by lawyers and notaries, by persons designated by law, and by any person, including a journalist, who has been authorized by the court after proving a legitimate interest, subject to the access conditions and procedure determined by the court.

Recourse against a judgment

If a decision concerning your capacity is rendered by a special clerk, an application for review may be filed at the office of the court within 10 days after the date of the decision.

A judgement or order made concerning this application may be appealed within 30 days after the date of the notice of judgment or after the date of the judgment if it was rendered at the hearing.

However, the time limit for appealing a judgment is:

— 10 days if the appeal concerns a judgment refusing your release or if the appeal is presented by a party that wishes to join an appeal that was presented previously;

— 5 days if the appeal concerns a judgement ordering your release, granting an application for authorization affecting your personal integrity or ordering you to be held in custody in order to undergo a psychiatric assessment or following a psychiatric assessment.

You can request the review of a judgment concerning your personal integrity or capacity when you, or any interested party, are able to present new facts sufficient to result in the varying of the judgment.

Legal costs

If the application concerns your capacity, you will bear the legal costs unless the court decides otherwise.

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