



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 68
(2024, chapter 29)

**An Act mainly to reduce the
administrative burden of physicians**

**Introduced 31 May 2024
Passed in principle 19 September 2024
Passed 8 October 2024
Assented to 9 October 2024**

**Québec Official Publisher
2024**

EXPLANATORY NOTES

This Act amends the Act to promote access to family medicine and specialized medicine services to prohibit an insurer or employee benefit plan administrator from requiring an insured, a participant or a beneficiary to receive a medical service in order to obtain payment of certain benefits. It allows the Minister of Health and Social Services to restrict the health and social services information that may be requested from a physician by a third person and impose the use of a form determined by the Minister.

The Act grants Santé Québec the powers enabling it to oversee the application of the provisions enacted by the Act. In particular, it provides for the possibility of recovering the cost of medical services and imposing monetary administrative penalties. It also prescribes offences and penal sanctions.

The Act amends the Act respecting labour standards to prohibit an employer from requiring a document attesting to the reasons for an absence, in particular an absence owing to sickness, including a medical certificate, for the first 3 periods of absence not exceeding 3 consecutive days taken over a 12-month period. The prohibition also applies to employers whose employees governed by the Act respecting labour relations, vocational training and workforce management in the construction industry are entitled to absences of the same nature. In addition, no employer may require a medical certificate if an employee is absent to provide care to a child, a relative or a person for whom the employee acts as a caregiver.

Lastly, the Act contains consequential and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act to promote access to family medicine and specialized medicine services (chapter A-2.2);
- Act respecting labour standards (chapter N-1.1).

Bill 68

AN ACT MAINLY TO REDUCE THE ADMINISTRATIVE BURDEN OF PHYSICIANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT TO PROMOTE ACCESS TO FAMILY MEDICINE AND SPECIALIZED MEDICINE SERVICES

- 1.** Section 3 of the Act to promote access to family medicine and specialized medicine services (chapter A-2.2) is amended by replacing “to this Act” by “to Chapter II”.
- 2.** Chapter III of the Act becomes Division IV of Chapter II.
- 3.** Section 29 of the Act, amended by section 855 of chapter 34 of the statutes of 2023, is again amended by replacing both occurrences of “this Act” by “this chapter”.
- 4.** The Act is amended by inserting the following chapter after section 29:

“CHAPTER III

“ADMINISTRATIVE BURDEN OF PHYSICIANS

“DIVISION I

“USE OF MEDICAL SERVICES

“29.1. No insurer or employee benefit plan administrator may, even indirectly, require an insured, a participant or a beneficiary to receive a medical service for the following purposes, except in the cases and on the conditions determined by government regulation:

- (1) in order that the insurer or administrator reimburse or otherwise assume the cost of the services from a service provider in the field of health or social services; or
- (2) in order that the insurer or administrator reimburse or otherwise assume the cost of a technical aid.

For the purposes of this chapter,

(1) “insurer” means an authorized insurer within the meaning of the Insurers Act (chapter A-32.1); and

(2) “employee benefit plan” means a funded or unfunded uninsured employee benefit plan that provides coverage which may otherwise be obtained under a contract of insurance of persons.

“29.2. For the purpose of maintaining the payment of disability benefits, no insurer or employee benefit plan administrator may, even indirectly, require an insured, a participant or a beneficiary to receive a medical service at a predetermined frequency different from that considered appropriate by the attending physician of the insured, participant or beneficiary.

A government regulation may determine the cases in which and the conditions on which an exception to the first paragraph may be made.

“29.3. Where an insurance contract, insurance certificate or employee benefit plan contains a clause which allows the insurer or employee benefit plan administrator to require, contrary to section 29.1 or 29.2, an insured, a participant or a beneficiary to receive a medical service, that insurer or administrator is deemed to have required such a service.

“DIVISION II

“FRAMEWORK FOR INFORMATION REQUESTED FROM PHYSICIANS

“29.4. The Minister may, by regulation, restrict the health and social services information that may be requested from a physician by a third person who did not receive a medical service from that physician. The Minister may, in the regulation, require the use of a form that is published on the Minister’s website.

A regulation made under the first paragraph does not have the effect of allowing the communication of health and social services information to which the third person does not have access under the Act respecting health and social services information (chapter R-22.1) or of impeding access to or communication of information under any of Chapters III, IV and VI of that Act.

“DIVISION III

“CONTROL MEASURES

“29.5. For the purpose of verifying compliance with this chapter, an inspector authorized under section 741 of the Act respecting the governance of the health and social services system (chapter G-1.021) has the powers

provided for in sections 742 and 743 of that Act, with the necessary modifications. The inspector may also, for such purpose,

(1) enter at any reasonable time any premises in which an insurer or employee benefit plan administrator carries on its activities; and

(2) require an insurer or employee benefit plan administrator to provide a report on the compliance of its practices with sections 29.1 and 29.2 of this Act according to the content determined by a regulation of Santé Québec.

Inspectors must, on request, identify themselves and produce a certificate of authority.

“29.6. Santé Québec may designate a person to investigate any matter relating to the application of this chapter.

In the context of an investigation other than an investigation relating to an offence under Division VI, the investigator has the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“29.7. No judicial proceedings may be brought against an inspector or investigator for an act or omission made in good faith in the exercise of their functions.

“29.8. The Régie de l’assurance maladie du Québec must send Santé Québec, on request, the information necessary to the exercise of the functions provided for in this chapter.

“DIVISION IV

“ADMINISTRATIVE MEASURES

“29.9. The insurer or employee benefit plan administrator is required to pay to Santé Québec the cost assumed under section 3 of the Health Insurance Act (chapter A-29) for the medical services the insurer or administrator required contrary to section 29.1 or 29.2 of this Act.

Santé Québec may recover, from that insurer or administrator, the cost of those services, which may be established by statistical inference on the sole basis of information obtained by a sampling of those services, according to a method consistent with generally accepted practices.

Recovery of the cost of those services is prescribed by 60 months from the date of their payment by the Régie de l’assurance maladie du Québec. However, notification of a notice of investigation to the insurer or employee benefit plan administrator by Santé Québec suspends the prescription for a period of one year or until the investigation report is completed, whichever comes first.

“29.10. A monetary administrative penalty of \$5,000 may be imposed by Santé Québec on an insurer or employee benefit plan administrator that requires a medical service contrary to section 29.1 or 29.2.

“29.11. A regulation made under the first paragraph of section 29.4 may prescribe that an objectively observable failure to comply with one of its provisions may give rise to the imposition of a monetary administrative penalty by Santé Québec.

The regulation may prescribe conditions for applying the penalty and set out the amounts or the methods for determining them. The amounts may vary according to the seriousness of the failure to comply, without exceeding \$500.

“29.12. The first paragraph of section 797, the second paragraph of section 799, the first, second and fourth paragraphs of section 800, sections 801 to 803, the first and third paragraphs of section 804 and sections 805 to 810 of the Act respecting the governance of the health and social services system (chapter G-1.021) apply in connection with the imposition of an administrative measure under this division, with the following modifications and any other necessary modifications:

(1) the notice of non-compliance notified under section 797 must mention that the failure to comply could give rise, as applicable, to the recovery of the cost of medical services under section 29.9 of this Act, to the imposition of a monetary administrative penalty or to both;

(2) the notice of claim notified under section 800 must include information on the applicable recovery procedure and indicate, if applicable, that the facts on which the claim is founded may also result in penal proceedings.

Sections 796 and 798, the first paragraph of section 799, the second paragraph of section 804 and section 812 of that Act also apply in connection with the imposition of a monetary administrative penalty referred to in section 29.10 or 29.11 of this Act, with the necessary modifications.

For the purposes of those sections, a failure to comply with section 29.1 or 29.2 of this Act, as well as a failure to comply with a provision of a regulation made under section 29.4 of this Act, is considered a failure to comply referred to in Chapter I of Title I of Part X of the Act respecting the governance of the health and social services system.

“29.13. The party responsible for a failure to comply that is required to pay the cost of medical services under section 29.9 or a monetary administrative penalty and, if applicable, each of its directors and officers who are solidarily liable with that party for such payment are also required to pay a recovery charge in the cases, under the conditions and in the amount determined by a regulation of Santé Québec.

“DIVISION V**“INJUNCTION**

“29.14. Santé Québec may apply to a judge of the Superior Court for an injunction relating to the carrying out of this chapter.

The application for an injunction constitutes a proceeding in itself.

The procedure prescribed in the Code of Civil Procedure (chapter C-25.01) applies, except that Santé Québec cannot be required to provide a suretyship.

“DIVISION VI**“PENAL PROVISIONS**

“29.15. An insurer or employee benefit plan administrator that requires a medical service in contravention of section 29.1 or 29.2 is liable to a fine of \$10,000 to \$1,000,000.

“29.16. The Minister may, in a regulation made under section 29.4, identify, among the provisions of the regulation, those whose violation renders the offender liable to a fine of \$1,000 to \$100,000.

“29.17. Anyone who in any way hinders or attempts to hinder an inspector or investigator in the performance of their functions, in particular by concealment or misrepresentation, is liable to a fine of \$5,000 to \$50,000 in the case of a natural person or \$15,000 to \$150,000 in any other case.

“29.18. Penal proceedings for an offence under a provision of this chapter or a regulation made under section 29.4 are prescribed five years after the date of the commission of the offence.”

5. Section 71 of the Act is amended by replacing “of this Act and of any regulation” by “of Chapter II and of any regulation made under it”.

ACT RESPECTING LABOUR STANDARDS

6. Section 3 of the Act respecting labour standards (chapter N-1.1) is amended by inserting “, section 79.2 where the employee is entitled to be absent for one of the reasons set out in section 79.1” after “section 79.1” in paragraph 3.

7. Section 79.2 of the Act is amended by inserting the following paragraph after the first paragraph:

“However, no employer may request the document referred to in the first paragraph for the first three periods of absence not exceeding three consecutive days taken over a period of 12 months.”

8. Section 79.7 of the Act is amended by inserting “, with the exception of a medical certificate” at the end of the third paragraph.

9. Section 79.16 of the Act is amended by replacing “Section 79.2” by “The first and third paragraphs of section 79.2”.

TRANSITIONAL AND FINAL PROVISIONS

10. The Minister of Health and Social Services must, not later than 9 October 2029, report to the Government on the implementation of the provisions of Chapter III of the Act to promote access to family medicine and specialized medicine services (chapter A-2.2), enacted by section 4 of this Act, and on the advisability of maintaining or amending those provisions.

The report is tabled in the National Assembly by the Minister within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption. The competent committee of the National Assembly examines the report.

11. The provisions of this Act come into force on the date or dates to be set by the Government, which may not be earlier than 9 April 2025, except

(1) the provisions of section 4, insofar as it enacts section 29.1 of the Act to promote access to family medicine and specialized medicine services (chapter A-2.2) as well as sections 29.5, 29.9, 29.10, 29.12 and 29.15 of that Act, insofar as they concern that section 29.1, which come into force on the date of coming into force of the first regulation made under that section 29.1;

(2) the provisions of section 4, insofar as it enacts section 29.3 of the Act to promote access to family medicine and specialized medicine services, which come into force on the date or dates to be set by the Government, which may not be earlier than 9 October 2027;

(3) the provisions of sections 6 to 9, which come into force on 1 January 2025.

107092

