



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 68

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

Introduction

**Introduced by
Mr. Jean Boulet
Minister of Labour**

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EXPLANATORY NOTES

This bill 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.

The bill grants Santé Québec the powers enabling it to oversee the application of the provisions enacted by the bill. 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 bill 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 three periods of absence not exceeding three consecutive days taken annually. 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 parent or a person for whom the employee acts as a caregiver.

Lastly, the bill contains consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- 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.** The heading of Chapter II of the Act is amended by replacing “ACCESS TO SERVICES” by “PHYSICIANS”.
- 3.** Chapter III of the Act becomes Division IV of Chapter II.
- 4.** 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”.
- 5.** The Act is amended by inserting the following chapter after section 29:

“CHAPTER III

“INSURERS AND EMPLOYEE BENEFIT PLAN ADMINISTRATORS

“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;

(2) in order that the insurer or administrator reimburse or otherwise assume the cost of a technical aid; or

(3) in order that the payment of disability benefits be maintained.

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. 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, an insured, participant or beneficiary to receive a medical service, that insurer or administrator is deemed to have required such a service.

“DIVISION II

“CONTROL MEASURES

“29.3. Santé Québec may require an insurer or employee benefit plan administrator to provide a report, prepared by an auditor, on the compliance of its practices with section 29.1.

Santé Québec may, by regulation, determine the selection criteria and terms of appointment of the auditor, as well as the content of the report.

Sections 124 and 127 of the Insurers Act (chapter A-32.1) apply in connection with such an audit, with the necessary modifications. The employee benefit plan administrator is considered to be an authorized insurer for the purposes of those sections.

“29.4. For the purpose of verifying compliance with this chapter, an inspector authorized under section 741 of the Act to make the health and social services system more effective (2023, chapter 34) may enter at any reasonable time any premises in which an insurer or employee benefit plan administrator carries on its activities.

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

Inspectors have the powers provided for in sections 742 and 743 of that Act, with the necessary modifications.

“29.5. 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 V, 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.

“29.6. 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.

“29.7. 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 III

“ADMINISTRATIVE MEASURES

“29.8. 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.

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.

“29.9. 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.

“29.10. 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 to make the health and social services system more effective (2023, chapter 34) 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 to the recovery of the cost of medical services under section 29.8, 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 under section 29.9 of this Act, with the necessary modifications.

For the purposes of those sections, a failure to comply with section 29.1 of this Act is considered a failure to comply referred to in Chapter I of Title I of Part X of the Act to make the health and social services system more effective.

“29.11. The insurer or employee benefit plan administrator is required to pay a recovery charge in the cases, under the conditions and in the amount determined by a regulation of Santé Québec.

“DIVISION IV

“INJUNCTION

“29.12. 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 V

“PENAL PROVISIONS

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

“29.14. 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.”

6. 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

7. Section 3 of the Act respecting labour standards (chapter N-1.1) is amended by replacing “section 79.1” in paragraph 3 by “sections 79.1 and 79.2”.

8. 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 annually.”

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

10. 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

11. The clause of an insurance contract entered into before the coming into force of section 29.1 of the Act to promote access to family medicine and specialized medicine services (chapter A-2.2), enacted by section 5 of this Act, which allows the insurer or employee benefit plan administrator to require, contrary to section 29.1, an insured, a participant or a beneficiary to receive a medical service may be maintained and set up against the insured, participant or beneficiary until the date preceding the date of renewal or extension of the contract. However, it may not be maintained or set up against that insured, participant or beneficiary after the date that is one year after the date of coming into force of that section.

In the case of a group insurance contract, no insurer may maintain and set up a clause against an insured, a participant or a beneficiary in accordance with the first paragraph unless the clause is included in both the insurance contract and the insurance certificate.

12. Despite sections 11 and 17 of the Regulations Act (chapter R-18.1), the first regulation made under section 29.1 of the Act to promote access to family medicine and specialized medicine services, enacted by section 5 of this Act, may not be made before the expiry of 20 days from the publication of the draft regulation in the *Gazette officielle du Québec* and comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed in the regulation.

13. This Act comes into force on the date of coming into force of section 1492 of the Act to make the health and social services system more effective (2023, chapter 34) or on the date of coming into force of the first regulation made under section 29.1 of the Act to promote access to family medicine and specialized medicine services, enacted by section 5 of this Act, whichever is later, except sections 7 to 10, which come into force on 1 January 2025.

