



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 208
(Private)

**An Act respecting the insurance
fund of the Fédération des
médecins spécialistes du Québec**

Introduction

**Introduced by
Madam Cécile Vermette
Member for Marie-Victorin**

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**An Act respecting the insurance fund of the Fédération
des médecins spécialistes du Québec**

WHEREAS the Fédération des médecins spécialistes du Québec is a federation formed under the Professional Syndicates Act (R.S.Q., chapter S-40) and includes associations of medical specialists that have been formed under that Act;

Whereas the memorandum of formation of the Fédération des médecins spécialistes du Québec provides that the object of the federation is to study, defend and promote the economic, social, moral and scientific interests of the member associations and their members;

Whereas medical specialists are required to hold a professional liability insurance policy to cover any liability incurred as a result of faults or negligence committed in the exercise of their profession;

Whereas the Fédération des médecins spécialistes du Québec wishes to create an insurance fund to furnish professional liability insurance to cover any faults or negligence committed in the practice of their profession as well as insurance to cover legal expenses related to the practice of their profession to physicians entered on the roll of the Ordre des médecins du Québec and holding a specialist's certificate;

Whereas the intention of the Fédération des médecins spécialistes du Québec is to ensure that the insurance furnished by the fund be at least equivalent to any other protection currently offered to medical specialists;

Whereas the Minister of Health and Social Services, pursuant to section 19 of the Health Insurance Act (R.S.Q., chapter A-29) and section 3 of the Hospital Insurance Act (R.S.Q., chapter A-28), has entered into agreements with the Fédération des médecins spécialistes du Québec, and whereas the agreements are still in force;

Whereas the main object of the agreements is the remuneration of insured services provided by medical specialists of Québec under the health insurance plan and the hospital insurance plan;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Fédération des médecins spécialistes du Québec is authorized to act as an insurer in Québec for the purpose of furnishing professional liability insurance to cover any faults or negligence committed in the practice of their profession as well as insurance to cover legal expenses related to the practice of their profession to physicians entered on the roll of the Ordre des médecins du Québec and holding a specialist's certificate.

2. To that end, the Fédération des médecins spécialistes du Québec may, by resolution, create an insurance fund and administer it in accordance with the Act respecting insurance (R.S.Q., chapter A-32).

3. The Fédération des médecins spécialistes du Québec, for the purposes of the Act respecting insurance and the regulations thereunder, is considered to be a professional corporation; it is in addition authorized to transact legal expense insurance.

4. The insurance referred to in section 1 does not apply to claims concerning any question or proceeding relating to a medical specialist's practice and arising while he was a member of the Canadian Medical Protective Association and before he became insured by the insurance fund of the Fédération des médecins spécialistes du Québec or to claims in respect of which the medical specialist meets the criteria for assistance fixed by the by-laws of the Canadian Medical Protective Association.

Moreover, the insurance does not apply to claims filed with an insurer within the meaning of the Act respecting insurance who insured the medical specialist for professional liability or for legal expenses related to the practice of his profession before he became insured by the insurance fund of the Fédération des médecins spécialistes du Québec.

5. For the purposes of the application of the Act respecting insurance to the insurance fund of the Fédération des médecins spécialistes du Québec, the expressions “professional corporation”, “Bureau of the professional corporation” and “member of a professional corporation”, wherever they appear in that Act, are replaced by the expressions “Fédération des médecins spécialistes du Québec”, “board of directors of the Fédération des médecins spécialistes du Québec” and “medical specialist”, respectively.

The provisions of sections 174.6 to 174.11 of the Act respecting insurance that relate to the administration of insurance funds and the provisions of sections 174.12 to 174.18 of that Act that relate to the assets of insurance funds, with the necessary modifications, apply to the insurance fund of the Fédération des médecins spécialistes du Québec.

6. The board of directors of the Fédération des médecins spécialistes du Québec shall, by resolution, establish each year the sum necessary to pay the cost of operating the insurance fund, having regard to the claims filed in connection with the insurance fund, and to maintain at least the minimum excess amount of assets over liabilities required under section 275 of the Act respecting insurance. That sum shall include the contributions to the insurance fund and all operating expenses.

On the basis, in particular, of the risks associated with the branch of medicine practised by a medical specialist and of the principles generally followed in the field of professional liability insurance and legal expense insurance, the board of directors of the insurance fund shall, by resolution, establish classes of medical specialists and fix the allocation of the sum provided for in the preceding paragraph among all the medical specialists insured by the fund, according to the class to which they belong.

The resolutions shall be sent to the Inspector General of Financial Institutions.

7. A certified true copy of the resolution of the board of directors of the Fédération des médecins spécialistes du Québec adopted to create the insurance fund shall be sent to the Inspector General of Financial Institutions along with the following documents:

(1) a development plan supported by a budgeted statement of the balance sheet, operating account and surplus account over a period of not less than three years, showing the calculation assumptions used; and

(2) a plan of operation stating the name and address of the administrator, if any, who will be entrusted with the administration of the insurance fund.

The Inspector General may in addition require any information and any document that he deems necessary.

8. Every medical specialist domiciled in Québec and subject to the application of an agreement under section 19 of the Health Insurance Act (R.S.Q., chapter A-29) or section 3 of the Hospital Insurance Act (R.S.Q., chapter A-28) is, *ipso facto*, insured by the insurance fund of the Fédération des médecins spécialistes du Québec and shall pay, in accordance with the provisions of this Act and the by-laws adopted by the board of directors of the Fédération des médecins spécialistes du Québec, the contribution fixed for the class to which he belongs that is charged to him by the insurance fund.

The Régie de l'assurance-maladie du Québec shall deduct from the fees of a medical specialist domiciled in Québec the amount of the contribution fixed for the class to which he belongs and shall remit to the insurance fund the sums so deducted in accordance with the by-laws adopted by the board of directors of the Fédération des médecins spécialistes du Québec.

The terms and conditions on which the sums are deducted and remitted to the fund shall be determined by agreement between the Régie de l'assurance-maladie and the Fédération des médecins spécialistes du Québec.

If the amount deducted is insufficient to cover the medical specialist's contribution to the insurance fund, the medical specialist shall pay the difference in accordance with the by-laws adopted by the board of directors of the Fédération des médecins spécialistes du Québec, failing which he shall cease to be insured.

9. A medical specialist discharges his obligation to hold a professional liability insurance policy by providing proof that his contribution to the insurance fund of the Fédération des médecins spécialistes du Québec has been paid, in accordance with the by-laws adopted by the board of directors of the Fédération des médecins spécialistes du Québec.

10. This Act comes into force on *(insert here the date of assent to this Act)*.