



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 142

**An Act to amend the Act respecting
health services and social services as
regards the medical activities, the
distribution and the undertaking of
physicians**

Introduction

**Introduced by
Mr François Legault
Minister of Health and Social Services**

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EXPLANATORY NOTES

This bill amends the Act respecting health services and social services as regards the medical activities, the distribution and the undertaking of physicians.

New measures are introduced concerning the preparation of the medical and dental staffing plans of institutions and the regional medical staffing plans of regional boards. From now on, the medical and dental staffing plan of a hospital centre would have to contain two parts dealing separately with general practitioners and with medical specialists. In addition, the medical and dental staffing plan of an institution would be required to specify the status and volume of activity of physicians. Regional medical staffing plans would also have to include a part concerning general practitioners and another concerning medical specialists, and each such part would specify the status and volume of activity of physicians practising in an institution and the place of practice of physicians practising in a private health facility in the region.

A number of adjustments are made to the rules governing the exercise of specific medical activities, in order, for instance, to extend the possibility of participating in an agreement covering such activities to all general practitioners, and to redefine the list of specific medical activities so as to give priority to emergency medical services. In addition, a regional board would now have the power to review the undertakings made by physicians regarding specific medical activities periodically or, in order to ensure the availability of emergency medical services, upon 60 days' notice.

Another proposal is that a physician or dentist would not be authorized to practise in an institution except after producing a document in which he or she acknowledges having been informed that his or her appointment has been approved by the regional board and undertakes to fulfil the obligations attached to the privileges granted him or her for so long as such privileges are valid.

The bill redefines certain responsibilities of regional departments of general medicine and establishes, within each regional board, a regional department of specialized medicine, made up of all the medical specialists practising in the region, grouped by specialty. The responsibilities and the operating rules of this new department are specified.

Regional medical commissions would be abolished under the bill and the representative from such commission on the board of directors of a regional board would be replaced by a new member from the regional department of either general or specialized medicine.

Finally, amendments are made to the Health Insurance Act that would notably eliminate, in the health insurance scheme, differences in remuneration applicable to physicians in their first years of general practise or practise in a specialty. As well, under the bill, the conditions for obtaining a scholarship under the Health Insurance Act would no longer include receiving no scholarship funds or direct financial assistance under the Act respecting financial assistance for education expenses or any other law of Québec.

LEGISLATION AMENDED BY THIS BILL :

- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting health services and social services (R.S.Q., chapter S-4.2).

Bill 142

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AS REGARDS THE MEDICAL ACTIVITIES, THE DISTRIBUTION AND THE UNDERTAKING OF PHYSICIANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 184 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended

(1) by replacing the first paragraph by the following paragraphs :

“184. The organization plan of a hospital centre must, in addition, provide for the formation of clinical departments and clinical services. One part of that segment of the organization plan must pertain to the medical staff in general practice and another, to the medical staff in specialties. Each such part must specify the number of general practitioners and specialists in each specialty who may practise in each department and service, as well as their status and volume of activity. Another part of that segment of the organization plan must specify the number of dentists and dental specialists who may practise in each department and service.

All elements referred to in the first paragraph must be determined having regard to the permit of the institution operating the hospital centre, the financial resources at its disposal and the regional service organization plans drawn up by the regional board, as well as the expansion or reduction objectives referred to in section 377.”;

(2) by replacing “The part” in the first line of the second paragraph by “Each part of the segment”;

(3) by replacing the second sentence of the second paragraph by the following sentence: “Once approved by the regional board, each part of that segment of the organization plan shall constitute, for the staff covered thereby, the medical and dental staffing plan of the institution.”;

(4) by inserting “, as regards each of its parts,” after “staffing plan” in the first line of the third paragraph.

2. Section 186 of the said Act is amended by replacing “and” in the third line of the first paragraph by “, with an indication of their status and volume of activity, and the number of”.

3. Section 240 of the said Act, replaced by section 44 of chapter 24 of the statutes of 2001, is amended by striking out “, approved in accordance with section 378” in the last line.

4. Section 242.1 of the said Act, enacted by section 45 of chapter 24 of the statutes of 2001, is amended by replacing “ approved by the regional board, that the regional board” in the fourth and fifth lines by “that the regional board”.

5. Section 243 of the said Act is amended

(1) by replacing “may” in the first line by “may not”;

(2) by adding the following at the end: “unless the physician or dentist produces a document in which he or she

(1) acknowledges having read the resolution and having been informed that the regional board approved his or her application for appointment; and

(2) undertakes to fulfil the obligations attached to the privileges granted him or her for as long as such privileges are valid”.

6. Section 340 of the said Act, amended by section 48 of chapter 24 of the statutes of 2001, is again amended

(1) by replacing subparagraph 3 of the second paragraph by the following subparagraph:

“(3) establishing service organization plans in its territory and evaluating the effectiveness of services; any part of the service organization plans dealing with medical services requires the advice of the regional department of general medicine established under section 417.1 and the advice of the regional department of specialized medicine established under section 417.7;”;

(2) by inserting “or section 361.1” after “section 360” in the second line of subparagraph 5 of the second paragraph.

7. Section 359 of the said Act is amended by replacing “with the regional medical commission” in the third and fourth lines by “with the regional department of specialized medicine”.

8. Section 360 of the said Act is replaced by the following section:

“360. Every general practitioner wishing to participate in an agreement under the fifth paragraph of section 19 of the Health Insurance Act (chapter A-29) must undertake to devote part of his or her practice to specific medical activities listed in section 361.”

9. Section 361 of the said Act is amended

(1) by replacing subparagraphs 1 to 6 of the second paragraph by the following subparagraphs :

“(1) as a priority, the provision of medical services in the emergency departments of institutions designated under paragraph 1.1. of section 359 ;

“(2) the provision of care to users admitted for short-term care by an institution operating a hospital centre ;

“(3) the provision of medical services in any residential and long-term care centre operated by an institution ;

“(4) the provision of obstetrical services ;

“(5) the provision of primary care services to vulnerable patients, whether in their homes, in a private health facility or in any local community service centre operated by an institution ; and

“(6) participation in any other priority activity determined by the regional board and approved by the Minister, to the extent and under the conditions prescribed by the Minister.” ;

(2) by striking out the third paragraph.

10. The said Act is amended by inserting the following sections after section 361 :

“**361.1.** Every medical specialist in a specialty covered by an agreement under the fifth paragraph of section 19 of the Health Insurance Act having no privileges in any institution operating a hospital centre who wishes to participate in such an agreement must devote part of his or her practice to specific medical activities referred to in the second paragraph.

For the purposes of the first paragraph, the regional board shall establish, on the basis of such recommendations as may be made by the regional department of specialized medicine, a list of specific medical activities based on its service organization plans. The list shall also specify the conditions of exercise of each activity offered, in accordance with the conditions of the agreement referred to in the first paragraph.

“**361.2.** An agreement referred to in section 360 or 361.1 may provide for adjustments as regards the nature of activities and the level of participation of physicians according to the number of years of practice.”

11. The said Act is amended by inserting the following section after section 364 :

“**364.1.** The regional board may, in accordance with the procedure set out in the agreement, periodically review the undertaking made by a physician pursuant to section 363.

However, in the event of a serious shortage of and in order to ensure the availability of the medical services referred to in subparagraph 1 of the second paragraph of section 361, a regional board may, upon 60 days' notice, review the undertaking made by a physician who only exercises activities referred to in subparagraph 5 or 6 of the second paragraph of that section."

12. The said Act is amended by inserting the following section after section 366 :

"366.1. The provisions of sections 362 to 366 apply, with the necessary modifications, to medical specialists to whom section 361.1 applies."

13. Sections 367 to 370 of the said Act are repealed.

14. Section 377 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs :

"377. Each regional board must prepare a regional medical staffing plan, one part of which must pertain to the medical staff in general practice and another, to the medical staff in specialties. The plan may also be prepared so as to specify, for each territory and sub-territory, the existing and expected medical staff both in institutions and in private health facilities.

The regional plan is prepared on the basis of the parts of the organization plans of institutions transmitted to the regional board in accordance with sections 184 and 186, the number of physicians required to perform the specific medical activities referred to in sections 361 and 361.1, the number of general practitioners and medical specialists, listed by specialty, who are remunerated by the Régie de l'assurance maladie du Québec and practise in the region, according to their place of practice or the territory where they exercise their activities, including those who practise in a private health facility, and, as regards physicians practising in a centre operated by an institution, their status and volume of activity." ;

(2) by replacing the third, fourth and fifth paragraphs by the following paragraphs :

"In preparing its regional plan, the regional board must also take into account, as regards the part of the plan pertaining to medical staff in general practice, the recommendations obtained from the regional department of general medicine pursuant to subparagraph 1 of the first paragraph of section 417.2 and, as regards the part of the plan pertaining to medical staff in specialties, the recommendations obtained from the regional department of specialized medicine pursuant to subparagraph 1 of the first paragraph of section 417.8.

Each part of the regional plan, together with the parts of the organization plans of institutions that were used in its preparation, must be submitted to the

Minister for approval with or without amendment. Once approved by the Minister, each part of the regional plan shall constitute the regional medical staffing plan for the staff covered by that part.

The regional plan, as regards each of its parts, must be reviewed at least every three years and shall continue in force until the Minister makes a decision on the review.”

15. Section 377.1 of the said Act is amended by replacing “seventh” in the fourth line by “sixth”.

16. Section 378 of the said Act is amended by replacing “Once its regional medical staffing plan is approved, the” in the first line of the first paragraph by “The” and by adding “once the part of its regional plan prepared on the basis of those parts is approved” at the end of that paragraph.

17. Section 397 of the said Act, amended by section 200 of chapter 56 of the statutes of 2000 and replaced by section 65 of chapter 24 of the statutes of 2001, is amended by replacing paragraph 6 by the following paragraph:

“(6) one member of the regional department of general medicine or the regional department of specialized medicine chosen from a list of names provided by those departments;”.

18. Section 398.1 of the said Act, amended by section 69 of chapter 24 of the statutes of 2001, is again amended by replacing “of the regional medical commission” in the second paragraph by “of the regional department of general medicine or the regional department of specialized medicine”.

19. Section 417.2 of the said Act, amended by section 80 of chapter 24 of the statutes of 2001, is again amended

(1) by replacing “the plan” in the third line and in the fifth line of subparagraph 1 of the first paragraph by “that part of the plan”;

(2) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) defining and proposing the regional organization plan for the provision of general medical care, which must specify, for each territory and sub-territory, the services provided in private health facilities, in local community service centres or in outpatient clinics of hospital centres operated by an institution, the nature of existing and expected services in terms of accessibility and the capacity to handle various types of patients, and ensuring the implementation and application of the regional board’s decision concerning the plan;”;

(3) by inserting “, particularly by means of service, pairing or sponsorship agreements between institutions,” after “roster” in the second line of subparagraph 3 of the first paragraph.

20. The said Act is amended by inserting the following division after section 417.6:

“DIVISION VII

“REGIONAL DEPARTMENT OF SPECIALIZED MEDICINE

“417.7. A regional department of specialized medicine is hereby established within each regional board.

The department shall consist of all the medical specialists, grouped by specialty, who are remunerated by the Régie de l’assurance maladie du Québec and practise in the region, including those who practise in a private health facility.

“417.8. Within the framework of the powers conferred on the regional board, the regional department of specialized medicine shall, while taking account of the responsibilities of the institutions in the territory of the regional board, exercise the following responsibilities under the authority of the president and executive director :

(1) making recommendations concerning the part of the regional medical staffing plan relating to medical specialists that must be drawn up in accordance with section 377 and, once that part of the plan has been approved by the Minister, ensuring the implementation and application of the regional board’s decision concerning that part of the plan ;

(2) defining and proposing the regional organization plan for specialized medical care, divided by specialty, which must specify, for each territory and sub-territory, the services best capable of meeting the needs of the region, particularly services provided in private health facilities, and ensuring the implementation and application of the regional board’s decision concerning the plan ;

(3) defining and proposing a system of access to specialized medical care, that may include regional case management, a regional duty roster, if expedient, and service, pairing or sponsorship agreements between institutions for certain specialties, and ensuring the implementation and coordination of the regional board’s decision concerning the system ;

(4) making recommendations concerning the list of specific medical activities referred to in section 361.1, and ensuring the implementation of the regional board’s decision concerning the list ;

(5) evaluating the degree to which the objectives of the regional organization plan for specialized medical care and of the part of the regional medical staffing plan pertaining to medical specialists have been met;

(6) giving its opinion on any project concerning the provision of specialized medical care and on the replacement, deployment and development of specialized medical equipment and telemedicine, in accordance with the regional plan for specialized medical care;

(7) carrying out any other function assigned to it by the president and executive director of the regional board in connection with specialized medical services.

Where the regional department of specialized medicine fails to exercise its responsibilities under subparagraph 2 or 3 of the first paragraph, the board of directors of the regional board may request that they be exercised by the president and executive director.

“417.9. The responsibilities of the regional department of specialized medicine shall be exercised by a supervisory committee comprising the following members :

(1) nine representatives of medical specialists designated according to the procedure set out in section 417.10;

(2) the president and executive director of the regional board, or a physician designated for that purpose by the president and executive director.

“417.10. Each year, the medical specialists practising in each specialty in the region shall designate a representative for their specialty from among those of their number who head a department of that specialty in an institution.

The representatives of the following clinical specialties are ex officio members of the supervisory committee of the regional department of specialized medicine : pediatrics, psychiatry, gynaecology and obstetrics, medical imaging, laboratory medicine and anesthesiology.

In addition to such ex officio members, the committee shall include

(1) one representative of clinical surgery designated among the representatives of all clinical surgery specialties ; and

(2) two representatives of clinical medicine designated from among the representatives of all other specialties.

In the absence of one of the clinical specialties listed in the second paragraph, another representative of clinical medicine may be designated a member of the supervisory committee by the other members.

“417.11. The regional department of specialized medicine shall be directed by a department head appointed by the supervisory committee from among the members of the committee referred to in paragraph 1 section 417.9; the appointment must be approved by the board of directors of the regional board.

“417.12. The supervisory committee of the regional department of specialized medicine may adopt by-laws concerning its internal management, the creation of committees and their mode of operation, and the pursuit of the department’s objectives.

Such by-laws may also prescribe the manner in which some or all of the responsibilities assigned to the supervisory committee may be entrusted to the department head of the regional department of specialized medicine. The by-laws shall come into force after being approved by the board of directors of the regional board.”

21. Section 530.26 of the said Act, amended by section 85 of chapter 24 of the statutes of 2001, is replaced by the following section :

“530.26. Sections 370.1 to 370.4 respecting the regional nursing commission and sections 370.5 to 370.8 respecting the regional multidisciplinary commission do not apply.”

22. Section 530.50 of the said Act, amended by section 89 of chapter 24 of the statutes of 2001, is again amended by striking out the second paragraph.

23. Section 530.57 of the said Act is replaced by the following section :

“530.57. The provisions of sections 360 to 366.1 are applicable. For that purpose and according to the rules set out in sections 361 and 361.1, the institution shall establish a list of specific medical activities based on regional service organization plans and exercise the other powers and duties of a regional board; in addition, the expressions “regional department of general medicine” and “regional department of specialized medicine” mean the council of physicians, dentists and pharmacists of the institution.”

24. Section 530.58 of the said Act is repealed.

25. Section 19 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 241 of chapter 8 of the statutes of 2000, is again amended

- (1) by striking out the fifth paragraph ;
- (2) by striking out the third sentence of the sixth paragraph ;
- (3) by replacing “the fourth and fifth paragraphs” in the second line of the eighth paragraph by “the fourth paragraph” ;

(4) by striking out the third sentence of the eighth paragraph ;

(5) by replacing “sixth” in the third and fifth lines of the ninth paragraph by “fifth” ;

(6) by striking out “having held a licence to practise for less than ten years” in the seventh and eighth lines of the ninth paragraph ;

(7) by replacing “seventh” in the second line of the tenth paragraph by “sixth”.

26. Section 19.0.1 of the said Act is repealed.

27. Section 19.1 of the said Act, amended by section 241 of chapter 8 of the statutes of 2000, is again amended by replacing “thirteenth” in the second paragraph by “twelfth”.

28. Section 65 of the said Act, amended by section 105 of chapter 24 of the statutes of 2001, is again amended by replacing “sixth” in the fifth line of the fourth paragraph by “fifth”.

29. Section 66.1 of the said Act is amended by replacing “to the regional medical commission established under section 367 of the Act respecting health services and social services (chapter S-4.2), or to a regional board referred to in the said Act” in the first three lines of the third paragraph by “to the Minister or to a regional board referred to in the Act respecting health services and social services (chapter S-4.2)”.

30. Section 69 of the said Act is amended by striking out subparagraphs *w* and *x* of the first paragraph.

31. The said Act is amended by inserting the following section after section 69.0.1 :

“**69.0.1.1.** The Conseil du trésor may, after consulting or on the recommendation of the Board, make regulations under the seventh and eighth paragraphs of section 19.”

32. Section 69.0.2 of the said Act is amended by replacing “adopted under subparagraph *w* or *x* of the first paragraph of section 69” in the first and second lines by “under section 69.0.1.1”.

33. Section 89 of the said Act is amended by striking out paragraph *e*.

34. The Minister shall take such measures as are necessary to ensure that, no later than 30 April 2003, any amendment required to bring any existing agreement made under the fifth paragraph of section 19 of the Health Insurance Act, amended by section 25, into conformity with the provisions of sections 360 and 361 of the Act respecting health services and social services, replaced by

section 8 and amended by section 9, respectively, and any amendment required to take account of the measures introduced by section 361.2 of that Act, enacted by section 10, have been agreed to.

If no agreement has been reached on that date, the Conseil du trésor shall, no later than 30 June 2003, determine the required amendments in the same manner as that provided in the eighth paragraph of section 19 of the Health Insurance Act, as amended by section 25.

35. Notwithstanding any inconsistent provision in an existing agreement made under the fifth paragraph of section 19 of the Health Insurance Act, amended by section 25, the provisions of section 360 of the Act respecting health services and social services, replaced by section 8, have effect from 1 July 2003 in respect of all general practitioners who become subject to such provisions.

If, by virtue of the provisions of the second paragraph of section 361 of the Act respecting health services and social services, amended by section 9, certain activities that a physician was required to perform are no longer recognized as specific medical activities, the undertakings made by the physician cease to have effect on 1 July 2003, notwithstanding any inconsistent provision in an agreement referred to in the first paragraph.

36. Every regional board must see to it that the regional department of specialized medicine established under section 417.7 of the Act respecting health services and social services, enacted by section 20, is in a position to exercise its functions on or before 1 July 2003.

37. Except where otherwise provided by law, any member of the board of directors of a regional board already appointed pursuant to paragraph 6 of section 397 of the Act respecting health services and social services, as replaced by section 65 of chapter 24 of the statutes of 2001, shall remain in office until the Government appoints a new member pursuant to the provisions of paragraph 6 of the said section 397, amended by section 17. The term of office of the new member shall however be limited to the remainder of the term of the replaced member.

38. The provisions of this Act come into force on the date or dates to be determined by the Government.