

1994, chapter 37
AN ACT RESPECTING ACUPUNCTURE

Bill 34

Introduced by Mr Jacques Chagnon, Minister responsible for the administration of legislation respecting the professions

Introduced 13 June 1994

Passage in principle 16 June 1994

Passage 17 June 1994

Assented to 17 June 1994

Coming into force: the provisions of sections 26, 34 and 35 will come into force on 1 July 1994; the provisions of sections 1, 3, 4, 6, 7 and 27 will come into force on 1 April 1995 and the remaining provisions, subject to the provisions of sections 46 to 50, will come into force on 1 July 1995

Acts amended:

Professional Code (R.S.Q., chapter C-26)

Medical Act (R.S.Q., chapter M-9)



CHAPTER 37

An Act respecting acupuncture

[Assented to 17 June 1994]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

DEFINITIONS

Interpreta-
tion

1. In this Act and the regulations enacted under its authority, unless the context indicates a different meaning, the following terms mean:

“acupunctur-
ist” or
“member”

“acupuncturist” or “member”: any person entered on the roll of the Order;

“Bureau”

“Bureau”: the Bureau of the Order;

“Order”

“Order”: the Ordre des acupuncteurs du Québec, constituted by this Act;

“permit”

“permit”: a permit issued in accordance with this Act and the Professional Code (R.S.Q., chapter C-26);

“roll”

“roll”: the list of the members in good standing of the Order, prepared in accordance with this Act and the Professional Code.

DIVISION II

ORDRE DES ACUPUNCTEURS DU QUÉBEC

Professional
order

2. All the persons qualified to practise acupuncture in Québec constitute a professional order called “Ordre professionnel des acupuncteurs du Québec” or “Ordre des acupuncteurs du Québec”.

Professional
Code

3. Subject to this Act, the Order and its members shall be governed by the Professional Code.

Head office

4. The head office of the Order shall be within the territory of the Communauté urbaine de Montréal or at such other place in Québec as may be determined by regulation of the Bureau.

Service of
proceedings

5. Every proceeding directed against the Order must be served upon its secretary at the head office of the Order.

DIVISION III

BUREAU

Governing
Bureau

6. The Order shall be governed by a Bureau constituted as prescribed in the Professional Code.

Duties

7. In addition to the duties prescribed in section 86 of the Professional Code, the Bureau shall cooperate, in accordance with the terms and conditions fixed under subparagraph *b* of the first paragraph of section 184 of the Professional Code, particularly in preparing a program of studies leading to a diploma giving access to a permit or, as the case may be, a specialist's certificate and in preparing examinations or other means of evaluating the persons pursuing such studies.

DIVISION IV

PRACTICE OF ACUPUNCTURE

Acts consti-
tuting prac-
tice

8. The practice of acupuncture consists of any act of stimulation, by means of needles, of specific sites on the skin, mucous membranes or subcutaneous tissues of the human body to improve health or relieve pain.

Practice of
acupuncture

9. The practice by an acupuncturist of his profession includes

(1) performing, according to the traditional oriental method, the clinical assessment of the energetic state of a person;

(2) determining, on the basis of the clinical assessment, the appropriate energetic treatment for a person;

(3) performing any act of stimulation of specific sites on the skin, mucous membranes or subcutaneous tissues of the human body, by

any means other than needles, particularly by the use of heat, pressure, electric current or rays of light, to improve health or relieve pain.

Entry on roll

10. Every holder of a permit who has paid all the contributions exigible by the Order and who is not suspended or struck off the roll is entitled to be entered on the roll.

Practice
under other
name

11. No acupuncturist may practise acupuncture under a name other than his own.

Firm name

Nevertheless, acupuncturists shall be allowed to practise their profession under a firm name which may be the name of one, several or all of the partners. The firm name may also include the name of any partner who has ceased to practise his profession, for a period not exceeding three years from the date on which he ceased to practise, provided the name of the partner was included in the firm name at the time he ceased to practise.

Field of
practice

12. In the practice of his profession, no acupuncturist may hold himself out otherwise than as an acupuncturist.

Professional
secrecy

13. No acupuncturist may be compelled to disclose what has been revealed to him in his professional capacity.

DIVISION V

ILLEGAL PRACTICE OF ACUPUNCTURE

Act
restricted to
acupunctur-
ists

14. Subject to the rights and privileges expressly granted by law to other professionals, no person may perform the act described in section 8 unless he is an acupuncturist.

Non-
applicability

The first paragraph does not apply to a person enrolled in a program of studies leading to a diploma giving access to a permit relating to such an act performed by the person within the framework of such a program or to a person undergoing a professional training period in accordance with the regulations of the Bureau.

Offence and
penalty

15. Every person who contravenes section 14 is liable, for each offence, to the penalties prescribed in section 188 of the Professional Code.

DIVISION VI

AMENDING PROVISIONS

PROFESSIONAL CODE

c. C-26,
s. 31, am.

16. Section 31 of the Professional Code (R.S.Q., chapter C-26), amended by section 27 of chapter 40 of the statutes of 1994, is again amended by replacing the figure “21” in the third line by the figure “21.1”.

c. C-26,
s. 32, am.

17. Section 32 of the said Code, amended by section 1 of chapter 38 of the statutes of 1993 and by section 28 of chapter 40 of the statutes of 1994, is again amended by replacing the words “or nurse” in the fifth line by the words “, nurse or acupuncturist”.

c. C-26,
Shed. I, am.

18. Schedule I to the said Code, amended by section 5 of chapter 38 of the statutes of 1993 and by section 181 of chapter 40 of the statutes of 1994, is again amended by inserting, after paragraph 21, the following paragraph:

“21.1 The Ordre professionnel des acupuncteurs du Québec;”.

MEDICAL ACT

c. M-9, s. 20,
replaced

19. Section 20 of the Medical Act (R.S.Q., chapter M-9), amended by section 376 of chapter 40 of the statutes of 1994, is replaced by the following section:

Rules on
training

“20. In addition to the powers provided for in section 94 of the Professional Code, the Bureau may by regulation make rules respecting the training of physicians who wish to practise acupuncture.”

c. M-9, s. 21,
repealed

20. Section 21 of the said Act is repealed.

c. M-9, s. 22,
am.

21. Section 22 of the said Act is amended

(1) by replacing the words “or in accordance with section 20 within the delay” in the second and third lines of the first paragraph by the words “within the time”;

(2) by striking out the words and figure “section 20 or” in the third line of the second paragraph.

c. M-9,
s. 40.1, added

22. The said Act is amended by inserting, after section 40, the following section:

Exclusive
use of title

“40.1 No physician may, in any manner, claim to be an acupuncturist or use any title, abbreviation or initials which may lead to the belief that he is an acupuncturist, unless he has received training consistent with the rules made under section 20.”

c. M-9, s. 43,
am.

23. Section 43 of the said Act is amended by striking out subparagraph *e* of the second paragraph.

c. M-9, s. 44,
repealed

24. Section 44 of the said Act is repealed.

c. M-9, s. 45,
am.

25. Section 45 of the said Act is amended by replacing the words and figures “sections 43 and 44” in the first line by the words and figure “any provision of section 43”.

DIVISION VII

TRANSITIONAL AND FINAL PROVISIONS

Interpreta-
tion

26. In this division,

“register of
acupunctur-
ists”

(1) the words “register of acupuncturists” mean the register kept by the secretary of the Collège des médecins du Québec and referred to in the provisions of subparagraph *c* of the first paragraph of section 20 of the Medical Act;

« Regula-
tion »

(2) the word “Regulation” means the Regulation respecting the practice of acupuncture by persons other than physicians, approved by O.C. 1299-85 of 26 June 1985, as amended.

Composition
of first
Bureau

27. Notwithstanding section 6 of this Act, the first Bureau shall be composed of the following persons:

(1) six directors appointed by the Office des professions du Québec and chosen from among the persons who, on 1 April 1995, are entered on the register of acupuncturists; they are deemed to be elected directors;

(2) two other directors appointed by the Office des professions du Québec, at least one of whom is not a member of a professional order and is not entered on the register of acupuncturists, after consultation with the Québec Interprofessional Council and the different socio-economic groups; they are deemed to be appointed under section 78 of the Professional Code;

(3) one president elected by the vote of the directors referred to in subparagraph 1 from among their number by secret ballot; he is deemed to be elected in the manner provided for in subparagraph *b* of the first paragraph of section 64 of the Professional Code.

Single region For the purposes of section 75 of the Professional Code, the territory of Québec constitutes a single region until the date of the coming into force of a regulation made pursuant to section 65 of the Code and having as its object the delimitation of the territory of Québec into regions for the purposes of section 65.

Term of president and of directors The term of the president is a four-year term beginning on his election and the term of the directors is a four-year term beginning on their appointment.

Vacancy Any vacancy in the office of a director deemed to be elected shall be filled for the unexpired portion of the term by a new director appointed by the Office des professions du Québec from among the persons entered on the register of acupuncturists, if the vacancy occurs before 1 July 1995, or from among the members of the Order, if the vacancy occurs after that date.

Permit to practice **28.** To obtain a permit for the practice of acupuncture,

(1) the diploma of college studies awarded by the Collège de Rosemont in "acupuncture techniques" is recognized as valid if awarded before the date of the coming into force of a regulation of the Government made pursuant to the first paragraph of section 184 of the Professional Code and whose object is to make an initial determination of diplomas which give access to a permit issued by the Order;

(2) a diploma in acupuncture awarded outside Québec is recognized as equivalent if awarded by an institution affiliated with a university or recognized as an educational institution by the government authorities of the country in which the institution is located, provided that the training of the holder of the diploma is considered to be equivalent by the Bureau before the date of the coming into force of the first regulation made by the Bureau pursuant to paragraph c of section 93 of the Professional Code the object of which is to fix standards of equivalence of diplomas.

Persons entered on register **29.** Every person who, on 30 June 1995, is entered on the register of acupuncturists shall be entered on the roll of the Order by operation of law, and shall be issued a permit by the Bureau.

Persons not entered on register **30.** Every person who, before 1 July 1995, passes the acupuncture examinations held by the Collège des médecins du Québec but who, on 30 June 1995, is not entered on the register of acupuncturists may obtain a permit

(1) if less than four years have elapsed since the date on which the person passed the examinations or ceased to be entered on the register and the date on which he applies for the permit;

(2) if four years or more have elapsed since the date on which the person passed the examinations or ceased to be entered on the register and the date on which the person applies for the permit and the person completes a 12-month clinical training period under the supervision of a member of the Order and passes a training control examination to be determined by the Order, held and corrected, at least once every 12 months, under the responsibility of the Order or of any committee created by the Bureau to which it delegates that function.

Persons not
entered on
register

If the person is not entered on the register of acupuncturists on 30 June 1995 as a result of the application of section 6 of the Regulation, the person shall not be entered on the roll of the Order unless the period during which he would not have been entered on the register has elapsed.

Persons not
entered on
register

If the person is not entered on the register on 30 June 1995 as a result of the application of section 8 of the Regulation, the person shall not be entered on the roll of the Order unless he applies therefor in writing to the Bureau which shall decide the application in accordance with the provisions of the second and third paragraphs of section 52 of the Professional Code.

Condition to
obtain per-
mit

31. Every person who holds a diploma referred to in subparagraph 1 of the first paragraph of section 11 of the Regulation, or holds a diploma referred to in subparagraph 2 of the first paragraph of that section and whose training is considered to be equivalent by the Collège des médecins du Québec, and who, before 1 July 1995, fails the written examination referred to in section 13 of the Regulation at least once, or passes that examination but fails the oral examination at least once, or does not sit for the oral examination also referred to in that section, may obtain a permit if he meets either of the following conditions:

(1) the person passes the written examination and the oral examination, or the oral examination, as the case may be, referred to in the said section 13, held under the responsibility of the Order, taking account of the provisions of section 18 of the Regulation which shall continue to govern that person;

(2) the person completes a 12-month clinical training period under the supervision of a member of the Order and passes a training control examination to be determined by the Order, held and corrected, at least once every 12 months, under the responsibility of

the Order or of any committee created by the Bureau to which it delegates that function.

Condition to
obtain per-
mit

Every person who holds either of the diplomas referred to in the first paragraph and who, before 1 July 1995, fails the written or oral examination referred to in section 13 of the Regulation after sitting for it as many times as allowed under the provisions of section 18 of the Regulation may obtain a permit if he meets the condition mentioned in subparagraph 2 of the first paragraph.

Condition to
obtain per-
mit

32. Every person who holds a diploma referred to in subparagraph 1 of the first paragraph of section 11 of the Regulation, or holds a diploma referred to in subparagraph 2 of the first paragraph of that section and whose training is considered to be equivalent by the Collège des médecins du Québec, and who, before 1 July 1995, does not or is unable to sit for the written examination referred to in section 13 of the Regulation, may obtain a permit if he meets either of the following conditions:

(1) the person passes the examinations referred to in the said section 13 which the Order is required to hold, if the need arises, for a person referred to in subparagraph 1 of the first paragraph of section 31;

(2) the person completes a 12-month clinical training period under the supervision of a member of the Order and passes a training control examination to be determined by the Order, held and corrected, at least once every 12 months, under the responsibility of the Order or of any committee created by the Bureau to which it delegates that function.

Condition to
obtain per-
mit

33. Every person who, after 30 June 1995 but before the date of the coming into force of the regulation referred to in paragraph 1 of section 28, obtains the diploma recognized as valid under that paragraph 1, or in respect of whom the Bureau recognizes a diploma or training equivalence during that period, may obtain a permit if he meets either of the following conditions:

(1) the person passes the examinations referred to in section 13 of the Regulation that the Order is required to hold, if the need arises, for a person referred to in subparagraph 1 of the first paragraph of section 31;

(2) the person completes a 12-month clinical training period under the supervision of a member of the Order and passes a training control examination to be determined by the Order, held and corrected, at least once every 12 months, under the responsibility of

the Order or of any committee created by the Bureau to which it delegates that function.

Conditions
for entry on
register

34. Notwithstanding the provisions of subparagraphs *a* and *c* of the first paragraph of section 20 of the Medical Act, and notwithstanding the provisions of the rules determined by regulation made pursuant to those subparagraphs, the secretary of the Collège des médecins du Québec shall enter on the register of acupuncturists, not later than 30 June 1995, every person who meets the following conditions:

(1) the person sends to the Collège des médecins du Québec an application for eligibility to sit for the examinations referred to in subparagraph 3, in the form and manner prescribed in Schedule B to the Regulation, and pays such amount as may be determined by the Bureau of the College, by resolution, for the examination of the application;

(2) the person furnishes proof to the College that he is a graduate of a school of acupuncture where he received at least 1000 hours of theoretical and clinical instruction in the subjects prescribed in sections 59 to 61 of the Regulation;

(3) the person passes the acupuncture examinations to be determined by the College, held and corrected, not later than 30 June 1995, under the responsibility of a jury of examiners;

(4) the person meets the conditions mentioned in paragraphs 1, 3, 4 and 5 of section 4 of the Regulation.

Applicabil-
ity of provi-
sions

The provisions of section 3, of sections 5 to 10, of paragraph 4 of section 12, of section 13, of the second sentence of section 14 and of sections 15, 16, 17, 19 and 20 of the Regulation apply.

Persons who
fail examina-
tion

Every person who, on 30 June 1995, has failed the written examination or has passed that examination but has failed the oral examination, may obtain a permit if he passes, not later than 30 June 1999, the examinations to be determined by the Order and held and corrected under the responsibility of a jury of examiners. The person may not sit for the examinations referred to in section 13 of the Regulation more than two additional times in the case of the written examination, more than three times in the case of the oral examination or, as the case may be, more than two additional times in the case of the latter examination.

Persons who
fail examina-
tion

Every person who fails the written examination three times or who passes that examination but fails the oral examination three times

may not obtain a permit unless his training has first been recognized as equivalent by the Bureau in accordance with the standards it fixes under the Professional Code.

Validity of
declarations
and entries

35. Notwithstanding the provisions of subparagraphs *a* and *c* of the first paragraph of section 20 of the Medical Act, the provisions of the rules determined by regulation made pursuant to those subparagraphs and the provisions of section 21 of that Act, the following are valid:

(1) the declarations of eligibility to sit for acupuncture examinations issued before 1 July 1994 and the examinations held before that date, concerning persons who do not hold a diploma referred to in subparagraph 1 or 2 of the first paragraph of section 11 of the Regulation; and

(2) the entries on the register of acupuncturists made before 1 July 1994 and concerning the persons referred to in subparagraph 1 of this paragraph, to the extent that those persons pass the acupuncture examinations of the Collège des médecins du Québec held pursuant to the rules determined by the Regulation and meet the other conditions imposed by the College.

Persons who
fail examina-
tion

Every person referred to in subparagraph 1 of the first paragraph who,

(1) before 1 July 1994, fails the written examination at least once or passes that examination but fails the oral examination at least once, or does not sit for the oral examination, may be entered on the register of acupuncturists if he passes the examinations held by the Collège des médecins du Québec pursuant to the Regulation; in such a case, the provisions of the first and second paragraphs of section 34 and the provisions of section 18 of the Regulation apply;

(2) on 30 June 1995, has failed the written examination at least once or has passed that examination but has failed the oral examination at least once or has not sat for the oral examination, may obtain a permit if he passes the written examination and the oral examination or, as the case may be, the oral examination referred to in section 13 of the Regulation held under the responsibility of the Order, taking account of the provisions of section 18 of the Regulation which shall continue to govern that person;

(3) fails the written examination or the oral examination referred to in section 13 of the Regulation after sitting for it as many times as allowed under the provisions of section 18 of the Regulation may not obtain a permit unless his training has first been recognized as

equivalent by the Bureau in accordance with the standards it fixes under the Professional Code.

Existing provisions

36. The provisions of sections 12 to 20 of the Regulation and of Schedule B to the Regulation remain in force for the purposes of the provisions of subparagraph 1 of the first paragraph of section 31, of paragraph 1 of sections 32 and 33, of subparagraph 2 of the second paragraph of section 35 and of paragraph 4 of section 12, of section 13, of the second sentence of section 14 and of sections 15, 16, 17, 19 and 20 remain in force for the purposes of the third paragraph of section 34.

Application

From 1 July 1995, the Bureau shall be responsible for seeing to the application of those provisions and, to that end, the words “Bureau” and “Order” are substituted respectively for the words “credentials committee” and “Corporation” wherever they appear in those provisions.

First assessment

37. Notwithstanding the provisions of the second paragraph of section 86 of the Professional Code, the first resolution passed by the Bureau for the purpose of fixing the first annual assessment, payable in particular by persons to whom section 29 applies, need not, to come into force, be approved by a majority of the members of the Order. However, the amount of the first assessment shall not be greater than the sum fixed by the Bureau of the Collège des médecins du Québec pursuant to paragraph 5 of section 4 of the Regulation and payment of which is required, in 1994, for the purposes of entry on the register of acupuncturists.

Diploma recognized as valid

38. The diploma mentioned in paragraph 1 of section 28 is, within the meaning of section 42 of the Professional Code and for the purposes of paragraph c of section 93 of the Professional Code, as amended by paragraph 2 of section 80 of chapter 40 of the statutes of 1994, a diploma recognized as valid and required for the purposes of the issue of a permit.

Clinical training periods

39. The Bureau shall fix the content, the objectives and the terms and conditions of the clinical training periods required under sections 30, 31, 32 and 33.

Non-applicability of provisions

The provisions of the first paragraph of section 14 of this Act do not apply to a person undergoing clinical training under those sections.

Permits issued subject to provisions

40. The issue of permits to persons to whom the provisions of sections 30 to 35 apply remains subject to any other condition, formality and procedure for the issue of permits prescribed by the Professional Code and the Charter of the French language (R.S.Q.,

chapter C-11), except that relating to the awarding of a diploma recognized as valid.

Existing provisions

41. The provisions of sections 25 to 28, 29.1 to 29.9, 30 to 32, 35, 38 to 40, 42 to 45, 47 to 51 and 52.1 of the Regulation and, where applicable, the provisions of the Regulation made pursuant to subparagraph *b* of the first paragraph of section 20 of the Medical Act that come into force after 30 June 1994, and the application of which is under the responsibility of the Bureau from 1 July 1995, remain in force until the coming into force of the provisions of regulations made pursuant to the Professional Code in respect of similar matters.

Substitution of words

For the purposes of the provisions of section 52.1 of the Regulation, the word "Order" is substituted for the word "Corporation".

Deemed contravention

A contravention of a provision of sections 25 to 28 and 29.1 to 29.9 of the Regulation is deemed to be a contravention of a provision of a regulation made pursuant to the first paragraph of section 91 of the Professional Code, enacted by section 79 of chapter 40 of the statutes of 1994.

Deemed contravention

A contravention of a provision of sections 30 to 32, 35, 38 to 40, 42 to 45, 47 to 51 and 52.1 of the Regulation and, where applicable, of a provision of the Regulation made pursuant to subparagraph *b* of the first paragraph of section 20 of the Medical Act that comes into force after 30 June 1994 is deemed to be a contravention of a provision of a regulation made pursuant to section 87 of the Professional Code.

Documents held by Collège des médecins du Québec

42. The records, books, registers and documents held by the Collège des médecins du Québec pertaining to persons other than physicians who practise acupuncture become the records, books, registers and documents of the Order. The College or any of its committees, as the case may be, is required to transfer the records, books, registers and documents to the Order on request.

Chairmanship of committee on discipline

43. The chairman of the committee on discipline of the Collège des médecins du Québec shall act as chairman of the committee on discipline of the Order until he is replaced or reappointed, in accordance with section 117 of the Professional Code.

Matters pending

44. Matters relating to the practice of acupuncture by persons other than physicians and pending on 30 June 1995 before the Bureau or any of its committees, the professional inspection committee or the syndic or assistant syndic of the Collège des médecins du Québec or before a court, shall be continued and decided in accordance with the legislative and regulatory provisions in force on that date.

Bureau to communicate decisions The Bureau of the Collège des médecins du Québec shall communicate decisions made under the first paragraph to the Bureau of the Order.

Application of provision **45.** Division VII of Chapter IV of the Professional Code, adapted as required, also applies in respect of a member of the Order, for an offence against the Regulation committed before 1 July 1995 while the member was entered on the register of acupuncturists.

Contents of provision **46.** From the coming into force of paragraph *f* of section 93 of the Professional Code, enacted by paragraph 3 of section 80 of chapter 40 of the statutes of 1994, section 4 of this Act shall be read as follows:

Head office **“4.** The head office of the Order shall be within the territory of the Communauté urbaine de Montréal or at any other place in Québec determined by regulation of the Bureau pursuant to paragraph *f* of section 93 of the Professional Code.”

Date of coming into force This section comes into force on the date of coming into force of paragraph *f* of the abovementioned section 93.

Effect **47.** Section 7 of this Act ceases to have effect on the date of coming into force of subparagraph *t* of the first paragraph of section 86 of the Professional Code, enacted by paragraph 14 of section 72 of chapter 40 of the statutes of 1994.

Coming into force This section comes into force on the date of coming into force of subparagraph *t* of the first paragraph of the abovementioned section 86.

Effect **48.** Section 10 of this Act ceases to have effect on the date of coming into force of section 46 of the Professional Code, replaced by section 40 of chapter 40 of the statutes of 1994.

Coming into force This section comes into force on the date of coming into force of the abovementioned section 46.

Contents of provision **49.** From the coming into force of paragraph *h* of section 94 of the Professional Code, replaced by paragraph 4 of section 81 of chapter 40 of the statutes of 1994, the second paragraph of section 14 of this Act shall be read as follows:

Non-application of provision “The first paragraph does not apply to acts that may be engaged in by a person in accordance with a regulation under paragraph *h* of section 94 of the Professional Code.”

Coming into
force This section comes into force on the date of coming into force of
paragraph *h* of the abovementioned section 94.

Date provi-
sion
becomes
inoperative **50.** Section 21 of this Act becomes inoperative on the date of
coming into force of section 377 of chapter 40 of the statutes of 1994,
if that date is before 1 July 1995.

Coming into
force This section comes into force on the date of coming into force of
the abovementioned section 377.

Coming into
force **51.** The provisions of sections 26, 34 and 35 of this Act will come
into force on 1 July 1994; the provisions of sections 1, 3, 4, 6, 7 and
27 will come into force on 1 April 1995 and the remaining provisions,
subject to the provisions of sections 46 to 50, will come into force on
1 July 1995.