

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 104

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

Bill 97

Introduced by Madam Thérèse Lavoie-Roux, Minister of Health and Social Services

Introduced 12 November 1987

Passage in principle 26 November 1987

Passage 18 December 1987

Assented to 18 December 1987

Coming into force: 28 December 1987

Act amended:

Act respecting health services and social services (R.S.Q., chapter S-5)



Éditeur officiel
Québec



CHAPTER 104

An Act to amend the Act respecting health services and social services

[Assented to 18 December 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. S-5,
s. 3.1,
added

1. The Act respecting health services and social services (R.S.Q., chapter S-5) is amended by inserting, after section 3, the following section:

Medical
training po-
sitions

“3.1 The Government shall determine, each year, the number of medical training positions available within the scope of a postgraduate medical training program. The number of such positions must include

(1) the training periods in general practice or family medicine;

(2) the other training periods required for any of the specialties recognized in a regulation under the Medical Act (R.S.Q., chapter M-9).

Positions in
medical
specialties

The Government may, with a view to furthering the apportionment of medical resources among the regions on the basis of rational considerations, authorize, each year, a certain number of the medical training positions prescribed in subparagraph 2 of the first paragraph, subject to the acceptance, by the trainee, of an undertaking with a penal clause, where such is the case, to practise in the region or establishment determined by the Minister for a period not exceeding four years. The number of such positions must not exceed 25% of the positions which, among all the positions prescribed in subparagraph 2 of the first paragraph, are intended for new medical trainees.

Positions in
general
practice or
in family
medicine

Where a position referred to in the second paragraph is not filled, it automatically becomes a medical training position in general practice

or in family medicine, without an undertaking to practise in a determined region or establishment.

Positions for
graduate of
foreign
universities

In addition, the Government may, where it deems it expedient, authorize, under the conditions prescribed in the second paragraph, an additional number of postgraduate medical training positions intended for graduate students of universities or schools situated outside Canada and the United States subject to the acceptance, by the trainee, of an undertaking with a penal clause, where such is the case, to practise in the region or establishment determined by the Minister for a period of four years.

Number of
positions

The number of positions referred to in the second paragraph shall be determined by the Minister after consultation with the Corporation professionnelle des médecins du Québec, the deans of the faculties of medicine of Québec universities and the health and social service councils of the regions where the trainees are to practise."

c. S-5, s. 23,
am.

2. Section 23 of the said Act is amended by replacing the second paragraph by the following paragraph:

Financial
statements
of the
regional
council

"The members of the board of directors must then make public, in accordance with the regulations, such items of information as are prescribed with respect to the financial statements of the regional council. They must also answer any question put to them respecting the financial statements, the functions that the regional council assumes and the relations it has with the establishments of the region for which it is established."

c. S-5, s. 31,
replaced

3. Section 31 of the said Act is replaced by the following section:

Conflict of
interest

"31. No director general of a regional council shall, under pain of forfeiture of office, have any direct or indirect interest in an undertaking causing his personal interest to conflict with that of the regional council. However, forfeiture is not incurred if such an interest devolves to him by succession or gift, provided he renounces it or, after informing the board of directors thereof, he disposes of it within the time prescribed by the board.

Disqualifica-
tion

A director general who is forfeited of office becomes disqualified from holding any executive office or employment in any regional council or public establishment for the period determined in the judgment. The disqualification period shall not exceed three years.

Remedial
measures

The board of directors of a regional council must, on becoming aware that its director general is in a situation of conflict of interest,

take measures with the view of instituting proceedings for forfeiture of office against him. It must, also, within the ten following days, inform the Minister thereof in writing, indicating to him the nature of the situation and the measures taken.

Disclosure
of interest

Every member of the board of directors of a regional council other than the director general who has a direct or indirect interest in an undertaking causing his personal interest to conflict with that of the regional council must, under pain of forfeiture of office, disclose his interest in writing to the board of directors and abstain from sitting on the board and participating in the deliberations or decisions when a matter pertaining to the undertaking in which he has that interest is being debated.

Minority
shareholder

For any member of the board of directors, the fact of being a minority shareholder of a corporation which operates an undertaking referred to in this section does not constitute a situation of conflict of interest if the shares of the corporation are listed on a recognized stock exchange and if the member of the board of directors involved is not an insider of the corporation within the meaning of section 89 of the Securities Act (R.S.Q., chapter V-1.1)."

c. S-5, s. 37,
replaced

4. Section 37 of the said Act is replaced by the following section:

Exclusivity
of office

"37. The director general of a regional council shall, under pain of forfeiture of office, devote himself exclusively to the work of the council and the duties of his office.

Additional
employment
without
remunera-
tion

Notwithstanding the foregoing, he may hold any additional employment, office or function or provide any additional service, if no remuneration or direct or indirect benefit is paid or granted to him therefor.

Additional
employment
with remuneration

A director general may, with the authorization of the board of directors, hold, outside the health and social services sector, any additional employment, office or function or provide any additional service for which a remuneration or a direct or indirect benefit is paid or granted to him.

Additional
employment
with remuneration

Similarly, a director general may, with the authorization of the Minister and of the board of directors, hold, within the health and social services sector, an additional employment, office or function or provide any additional service for which a remuneration or a direct or indirect benefit is paid or granted to him. However, only the authorization of the board of directors is required in the case of an office or function held within an association consisting of the majority of the regional

councils or within an association of directors general of health services and social services recognized by order for labour relations purposes.

Elective
public office

A director general may also hold an elective public office.

Suspension

The board of directors of a regional council must, on becoming aware that its director general is contravening any of the rules prescribed in this section, suspend him without remuneration or take measures with the view of instituting proceedings for forfeiture of office against him, according to the seriousness of the contravention. It must, also, within the ten following days, inform the Minister thereof and indicate to him the nature of the situation and the measures taken. Any suspension imposed under this paragraph may vary from three to six months.

Disqualifica-
tion

A director general who is forfeited of office becomes disqualified from holding any office or employment in any regional council or public establishment for the period determined in the judgment. The disqualification period shall not exceed three years."

c. S-5, s. 84,
am.

5. Section 84 of the said Act is amended

(1) by replacing the words "fourth Sunday of May" in the second line of the first paragraph by the words "day, in the month of May, determined by the regional council";

(2) by replacing the figure "15" in the first line of the second paragraph by the figure "1";

(3) by inserting, after the first sentence of the second paragraph, the following sentence: "The notice must indicate the date of the meeting."

c. S-5, s. 95,
am.

6. Section 95 of the said Act is amended

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

Conflict of
interest

"95. No director general of a public establishment shall, under pain of forfeiture of office, have any direct or indirect interest in an undertaking causing his personal interest to conflict with that of the establishment. However, forfeiture is not incurred if such an interest devolves to him by succession or gift, provided he renounces it or, after informing the board of directors thereof, he disposes of it within the time prescribed by the board.

**Disqualifica-
tion** A director general who is forfeited of office becomes disqualified from holding any executive office or employment in any public establishment or regional council for the period determined in the judgment. The disqualification period shall not exceed three years.

**Remedial
measures** The board of directors of a public establishment must, on becoming aware that its director general is in a situation of conflict of interest, take measures with the view of instituting proceedings for forfeiture of office against him. It must, also, within the ten following days, inform the Minister thereof in writing, indicating to him the nature of the situation and the measures taken.”;

(2) by adding, after the last paragraph, the following paragraph:

**Minority
shareholder** “For any member of the board of directors, the fact of being a minority shareholder of a corporation which operates an undertaking referred to in this section does not constitute a situation of conflict of interest if the shares of the corporation are listed on a recognized stock exchange and if the member of the board of directors involved is not an insider of the corporation within the meaning of section 89 of the Securities Act.”

**c. S-5,
s. 104, am.** **7.** Section 104 of the said Act is amended by replacing the third, fourth and fifth paragraphs by the following paragraphs:

**Exclusivity
of office** “The director general of a public establishment shall, under pain of forfeiture of office, devote himself exclusively to the work of the council and the duties of his office.

**Additional
employment
without
remunera-
tion** Notwithstanding the foregoing, he may hold any additional employment, office or function or provide any additional service, if no remuneration or direct or indirect benefit is paid or granted to him therefor.

**Additional
employment
with remu-
neration** A director general may, with the authorization of the board of directors, hold, outside the health and social services sector, any additional employment, office or function or provide any additional service for which a remuneration or a direct or indirect benefit is paid or granted to him.

**Additional
employment
with remu-
neration** Similarly, a director general may, with the authorization of the Minister and of the board of directors, hold, within the health and social services sector, an additional employment, office or function or provide any additional service for which a remuneration or a direct or indirect benefit is paid or granted to him. However, only the authorization of the board of directors is required in the case of an office or function held within an association consisting of the majority of establishments of a same category or within an association of directors general of health

services and social services recognized by order for labour relations purposes.

Elective
public office

A director general may also hold an elective public office.

Suspension

The board of directors of a public establishment must, on becoming aware that its director general is contravening any of the rules prescribed in this section, suspend him without remuneration or take measures with the view of instituting proceedings for forfeiture of office against him according to the seriousness of the contravention. It must also, within the ten following days, inform the Minister thereof and indicate to him the nature of the situation and the measures taken. Any suspension imposed under this paragraph may vary from three to six months.

Disqualifica-
tion

A director general who is forfeited of office becomes disqualified from holding any office or employment in any public establishment or regional council for the period determined in the judgment. The disqualification period shall not exceed three years."

c. S-5,
s. 126, am.

8. Section 126 of the said Act is amended

(1) by striking out the words " , in accordance with the regulations," in the second line of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

Financial
statements
of the estab-
lishment

"The members of the board of directors must then make public, in accordance with the regulations, such items of information as are prescribed with respect to the financial statements of the establishment. They must also answer any question put to them respecting the financial statements, the services provided by the establishment and the relations it has with the other establishments and with the regional council of the region in which it is situated."

c. S-5,
s. 134.1,
added

9. The said Act is amended by inserting, after section 134, the following section:

Prohibition

"134.1 No director general or senior or intermediate officer of a public establishment may accept any sum of money or any direct or indirect benefit from any foundation or corporation which solicits funds or donations from the public for purposes related to health services or social services.

Gift or ben-
efit

Any public establishment which receives any sum of money or any direct or indirect benefit from a foundation or corporation referred to in the first paragraph must report it in a schedule forming part of its

financial statements and indicate the purpose for which such sum of money or such benefit was paid or granted.

c. S-5,
s. 154, am. **10.** Section 154 of the said Act is amended by replacing the first sentence of the second paragraph by the following sentence:

Procedure
of appeal

"The Government may establish by regulation, for the persons contemplated in subparagraphs 1 and 2 of the first paragraph, a procedure of appeal for cases of dismissal, non-renewal or termination of appointment other than cases resulting from proceedings for forfeiture of office."

c. S-5,
s. 154.1,
added **11.** The said Act is amended by inserting, after section 154, the following section:

Conflicts of
interest

"154.1 The Government may, by regulation, establish standards for senior and intermediate officers of a regional council or public establishment with respect to conflicts of interest, as well as standards for senior officers of such council or establishment with respect to exclusivity of office.

Compliance

No senior or intermediate officer, as the case may be, may, under pain of dismissal, contravene any of the standards established under the first paragraph."

c. S-5,
s. 162.1,
added **12.** The said Act is amended by inserting, after section 162, the following section:

Proceedings

"162.1 Proceedings for forfeiture of office under sections 31, 37, 95 and 104 shall be instituted exclusively by the regional council or public establishment concerned or by the Minister."

c. S-5,
s. 173, am. **13.** Section 173 of the said Act is amended by inserting, after subparagraph *o* of the first paragraph, the following subparagraph:

"(o.1) determine the items of information with respect to financial statements that a public establishment or a regional council must make public at the time of the annual public information meeting held by it and the form in which they are to be presented;"

c. S-5,
s. 179, am. **14.** Section 179 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

Offence and
penalty

"Notwithstanding the first paragraph, every director general, senior officer or intermediate officer of a public establishment who contravenes the first paragraph of section 134.1 is guilty of an offence and is liable,

on summary proceedings, in addition to costs, to a fine equal to twice the sum of money or value of the benefit he received.”

Validity of
contracts

15. Any contract entered into between 1 January 1985 and 28 December 1987 whereby candidates for a position of intern or resident restricted to a particular region, territory, district or establishment, or for a service of internship by rotation intended for graduates of any university or school situated outside Canada and the United States, have engaged themselves, for a fixed period, to practise in such region, territory, district or establishment, under pain of pecuniary penalty, is valid.

Coming into
force

16. This Act comes into force on 28 December 1987.

Effect

However, sections 4, 7, 11 and 12 shall have effect, in respect of a director general or a senior or intermediate officer of a regional council or public establishment in office on the date of coming into force of this Act, only three months after that date.

Contracts
signed
before 12
November
1987

In addition, any clause of a contract signed before 12 November 1987 by a director general or a senior or intermediate officer of a regional council or public establishment which is not consistent with section 9 of this Act shall continue to have effect until the date of expiry of the contract or until 12 November 1991, whichever date comes first.