

NATIONAL ASSEMBLY
Thirty-second Legislature, fourth session

1983, chapter 82

AN ACT RESPECTING CERTAIN RIGHTS OF ACTION IN MATTERS OF MEDICAL OR HOSPITAL RESPONSIBILITY

Bill 221

Introduced by Mr Reed Scowen, Member for Notre-Dame-de-Grâce

First reading: 18 June 1983

Second reading: 20 June 1983

Third reading: 20 June 1983

Assented to: 20 June 1983

Coming into force: 20 June 1983

Act amended: None





CHAPTER 82

An Act respecting certain rights of action in matters
of medical or hospital responsibility

[Assented to 20 June 1983]

Preamble

WHEREAS Paul-Henri Gaudreau and Alfred Henry Warf allege that they suffered prejudice by reason of a medical act performed before 1 January 1972;

Whereas they allege that they became aware of the prejudice before 1 January 1972;

Whereas the Supreme Court of Canada, in a decision rendered on 12 June 1974 in the case of *Hôpital/Notre-Dame v. Patry*, held that, in all cases of bodily injury, including bodily injury resulting from malpractice in a contract of medical or hospital care, the right of action is prescribed by one year;

Whereas the Act to amend certain prescriptions (1974, chapter 80) increased the prescription period applicable in matters of medical or hospital responsibility to three years, and whereas the said Act contained other provisions applicable to any cause of action having originated more than one year before its coming into force;

Whereas, by reason of that decision and due to the short time allowed under the said Act, Paul-Henri Gaudreau and Alfred Henry Warf were unable to proceed with the steps already undertaken through their advocates to assert their rights;

Whereas, from 1975, Paul-Henri Gaudreau and Alfred Henry Warf have made constant efforts to be authorized to institute proceedings;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Right of
action

1. Paul-Henri Gaudreau may institute an action in damages against any physician or hospital centre that he alleges to be responsible for prejudice that he alleges to be due to a medical act performed between 16 September and 4 October 1969.

Right of
action

2. Alfred Henry Warf may institute an action in damages against any physician or hospital centre that he alleges to be responsible for prejudice that he alleges to be due to a medical act performed between 2 September 1970 and 13 February 1971.

Inapplicable
provisions

3. Article 2260*a* and paragraph 2 of article 2262 of the Civil Code do not apply to a right of action exercised under section 1 or 2.

Prescribed
time

Such a right of action must be exercised within sixty days of the coming into force of this Act.

Prescription

4. Prescription under article 2495 of the Civil Code begins to run on the date on which the right of action authorized by this Act is exercised.

Coming
into force

5. This Act comes into force on the day of its sanction.