

NATIONAL ASSEMBLY

FIRST SESSION

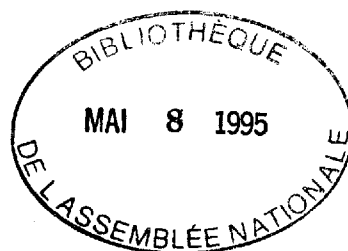
THIRTY-FIFTH LEGISLATURE

Bill 83

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

Introduction

**Introduced by
Mr Jean Rochon
Minister of Health and Social Services**



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EXPLANATORY NOTES

This bill amends the Act respecting health services and social services to extend by one year the term of office of the members of the boards of directors of public institutions, the members of regional assemblies and the members of the boards of directors of regional boards. The bill also proposes a technical amendment to allow a vacancy in a seat held by an elected member of the board of directors of a regional board to be filled where the vacancy cannot be filled by a substitute member.

The bill also sets out the conditions under which the presumption currently applicable to certain public institutions, whereby the members of those legal persons are authorized to participate in the appointment of persons to the board of directors, may be maintained after 1 October 1995.

In addition, the bill provides that the Minister may restrict the right to offer certain services to certain institutions, and confers on the Minister the power to modify not only the capacity but also the mission, class or type indicated on the permit of a public institution or private institution under agreement.

Lastly, the bill introduces provisions to allow the Minister to withdraw the permit of a public institution or private institution under agreement and to compel it to cease its activities. As regards public institutions, the bill also provides rules applicable to the liquidation of the affairs of the institution, the devolution of its property and the cancellation of its constituting instrument.

Bill 83

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 112 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by replacing the words "highly specialized" in the first line of paragraph 2 by the word "certain".

2. Section 401 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: "Where it is impossible to fill the vacancy in that manner, the vacancy shall be filled by resolution of the board of directors, provided that the person appointed has the qualifications for membership in the group referred to in section 421 to which the member of the board of directors to be replaced belonged."

3. The heading of Division I of Chapter II of Title II of Part III of the said Act is replaced by the following heading:

"ISSUE, MODIFICATION AND RENEWAL".

4. The said Act is amended by inserting, after section 442, the following section:

"442.1 The Minister, after consulting with the regional board and giving the holder the opportunity to present his views, may modify the permit of a public institution or private institution under agreement to modify the mission, class, type or capacity indicated on the permit if he is of the opinion that the public interest warrants it.

From the date on which the modified permit is issued, the holder is deemed to have the capacity and powers required to carry on his activities in conformity with the modified permit. The holder must, within six months from that date, and notwithstanding any inconsistent legislative provision, take the necessary measures to carry out the modifications required as a consequence of the Minister's decision."

5. Section 443 of the said Act is amended by striking out the second, third and fourth paragraphs.

6. The said Act is amended by inserting, after section 451, the following:

"DIVISION III.1

"WITHDRAWAL OF PERMITS

"§1. — *Provisions applicable to public institutions and private institutions under agreement*

"451.1 The Minister, at the request of a regional board or of his own initiative, may, if he is of the opinion that the public interest warrants it, in particular to ensure effective and efficient management of the health and social services network, withdraw the permit of a public institution or private institution under agreement, with the authorization of the Government and on the conditions it determines.

The Minister shall cause a notice to be published in the *Gazette officielle du Québec* of his intention to recommend to the Government, 45 days after publication of the notice, that an order be made authorizing him to withdraw the permit.

After publication of the notice, the Minister must give the institution concerned and the regional board the opportunity to present their views.

"451.2 Within 30 days after receipt of the Minister's decision to withdraw its permit, the institution must submit a plan to the Minister, who shall approve it with or without modification, containing the measures required to ensure cessation of the institution's activities and the timetable for implementing the measures. The plan must contain, in particular, measures relating to the relocation of users and the laying-off or placing on reserve of personnel.

Notwithstanding sections 442 and 443, the permit of the institution remains valid until all the measures in the plan have been implemented.

“451.3 At the request of the Minister, the institution must, within the time fixed by the Minister, provide him with any information he considers necessary for the purpose of granting his approval.

The institution must carry out the plan that has been approved and comply with the timetable submitted.

The Minister shall ensure that the institution receives the necessary assistance to implement and carry out the plan.

“451.4 The institution shall transmit to the Minister, at his request, a report on the carrying out of the plan.

“451.5 If the institution neglects or refuses to submit the plan required by section 451.2, or if it does not carry out the plan as it was approved or is unable to carry it out, the Minister shall appoint a person to exercise all the powers of the board of directors, in the case of a public institution, or those of the administrator or board of directors, in the case of a private institution under agreement.

Section 502, adapted as required, applies to that person.

“451.6 Where the Minister is satisfied that the measures contained in the plan have been implemented, he shall cause a notice to be published in the *Gazette officielle du Québec* indicating the date from which the permit of the institution is withdrawn.

“§2. — Provisions applicable to public institutions

“451.7 If the notice referred to in section 451.6 concerns a public institution, the affairs of the institution shall be liquidated and the Minister shall indicate in the notice the name and address of the liquidator as well as the address to which interested persons may send their claims.

The Minister shall, in addition, cause the notice to be published in a daily newspaper circulated in the locality in which the head office of the institution is situated.

“451.8 The Minister shall fix the remuneration of the liquidator and specify whether the liquidator must give security to guarantee the performance of his obligations.

“451.9 If a vacancy occurs in the office of liquidator by reason of death, resignation, revocation or otherwise, the Minister shall appoint a replacement liquidator and shall cause a new notice to be published in accordance with section 451.7.

“451.10 From the date of publication of the notice referred to in section 451.6, any action or proceeding concerning the property of the institution, in particular, by seizure by garnishment, seizure before judgment or seizure in execution, shall be suspended.

The costs incurred by a creditor after learning of the liquidation personally or through his attorney may not be collocated on the proceeds of the property of the institution that are distributed owing to the liquidation.

A judge of the Superior Court of the district where the head office of the institution is situated may nonetheless, on the conditions he considers appropriate, authorize the institution or continuation of any action or proceeding.

“451.11 The liquidator is seised of the property of the institution and acts as an administrator of the property of others entrusted with full administration.

“451.12 The liquidator shall first pay the debts of the institution and the costs and expenses of the liquidation.

The liquidator shall then, if the assets include property deriving from contributions made by a member of a legal person referred to in paragraph 1 of section 98, remit the property to the member at the member's request. If the assets are insufficient to do so, the liquidator shall partition the assets in proportion to the respective rights of the members concerned.

Any residue devolves, without compensation, to the Government or to a legal person it designates, notwithstanding any inconsistent legislative provision.

“451.13 The liquidator shall, every three months, transmit a summary report of his activities for that period to the Minister. The report shall indicate the amounts collected and the amounts disbursed for the liquidation as well as a statement of assets and liabilities at the end of the period.

“451.14 As soon as the liquidation has been completed, the liquidator shall file with the Minister a general statement of the manner in which the liquidation was conducted.

The liquidation of the institution is closed by the publication of a notice of closure by the Minister in the *Gazette officielle du Québec*. The Minister shall then request the Inspector General of Financial Institutions to cancel the constituting instrument of the institution, notwithstanding any inconsistent legislative provision. The cancellation takes effect on the 60th day after publication of a notice to that effect in the *Gazette officielle du Québec*, and the institution is then dissolved.

“451.15 The Minister shall keep the books and registers of the institution for five years after the closure of the liquidation and shall subsequently dispose of them as he sees fit.

“§3. — *Provisions applicable to private institutions under agreement*

“451.16 If the notice referred to in section 451.6 concerns a private institution under agreement, and a person has been appointed pursuant to section 451.5, that person shall surrender the control and administration of the property to the administrator or board of directors of the institution.

“451.17 From the publication of a notice under section 451.6, the provisions of the constituting instrument of the private institution constituted as a legal person and under which the institution was empowered to carry on the activities concerned are inoperative until they are replaced or repealed.”

7. The said Act is amended by inserting, after section 601, the following section:

“601.1 A public institution which, pursuant to section 601, is deemed to be a corporation designated by the Minister under section 139, continues to be deemed to be a designated corporation until a final decision has been made on an application for designation filed under section 139, provided the application was filed before 1 October 1995.”

8. Section 603 of the said Act is amended by replacing the word “second” in the third line by the word “third”.

9. Section 612 of the said Act is amended by replacing the words "the month of October of the year following the year of the second anniversary of the forming of the first boards of directors of public institutions in accordance with the provisions of Division I" in the third, fourth and fifth lines by the words "the election held pursuant to section 603".

10. The said Act is amended by inserting, after section 613, the following section:

"613.1 The term of office of the members of the first boards of directors of the regional boards elected or appointed pursuant to section 613 is extended, notwithstanding section 399, until such members are reelected, reappointed or replaced by the new regional assembly formed pursuant to section 612 or, in the case of a member elected by cooptation, by the new board of directors.

The same applies to the designation of the substitutes referred to in the first paragraph of section 613."

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