

NATIONAL ASSEMBLY

THIRD SESSION

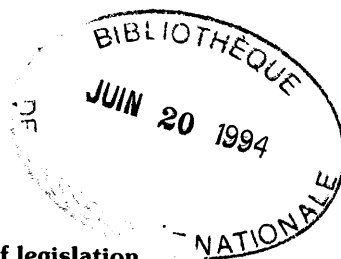
THIRTY-FOURTH LEGISLATURE

Bill 34

An Act respecting acupuncture

Introduction

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



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EXPLANATORY NOTES

This bill provides for the constitution of a professional corporation whose members have the exclusive right to practise acupuncture and in that respect, the bill defines what constitutes acupuncture and regulates its practice.

The bill provides measures to integrate into the new professional corporation the persons who, at the time the Act comes into force, will be entered on the register of acupuncturists kept by the secretary of the Corporation professionnelle des médecins du Québec under the Medical Act. It maintains in the Medical Act the powers of the Bureau of the corporation to make rules respecting the training of physicians who wish to practise acupuncture.

In addition, the bill contains provisions enabling the integration of various categories of persons according to their level of training at the time the Act comes into force.

Lastly, the bill contains measures to ensure the proper functioning of the new corporation from the coming into force of the provisions constituting the corporation.

ACTS AMENDED BY THIS BILL:

- Professional Code (R.S.Q., chapter C-26);
- Medical Act (R.S.Q., chapter M-9).

Bill 34

An Act respecting acupuncture

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

DEFINITIONS

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

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

“Bureau”: the Bureau of the Order;

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

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

“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

2. All the persons qualified to practise acupuncture in Québec constitute a corporation called the “Corporation professionnelle des acupuncteurs du Québec” or the “Ordre des acupuncteurs du Québec”.

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

4. The corporate seat 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.

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

DIVISION III

BUREAU

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

7. The Bureau shall make regulations in accordance with the Professional Code.

8. 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

9. 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.

10. The practice by an acupuncturist of his profession includes

(1) performing the clinical assessment of the energetic state of a person;

(2) determining 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.

11. Every person is entitled to obtain a permit who applies therefor and

(1) who holds a diploma recognized as valid or considered to be equivalent or whose training is recognized as equivalent, in accordance with the regulations under the Professional Code;

(2) who has complied with the conditions and formalities imposed in accordance with this Act and the regulations of the Bureau.

12. 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.

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

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.

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

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

DIVISION V

ILLEGAL PRACTICE OF ACUPUNCTURE

16. Subject to the rights and privileges expressly granted by law to other professionals, no person may perform the act described in section 9 unless he is an acupuncturist.

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.

17. Every person who contravenes section 16 is liable, for each offence, to the penalties prescribed in section 188 of the Professional Code.

DIVISION VI

AMENDING PROVISIONS

PROFESSIONAL CODE

18. Section 31 of the Professional Code (R.S.Q., chapter C-26) is amended by replacing the figure “21” in the third line by the figure “21.1”.

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

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

“21.1 The Corporation professionnelle des acupuncteurs du Québec;”.

MEDICAL ACT

21. Section 20 of the Medical Act (R.S.Q., chapter M-9) is replaced by the following section:

“**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.”

22. Section 21 of the said Act is repealed.

23. 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.

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

“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.”

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

26. Section 44 of the said Act is repealed.

27. 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

28. In this division,

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

(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.

29. 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 any professional corporation 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.

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.

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.

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.

30. 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 subparagraph *a* of 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.

31. 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.

32. Every person who, before 1 July 1995, passes the acupuncture examinations held by the Corporation professionnelle 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.

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.

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.

33. 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 Corporation professionnelle 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.

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.

34. 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 Corporation professionnelle 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 33;

(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.

35. 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 30, 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 33;

(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.

36. 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 Corporation professionnelle 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 Corporation professionnelle 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 Corporation, by resolution, for the examination of the application;

(2) the person furnishes proof to the Corporation 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 Corporation, 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.

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.

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.

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 may fix under the Professional Code.

37. 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 Corporation held pursuant to the rules determined by the Regulation and meet the other conditions imposed by the Corporation.

Every person referred to in subparagraph 1 of the first paragraph who, before 1 July 1994,

(1) 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 sit for the examinations held pursuant to section 36 provided that, in so doing, he does not sit for the written examination or, as the case may be, the oral examination, more than three times;

(2) fails the written examination three times or passes that examination but fails the oral examination three times, may not obtain a permit unless his training is first recognized as equivalent by the Bureau in accordance with the standards it may fix under the Professional Code.

38. 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 33 and of paragraph 1 of sections 34 and 35, and the provisions 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 36.

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.

39. 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 31 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 Corporation professionnelle 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.

40. The diploma mentioned in in paragraph 1 of section 30 and the diploma referred to in paragraph 2 of that section, provided that the training of the holder of the latter diploma is considered to be equivalent by the Bureau, are diplomas required for the purposes of the issue of a permit within the meaning of paragraph *g* of section 94 of the Professional Code.

41. The Bureau shall fix the content, the objectives and the terms and conditions of the clinical training periods required under sections 32, 33, 34 and 35.

The provisions of the first paragraph of section 16 of this Act do not apply to a person undergoing clinical training under those sections.

42. The issue of permits to persons to whom the provisions of sections 32 to 37 apply remains subject to any other condition, formality and procedure for the issue of permits prescribed by paragraph 2 of section 11 of this Act, the Professional Code and the resolutions of the Bureau.

43. 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.

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

A contravention of a provision of sections 25 to 28 and 29.7 of the Regulation is deemed to be a contravention of a provision of a regulation made pursuant to paragraph *c* of section 94 of the Professional Code, and a contravention of a provision of sections 29.1 to 29.6, 29.8 and 29.9 of the Regulation is deemed to be a contravention of a provision of a regulation made pursuant to paragraph *d* of section 94 of the Code.

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.

44. The records, books, registers and documents held by the Corporation professionnelle des médecins du Québec pertaining to persons other than physicians who practise acupuncture become the records, books, registers and documents of the Order. The Corporation 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.

45. The chairman of the committee on discipline of the Corporation professionnelle 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.

46. 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 Corporation professionnelle 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.

he Bureau of the Corporation professionnelle des médecins du
c shall communicate decisions made under the first paragraph
Bureau of the Order.

7. Division VII of Chapter IV of the Professional Code, adapted
uired, also applies in respect of a member of the Order, for an
e against the Regulation committed before 1 July 1995 while the
er was entered on the register of acupuncturists.

8. The provisions of sections 36 and 37 of this Act will come
orce on 1 July 1994; the provisions of sections 1, 3, 4, 6, 7, 8 and
l come into force on 1 April 1995, and the remaining provisions
ome into force on 1 July 1995.