

1982, chapter 20

AN ACT RESPECTING RESUMPTION OF THE DISPENSATION OF MEDICAL CARE IN QUÉBEC

Bill No. 91

Introduced by Mr Pierre-Marc Johnson, Minister of Social Affairs

First reading: 21 June 1982

Second reading: 21 June 1982

Third reading: 21 June 1982

Assented to: 21 June 1982

Coming into force: 21 June 1982

Act amended: None



CHAPTER 20

An Act respecting resumption of the dispensation
of medical care in Québec

[Assented to 21 June 1982]

HER MAJESTY, with the advice and consent of the National
Assembly of Québec, enacts as follows:

DIVISION I

INTERPRETATION

Interpreta-
tion:

“associa-
tion”;

1. In this Act, unless the context indicates otherwise,

“association” means a group of general practitioners consti-
tuted as a professional syndicate or otherwise, incorporated or
unincorporated, having as its object or activity the study, safe-
guarding, defence or development of the economic, social, scientific,
educational or moral interests of its members and belonging or affili-
ated to the federation;

“establish-
ment”;

“establishment” has the same meaning as in the Act respecting
health services and social services (R.S.Q., chapter S-5);

“fедера-
tion”;

“federation” means the Fédération des médecins omniprati-
ciens du Québec;

“general
practi-
tioner”.

“general practitioner”, excepting an intern, a resident within
the scope of his attributions or a physician who is a member of the
civil service, means a physician holding a certificate in general
medecine, family medicine or the equivalent or a physician who does
not hold a specialist’s certificate from the Corporation profession-
nelle des médecins du Québec.

DIVISION II

RESUMPTION AND CONTINUANCE
OF THE DISPENSATION OF MEDICAL CAREGeneral
practi-
tioners.

2. Every general practitioner entered on the roll of the Corporation professionnelle des médecins du Québec on 16 June 1982 must, from 00:01 hours on 22 June 1982, dispense medical care and perform related tasks as usual, including those tasks that are related to the organization and operation of the services of an establishment, without reduction, slow-down or change in his regular activities.

Establish-
ments.

3. Every establishment and every other person who or which, on 16 June 1982, was administering facilities or a department where medical care is regularly dispensed must, from 00:01 hours on 22 June 1982, pursue the carrying out of its usual operations in order to ensure the regular dispensation and continuance of medical care.

Federa-
tion.

4. The federation and every association must take the appropriate steps to induce its members to comply with section 2.

DIVISION III

SERVICES WHOSE COST IS ASSUMED
BY THE RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBECAgreement
amended.

5. The stipulations of the agreement made on 1 September 1976 between the Minister of Social Affairs and the Fédération des médecins omnipraticiens du Québec, as amended subsequently by the parties and which subsist pursuant to section 20 of the Health Insurance Act (R.S.Q., chapter A-29), are again amended by Sesssional Paper No. 475 tabled before the National Assembly of Québec on 21 June 1982.

Effect.

The stipulations have the effect of an agreement made pursuant to section 19 of the Health Insurance Act. In no case may the stipulations be construed as constituting a new agreement.

Negotia-
tions.

6. The representatives of the Minister of Social Affairs and those of every representative organization of general practitioners must undertake and pursue with diligence and in good faith the negotiation of a new agreement in accordance with section 19 of the Health Insurance Act.

DIVISION IV

SANCTIONS

Offence
and
penalty.

7. Every person who contravenes or incites or encourages a person to contravene section 2 is guilty of an offence and is liable, in addition to costs, for each day or part of a day during which the offence continues, to a fine

(1) of \$300 to \$600 in the case of a natural person;

(2) of \$1 000 to \$10 000 in the case of an officer, director, employee, agent or adviser of an association or a federation;

(3) of \$5 000 to \$50 000 in the case of an association or the federation.

Parties
to the
offence.

Any association or federation of which an officer, director, employee, agent or adviser is guilty of an offence described in the first paragraph is a party to that offence, and is liable, in addition to costs, to a fine of \$5 000 to \$50 000 for each day or part of a day during which the offence continues.

Presump-
tion.

8. Every general practitioner is presumed to have contravened section 2 during a day on proof *prima facie* to the court that, on that day, he did not dispense medical care or perform related tasks as usual.

Burden of
proof.

This presumption may be overturned by the interested party only if he proves to the court that

(1) during that day, he actually dispensed medical care and performed related tasks as usual and without reduction, slow-down or change in his regular activities, or

(2) his failure to dispense medical care or perform related tasks as usual during the day on which he is accused of having committed an offence is part of his regular practice of his profession and is in no way part of a concerted action.

Offence
and
penalty.

9. Any director, employee, agent or adviser of an establishment or corporation that participates or acquiesces in an act performed by that establishment or corporation in contravention of section 3 and any other person who contravenes that section is guilty of an offence and is liable, in addition to costs, for each day or part of a day during which the offence continues, to a fine of \$1 000 to \$10 000 in the case of a natural person, and of \$5 000 to \$50 000 in the case of a corporation.

Offence
and
penalty.

10. Where an association or the federation contravenes section 4, it is guilty of an offence and is liable, in addition to costs, to a

fine of \$5 000 to \$50 000 for each day or part of a day during which the offence continues.

Parties
to the
offence.

11. Where an association or the federation is guilty of an offence described in section 7 or section 10, each of its officers, directors, employees, agents or advisers who participated or acquiesced in the commission of the offence is deemed to be a party to the offence and is liable, for each day or part of a day during which the offence continues, in addition to costs, to a fine of \$1 000 to \$10 000, whether or not the association or federation has been prosecuted or found guilty.

Payment
of union
dues.

12. The Government may, if it considers that less than 80% of the general practitioners are complying with section 2, order that the obligation to pay union dues cease for a period of not less than three months nor more than one year in respect of the associations concerned and the federation.

Deduction.

Upon the Government's making an order, the Régie de l'assurance-maladie du Québec is prohibited, for the period fixed by the Government, from deducting union dues from the remuneration of the general practitioners contemplated in the first paragraph.

Contribu-
tion.

In no case may the association or the federation, upon the making of the order and for one year following the expiry of the period fixed by the Government, change the rate of union dues or impose a special or additional contribution.

Offence
and
penalty.

Failure by an establishment or the Board to comply with the decision of the Government entails, for its directors, officers, employees, agents or advisers, the penalty provided for in section 9 for a natural person.

Prosecu-
tions.

13. Prosecutions are brought under the Summary Convictions Act (R.S.Q., chapter P-15) by the Attorney General or a person generally or specially authorized in writing by him for that purpose.

Single
count.

14. Notwithstanding section 12 of the Summary Convictions Act, where under this Act an offence is continuous, all the separate offences contemplated in subsection 4 of that section may be charged in one count.

Effect.

15. This Act ceases to have effect on 31 May 1983, except as regards the stipulations contemplated in section 5, which remain in force until they are amended, replaced or repealed by a new agreement made under section 19 of the Health Insurance Act, and except as regards offences committed prior to that date.

Exception. **16.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Applicability. Section 8 of this Act applies notwithstanding section 33 of chapter C-12 of the Revised Statutes of Québec.

Coming into force. **17.** This Act comes into force on the day of its sanction.