

REGULATION RESPECTING THE PROFESSIONAL LIABILITY INSURANCE OF PHYSICIANS

(This version is offered as a courtesy and holds no official value.)

Medical Act

(R.S.Q., c. M-9, s. 3)

Professional Code

(R.S.Q., c. C-26, sec. 93, par. d)

DIVISION I

GENERAL PROVISIONS

1.01. *(deleted).*

O.C. 82-06-16, s. 1.01; O.C. 28-11-2011, s. 1.

1.02. *(deleted).*

O.C. 82-06-16, s. 1.02; O.C. 28-11-2011, s. 1.

DIVISION II

INSURANCE

2.01. A physician who practises his profession for his own account part time or full time, either alone, or in partnership with other physicians, must hold and keep in force an insurance contract providing coverage against any liability that he or his employees and agents may incur, through error or negligence committed in the practice of his profession.

In the case of a partnership of physicians, the insurance contract may be signed on behalf of the partnership, but the coverage must include each of the physician partners or employees personally.

In the case of a physician employing other physicians, the coverage must include each of them personally.

O.C. 82-06-16, s. 2.01.

2.02. The amount of such coverage must be at all times at least \$5,000,000 per claim, and at least \$10,000,000 for the aggregate of the claims submitted during each period of coverage of one year, with a deductible amount not exceeding \$1,000 per loss.

O.C. 82-06-16, s. 2.02; O.C. 28-11-2011, s. 2.

2.03. The insurance contract must provide that:

(a) the insurer agrees to pay in the stead of the insured person, for up to the amount of the coverage, any damages that the insured person may legally be required to pay to a third party in respect of a claim submitted during the period of coverage and resulting from professional services rendered or from failure to render such services by the insured person during the carrying out of his duties; the agreement covers any claim submitted during the 3 years following the period of coverage during which an insured person dies;

(b) the insurer agrees to hold harmless and to defend the insured person in any action taken against him in a court of civil jurisdiction; the costs and expenses incurred for a hearing, defence, negotiations and concluding

a settlement, as well as interest and amounts awarded in judgments are to be paid by the insurer, in addition to the amount of the coverage provided in the insurance contract;

c) the coverage provided by the insurer must extend to any claim submitted against the insured person for the five years following the year in which the insured person no longer has an obligation to maintain liability coverage or in which the insured ceases to be a member of the Order;

d) the coverage is automatically extended, without notice to the insurer, to persons who become employees of the insured person during the period of coverage, as well as to physicians who become partners of the insured person and in that case, the partnership as formed or changed is considered for all purposes to be the insured person.

O.C. 82-06-16, s. 2.03; O.C. 28-11-2011, s. 3.

2.04. The exclusions generally accepted in professional liability insurance may be prescribed in the insurance contract. However, an exclusion respecting acts committed under the influence of narcotics, soporifics, drugs or alcohol may not be invoked against a third party referred to in sub-paragraph (a) of section 2.03.

O.C. 82-06-16, s. 2.04.

2.05. A physician referred to in section 2.01 must furnish the Secretary of the Order a declaration with his registration on the Membership Roll stating that he is insured in compliance with this Regulation.

The declaration made in application of the preceding paragraph must mention the name of the insurer and the number of the insurance contract.

O.C. 82-06-16, s. 2.05; O.C. 28-11-2011, s. 4.

DIVISION III **EQUIVALENCE AND EXEMPTIONS**

O.C. 28-11-2011, s. 5.

3.01. A physician is deemed to comply with the provisions of this Regulation if he sends the Secretary of the Order, with his registration on the Membership Roll, a declaration that he is a member of the Canadian Medical Protection Association and his membership number.

O.C. 82-06-16, s. 3.01; O.C. 28-11-2011, s. 6.

3.02. A physician who practices his profession solely for the account of a private or public agency on a salaried basis is deemed to comply with this Regulation if he sends the Secretary of the Order, with his registration on the Membership Roll, a declaration that his employer holds an insurance contract whose coverage extends specifically to this physician, provided that this insurance contract includes the minimum coverage limits specified in this Regulation.

O.C. 82-06-16, s. 3.02; O.C. 28-11-2011, s. 7.

3.03. Section 2.01 notwithstanding, a physician is not required to hold and maintain in force an insurance contract providing coverage against his professional liability:

(1) if he does not exercise any of the activities stipulated in section 31 of the Medical Act (R.S.Q., c. M-9) under any circumstances;

(2) if he practices his profession exclusively outside Québec.

O.C. 28-11-2011, s. 8.

3.04. A physician in one of the situations described in section 3.03 sends the Secretary, with his registration on the Membership Roll, a request for exemption compliant with the one appearing in Schedule I.

When such physician ceases to be in one of the situations described in section 3.03, he must so inform the Secretary and if in writing without delay.

O.C. 28-11-2011, s. 8.

DIVISION IV
FINAL PROVISION

4.01. *(Omitted).*

O.C. 82-06-16, s. 4.01.

O.C. 82-06-16, 1982 G.O. 2, 2723
O.C. 28-11-2011, 2011 G.O. 2, 5535

SCHEDULE I

(s. 3.04)

Application for exemption

I apply for exemption from holding and maintaining in force an insurance contract providing coverage against professional liability that I may incur because:

- I do not practice any of the activities stipulated in section 31 of the Medical Act (R.S.Q., c. M-9);
- I practice my profession exclusively outside Québec.

Physician's name in print characters

Signature of physician

Permit No.

Date