

REGULATION RESPECTING THE CONCILIATION AND ARBITRATION PROCEDURE FOR THE ACCOUNTS OF PHYSICIANS

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Medical Act

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

Professional Code

(R.S.Q., c. C-26, s. 88)

DIVISION

CONCILIATION

1. The syndic shall send a copy of this Regulation to every person who so requests.

O.C. 558-2004, s. 1.

2. A client who has a dispute with a physician concerning the amount of an account for professional services shall apply for conciliation by the syndic before seeking arbitration.

For the application of this regulation, the term “client” refers to the person who pays or ought to pay an account for professional services.

O.C. 558-2004, s. 2; Decision 10-05-21, s. 1.

3. A physician may not institute proceedings to recover an account for professional services before the expiry of a 60-day period from the date of receipt of the account by the client or the date when the client learns that an amount has been collected or withheld by the physician from funds held or received on behalf of or in the name of this client.

A physician may not institute proceedings to recover professional fees once the syndic has notified him or her of an application for conciliation with respect to that account for professional services so long as the dispute may be settled by conciliation or arbitration.

However, the syndic may allow such proceeding and ask for provisional measures pursuant to article 623 of the Code of Civil Procedure (L.R.Q. c. C-25.01) if there is reason to believe that otherwise recovery of the debt would be jeopardized.

O.C. 558-2004, s. 3; Decision 10-05-21, s. 2; I.N. 2016-01-01.

4. An application for conciliation with respect to an account for professional services that has not been paid or that has been partly or wholly paid must be sent to the syndic within the period of 60 days provided in section 3.

An application for conciliation of an account or part of an account that has not been paid may be sent to the syndic after expiration of the 60-day period provided in section 3 provided that it is submitted before notice to the client of a proceeding with respect to recover an account.

When a physician has agreed with a patient on a treatment plan extending over several sessions, payable in several accounts or instalments, the 60-day period begins on the date when the most recent account was received or the most recent date when a payment is due. The notice may cover all accounts issued or instalments due in the preceding year. When the physician collects or withholds funds from those held or

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received on behalf of or in the name of this client, the period begins only when the client becomes aware that these amounts have been withheld or withdrawn.

Conciliation may also be requested within 45 days after a decision of the Disciplinary Council that explicitly challenges the quality or relevance of a professional service that has been billed, except if an account has already been the subject of a conciliation or arbitration procedure.

If the Régie de l'assurance maladie du Québec or another insurer decides to refuse to reimburse some or all of an account more than 45 days but less than one year after its receipt by the client, the application for conciliation must be sent to the syndic within 30 days of the date of that decision.

D. 558-2004, s. 4; Decision 10-05-21, s. 3.

5. All applications for conciliation must be formulated in writing. Upon receipt of such application, the syndic shall send to the client a copy of this Regulation and a copy of Schedule I, to be completed and returned to the syndic as additional information.

O.C. 558-2004, s. 5.

6. The syndic must notify the physician of the application for conciliation as soon as possible.

O.C. 558-2004, s. 6.

7. The syndic shall proceed with the conciliation in the manner he deems most appropriate.

O.C. 558-2004, s. 7.

8. Any agreement reached during conciliation between the client and the physician shall be put in writing. This written form may consist of a letter from the syndic to the client and the physician acknowledging the agreement.

If the syndic considers it necessary, he may ask that the agreement reached between the client and the physician be acknowledged in terms similar to those in Schedule II.

O.C. 558-2004, s. 8.

9. If the conciliation has not led to an agreement within 45 days from the date of receipt of the application for conciliation, the syndic shall send a report on the dispute to the client and the physician by registered mail. This report shall contain the following information, where applicable:

(1) the amount of the account in dispute ;

(2) the amount that the client acknowledges owing ;

(3) the amount that the physician acknowledges having to reimburse or is willing to accept as a settlement of the dispute ;

(4) the amount suggested by the syndic during the conciliation as a payment to the physician or as a reimbursement to the client.

The syndic shall also send to the client the form provided for in Schedule III and shall indicate to him the procedure and deadline for submitting the dispute to arbitration.

O.C. 558-2004, s. 9 ; I.N. 2016-01-01.

**DIVISION II
ARBITRATION**

§ 1. Application for arbitration

10. In a case where the conciliation has not led to an agreement between the parties, the client may request arbitration of the account within thirty days of receipt of the syndic's conciliation report.

The application for arbitration shall be sent to the secretary of the Collège des médecins du Québec, by registered mail, and shall reproduce the content of Schedule III.

O.C. 558-2004, s. 10; I.N. 2016-01-01.

11. The secretary must, upon receipt of an application for arbitration, notify the concerned physician of such.

O.C. 558-2004, s. 11.

12. An application for arbitration may be withdrawn in writing only and with the consent of the physician.

O.C. 558-2004, s. 12.

13. A physician who acknowledges having to reimburse an amount to a client must consign the amount to the secretary who shall then remit it to the client.

In such case, the arbitration shall proceed and shall pertain on the amount still in dispute.

O.C. 558-2004, s. 13.

14. Any agreement reached between the client and the physician after the application for arbitration has been filed shall be put in writing, in terms similar to those in Schedule II, shall be signed by them and shall be filed with the secretary.

When the agreement is reached after formation of the council of arbitration, it shall be integrated into the arbitration award, and the council shall decide on costs in the manner provided for in section 28.

O.C. 558-2004, s. 14.

§ 2. Formation of a council of arbitration

15. A council of arbitration shall be composed of arbitrators where the amount in dispute is 5 000 \$ or more, and of a single where the amount is less than 5 000 \$.

O.C. 558-2004, s. 15.

16. The president of the Collège shall appoint from among the members of the order, the member or members of a council of arbitration and, where the latter is composed of 3 arbitrators, he shall designate the chairman thereof.

The secretary shall notify in writing the member or members of the council of arbitration and the parties, of the constitution of the council of arbitration.

O.C. 558-2004, s. 16.

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17. Before acting, the arbitrators shall take the oath prescribed in Schedule II of the Professional Code (R.S.Q., c. C-26).

O.C. 558-2004, s. 17.

18. A request for recusation of an arbitrator may not be filed unless it is for one of the reasons provided for in article 202 of the Code of Civil Procedure, paragraph 5 of this article excepted. It must be sent in writing to the secretary, to the arbitration board and to the parties within 10 days of receiving the notice stipulated in the second paragraph of the section 16 or of the day on which the reason for the request becomes known.

The president of the Collège shall rule on this request and, if necessary, provide for a replacement of the recused arbitrator.

O.C. 558-2004, s. 18; I.N. 2016-01-01.

19. In the event of death, absence, or inability to act of an arbitrator, the others shall see the matter through. In a case where this arbitrator is chairperson of the arbitration board, the president of the Collège shall appoint one of the two remaining arbitrators to act as chairperson.

In the case of an arbitration board formed of one arbitrator only, the latter shall be replaced by a new arbitrator appointed by the president of the Collège, and the hearing of the dispute shall be reheard.

O.C. 558-2004, s. 19.

§ 3. Hearing

20. The council of arbitration shall give the parties at least 10 days written notice of the date, time and place of the hearing.

O.C. 558-2004, s. 20.

21. The parties have the right to be represented by a lawyer or to be assisted by one.

O.C. 558-2004, s. 21.

22. The council of arbitration may ask each party to submit to it, within a specified period, a statement of their claims with supporting documents.

O.C. 558-2004, s. 22.

23. The council of arbitration shall promptly hear the parties, receive their evidence or record any failure on their part. For these purposes, it shall apply the rules of evidence of courts of civil jurisdiction, follow such procedures it considers appropriate and rule according to the rules of law.

O.C. 558-2004, s. 23.

24. The costs incurred by a party for the arbitration shall be borne by that party, and the opposing party may not recover these costs.

A party requesting that the testimony be recorded shall assume the costs thereof.

O.C. 558-2004, s. 24.

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§ 4. Arbitration award

25. The council of arbitration shall issue its award within 30 days of the end of the hearing.

O.C. 558-2004, s. 25.

26. An award shall be a majority award of the members of the council of arbitration ; failing a majority, it shall be rendered by the chairman of the council.

An award shall give reasons and be signed by the single arbitrator or the arbitrators executing it. When a member refuses to sign or is unable to sign, the award must make mention of such and has the same effect as if it were signed by all. However, a dissenting member may register in the award the reasons for his refusal.

O.C. 558-2004, s. 26.

27. In the award, the council of arbitration may uphold or reduce the amount of the account under dispute ; it may also determine, if applicable, the reimbursement to which a party may be entitled. For these purposes, it may take into account the quality of the services rendered.

O.C. 558-2004, s. 27.

28. A fee of \$50 is payable with an application for arbitration. The council of arbitration must rule on whether to reimburse this fee in its award. It may also rule on the expenses of the arbitration, including the expenses incurred by the Collège to arrange the arbitration.

The total amount of expenses, excluding the arbitration expenses, may not exceed 15% of the amount that is the subject of the arbitration.

When the disputed account is entirely or partly upheld or a reimbursement is granted, the council of arbitration may also, add to it interest and an indemnity calculated in accordance with articles 1618 and 1619 of the Civil Code, starting from the application for conciliation.

D. 1775-94, s. 21.

29. The arbitration award is final, without appeal, binds the parties and is executory in accordance with articles 645 to 646 of the Code of Civil Procedure (L.R.Q. c. C-25.01).

O.C. 558-2004, s. 29; I.N. 2016-01-01.

30. The council of arbitration shall file its award with the secretary, who shall send a copy of such to each of the parties and to the syndic.

It shall also send to the secretary the complete arbitration file, copies of which may be sent solely to the parties and the syndic.

O.C. 558-2004, s. 30.

31. This Regulation replaces the Regulation respecting the procedure for the conciliation and arbitration of accounts of physicians, approved by Order in Council (1322-96 of October 16, 1996). However, this Regulation continues to govern the procedure for the conciliation and arbitration of accounts for which conciliation by the syndic or an application for arbitration was made before the 8 July 2004.

O.C. 558-2004, s. 31.

32. *(Omitted)*.

O.C. 558-2004, s. 32.

SCHEDULE I

(s. 5)

APPLICATION FOR CONCILIATION

I, the undersigned _____, declare that :
(name and address of client)

1. Doctor _____ claims the sum of
(name and address of physician)

\$ _____ for professional services rendered between _____ and _____ as attested by :
(date) (date)

the account, of which a copy is attached hereto

or
the document, of which a copy is attached hereto,

indicating that the sum was withdrawn or withheld.

2. I contest this account for the following reasons :

3. I acknowledge owing the sum of \$ _____ for the professional services mentioned in this account.

4. a) I have not paid this account.

or

b) I have paid this account in full.

or

c) I have paid this account to a limit of \$. _____
or

d) The sum of \$ _____ \$ was withdrawn or

withheld directly from the funds which the physician holds or receives for or on my name.

5. I apply for conciliation by the syndic pursuant to the Regulation respecting the procedure for the conciliation and arbitration of accounts of physicians.

Signed on _____
(date)

(client's signature)

O.C. 558-2004, Sch. I.

SCHEDULE II

(ss. 8, 14)

**AGREEMENT RELATIVE TO A DISPUTE SUBMITTED TO CONCILIATION
OR
TO ARBITRATION**

Reached between:

(client's name and address)

hereinafter called the « client »,
and

(physician's name and address)

both of whom declare and agree to the following:

Agreement has been reached between the client and the physician as
to the dispute submitted to conciliation
or

to arbitration

requested on _____
(date)

This agreement sets forth the following terms and conditions :

The client and the physician request that conciliation
or
arbitration

procedures be stopped

(client's signature)

Signed in _____
(place)

on _____
(date)

(client's signature)

Signed in _____
(place)

on _____
(date)

(physician's signature)

D. 558-2004, Ann. II.

SCHEDULE III

(ss. 9, 10)

REQUEST FOR ARBITRATION OF ACCOUNT

I, the undersigned _____
(client's name and address)

having duly taken an oath, declare that :

1. Doctor _____,
(physician's name and address)

claims (or refuses to reimburse) a sum of money relative to professional services.

2. A copy of the conciliation report is attached hereto.

3. I request arbitration of this account pursuant to the Regulation respecting the procedure for the conciliation and arbitration of accounts of physicians, a copy of which I have received and read.

4. I agree to submit to the procedure provided for in this regulation and, if applicable, to pay the physician concerned the amount fixed by the arbitration award.

Signed on _____

(client's signature)

O.C. 558-2004, Sch. III.

O.C. 558-2004, 2004 G.O. 2, 1826