

## **REGULATION RESPECTING RECORDS, PLACES OF PRACTICE AND THE CESSATION OF PRACTICE BY A PHYSICIAN**

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

### **MEDICAL ACT**

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

### **PROFESSIONAL CODE**

(R.S.Q., c. C-26, s. 91)

### **DIVISION I**

#### **GENERAL PROVISIONS**

**1.** *(Deleted.)*

Decision 05-02-23, s. 1; Decision 12-04-27, s. 2.

**2.** A physician, in whatever place he practices medicine, shall ensure respect for the standards governing the records, registers, medications, substances, apparatus and equipment and the keeping of consultation rooms and other offices and the rules applicable in case of cessation of practice stipulated in this Regulation.

In the case of a physician who practices in a centre operated by an establishment in the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5), the user record drawn up and maintained by the establishment is considered a medical record in the meaning of this Regulation and the physician is required to enter into it all information mentioned in this Regulation.

Decision 05-02-23, s. 2; Decision 12-04-27, s. 3.

**3.** Nothing in this Regulation shall be construed as excluding the use of information technologies for the purposes of ensuring the drawing up, keeping, holding, maintenance and preservation of a physician's records and registers, providing the confidentiality of the information is not compromised, particularly in applying the provisions of Sections 60.5 and 60.6 of the Professional Code (R.S.Q., c. C-26) on access to documents and correction of information.

Decision 05-02-23, s. 3.

### **DIVISION II**

#### **STANDARDS GOVERNING THE RECORDS, REGISTERS, MEDICATIONS, SUBSTANCES, APPARATUS AND EQUIPMENT**

**§ 1. Records**

**4.** A physician shall create and maintain a single medical record per patient by place of practice for any person who consults him, who contacts him directly, who is referred to him or is contacted by him, in whatever place the consultation occurs.

A record must also be created and maintained:

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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- (1) for any person who participates in a research project as a research subject;
- (2) for any population or portion thereof for a public health intervention.

Physicians who practice in a group may draw up a single medical record per person.

Decision 05-02-23, s. 4; Decision 12-04-27, s. 5.

**5.** When drawing up a medical record, the physician shall enter sufficient information to describe the person who is the subject of the record, in particular, his name, his sex, his date of birth and his address as well as, where appropriate, his health insurance number.

The physician shall ensure the updating of the information provided in the first paragraph and enter on or add to the record all information and all relevant documents with respect to the person consulting him.

All documents added to or entries made in the record must be in French or English.

Decision 05-02-23, s. 5; Decision 12-04-27, s. 6.

**6.** The physician enters or includes in the medical record in particular the following information and documents:

- (1) the date of the consultation or of the entry in the record and, in the case of an emergency or critical situation, the time;
- (2) any relevant information relating to a risk of allergic reaction;
- (3) the medical observations noted following the anamnesis and the examination;
- (4) any information concerning an incident, an accident or a complication resulting from or ascertained in relation to the provision of care;
- (5) requests and reports of complementary examinations and consultations with another physician or requests for professional services;
- (6) the diagnosis and the differential diagnostics when the clinical condition of the patient is unclear;
- (7) prescriptions, reports, and where applicable, iconographic documents concerning preventive, diagnostic and therapeutic acts performed by the physician or entrusted to another identified person;
- (8) the operative procedure account of any surgical procedure written or dictated within 24 hours after this procedure;
- (9) the anaesthesia report, including the name of every person who participated in the anaesthesia and their respective roles;
- (10) the anatomopathology report;
- (11) legal authorizations;
- (12) the expert report and the list of documents and the relevant documents on which the report was based;

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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(13) a summary of the record containing an up-to-date summary of the information useful to a global assessment of the state of health of any patient who is in the physician's charge or who regularly consults him;

(13.1) the list of medications taken by the patient;

(13.2) a summary or report of any communication with the patient or a third party;

(14) any other relevant document concerning a person who consults the physician, including an indication of that person's participation in a clinical research project or in an intervention of public health operation.

Decision 05-02-23, s. 6; Decision 12-04-27, s. 7.

**7.** Besides the information and documents provided in sections 5 and 6, the medical record drawn up for any person who participates in a research project contains:

(1) the name of the research project, the identification of the research protocol, including the number of the protocol concerned, the identification of the principal investigator and his associates and the approval form in which the research ethics committee attests that the project respects the standards in force, in particular with respect to its composition and operating procedures;

(2) the consent form that the subject has duly signed or, when the subject is a minor or an incapable person, the consent form duly signed by a person authorized by law;

(3) a copy of the document that was given to the subject or, when the subject is a minor or an incapable person, that was given to the person authorized by law, attesting to his participation in a research project and containing the information allowing this subject to be assured follow-up by his attending physician or in an establishment, as appropriate;

(4) the observations regarding secondary effects that the subject reported during the research and measures taken in this respect;

(5) a final note indicating the end of the research project or explaining, if appropriate, the reasons for leaving the project and the information sent to the person.

Decision 05-02-23, s. 7; Decision 12-04-27, s. 8.

**8.** The physician shall sign or initial any entry or transcription he makes in any record or that is made by one of his duly authorized employees who is not a member of a professional order.

The physician shall make sure that any entry added to the medical record, by himself or one of his duly authorized employees, is legible.

Any entry in the record must be permanent. When the author of an entry wishes to correct it afterwards, he shall do so by adding a new entry to the record, indicating specifically that he has crossed out the initial entry, which must however remain legible along with the date of the modification.

Decision 05-02-23, s. 8; Decision 12-04-27, s. 9.

**9.** A physician who uses a computer medium for drawing up and maintaining some or all of a medical record shall:

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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- (1) use a digital signature;
- (2) use a directory separate from any other;
- (3) protect access to the data, specifically by using a security key and user authentication;
- (4) use a document management software designed so that the data already entered cannot be erased, replaced or altered;
- (5) use software allowing data to be printed;
- (6) store, in another location, an encrypted backup copy of data so collected.

Decision 05-02-23, s. 9; Decision 12-04-27, s. 10.

**10.** The physician shall use a system allowing the orderly filing and indexing of the medical records.

This system must allow the physician to identify records or parts of records that have been given to another physician or to the patient.

This section does not apply to a physician who practices in a centre operated by an establishment.

Decision 05-02-23, s. 10; Decision 12-04-27, s. 11.

**11.** The physician shall ensure the confidentiality of the medical records and restrict access to authorized persons only.

If there is any transmission of information contained in the medical records, including by technological means, the physician shall use methods, devices or systems protecting the confidentiality of this information.

Decision 05-02-23, s. 11; Decision 12-04-27, s. 12.

**12.** The physician shall maintain a medical record for a period of at least 5 years after the date of the last entry or inclusion in the record, as appropriate, or if it involves a research project, the date on which this project ends.

After this period, the record is considered inactive and may be destroyed.

When the physician practices in a centre operated by an establishment, the rules for conservation and destruction are those applicable to the user's record.

Decision 05-02-23, s. 12; Decision 12-04-27, s. 13.

**13.** In the case of an active record, any document less than 5 years old must be preserved, while any the portion dating from more than 5 years since the last entry or inclusion may be destroyed, except for:

- (1) anatomopathology reports;
- (2) endoscopy reports;
- (3) operative and anaesthesia procedure reports from major surgery;

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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Decision 05-02-23, s. 13; Decision 12-04-27, s. 14.

**14.** The physician shall ensure that security measures suited to ensuring the confidentiality of the personal information of a patient are respected when a medical record is destroyed.

Decision 05-02-23, s. 14; Decision 12-04-27, s. 15.

**15.** When a physician who provides the clinical follow-up of a patient changes place of practice and considers that the change could compromise this follow-up, he must communicate to the patient, by whatever means he considers most appropriate, the address of his new place of practice as well as his telephone number.

This message from the physician indicates, as appropriate:

- (1) that he has and still maintains the patient's medical record;
- (2) that he has entrusted the medical record to another physician whose name, address, place of practice and telephone number he mentions, specifying that the transfer of his records does not include any obligation to become a patient of the transferee.

Decision 05-02-23, s. 15; Decision 12-04-27, s. 16.

**16.** Physicians who practice medicine within a group and prepare a single medical record per person or population shall ensure that the documents and information contained in the record are accessible at all times to all physicians in the group.

Decision 05-02-23, s. 16.

**17.** When one of the physicians who practices within a group leaves the group, the other physicians shall, as appropriate:

- (1) continue to assume responsibility for keeping, holding and maintaining the medical record;
- (2) ensure, at the request of the person who is the subject of the record formulated in the year the physician departs, that the medical record or a copy of it is given to that physician, in which case no fee is charged to the person which has formulated the request. Unless there is a prior agreement, the copying expenses in this case are entirely paid by the physician leaving the group;
- (3) ensure, at the request of the person who is the subject of the record, that the medical record or a copy of it is given to another physician, in which case the expense is paid by the person making the request.

In the absence of a request to this effect by the person who is the subject of the record, when the physicians of the group recognize that the person who is leaving is the physician who has assured the management and follow-up of a person, the group shall give that physician, at his request, the original record or the relevant portion of the record. In such a case, unless there is a prior agreement, all of the expense is paid by the physician leaving the group. These expenses may not be claimed from the patient.

The other physicians retain for 5 years the list of records given to the physician leaving or the list of portions of files given.

Decision 05-02-23, s. 17; Decision 12-04-27, s. 17.

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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**18.** In the event of dissolution of the group, unless there is a prior agreement, the physicians designate, for each record, a physician who continues to assume responsibility for keeping, holding and maintaining it. The latter shall remit to each of the other physicians who were part of the group, evidence that he has obtained the record entrusted to him in the distribution, or the list of records, if more than one record was entrusted to him.

Failing an agreement or if such a designation is impossible, the physician who made the last entry or insertion in the record continues to assume responsibility for keeping, holding and maintaining that record.

Decision 05-02-23, s. 18.

### *§ 2. Registers*

**19.** A physician shall, for every place where he practices, create and maintain the following registers:

(1) a register in which are identified all the persons who have consulted him, including those he has examined at home or without an appointment, and in which is entered any surgical or invasive procedure performed during such consultation, excluding injections and infiltrations of medications, as well as the type of anaesthesia administered. When this information is contained in the appointment book or the consultation register of the Régie de l'assurance maladie du Québec, these may take the place of this register;

(2) a register in which are identified all the persons subject to a surgical or invasive procedure for which there has been a sending of a sample of a part of a human body or an object;

(2.1) a register in which are identified any incidents and accidents occurring during or in connection with an invasive medical procedure requiring anaesthesia, sedation or analgesia as well as the measures applied to prevent them;

(3) a register in which are identified all the persons he examines, treats or whose treatment he supervises as part of a research project;

(4) a register of benzodiazepines for parenteral use, controlled drugs and narcotics, in the meaning of the Controlled Drugs and Substances Act (S.C. 1996, c. 19), in which are entered the nature and quantity of these substances he has in his possession, the identity of all persons to whom he gives or administers these substances, the nature and the quantity of the substances he has disposed of and the method and date of such disposal.

Except for the register provided in paragraph (1) of the first paragraph, which must be maintained for a period of one year, the registers must be maintained for a period of 5 years.

The physician shall ensure that security measures specifically to ensure the confidentiality of the personal information of a patient are followed when a register is being destroyed.

When the physician practices in a centre operated by an establishment, the registers of the establishment serve as the register in the meaning of this section.

Decision 05-02-23, s. 19; Decision 12-04-27, a. 18.

### *§ 3. Medications, substances, apparatus and equipment*

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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**20.** A physician shall keep the apparatus, equipment, instruments and medications appropriate for his professional practice and that allow him to respond to emergency situations specific to the context of his professional practice. He shall store them safely.

This section does not apply to a physician who practices in a centre operated by an establishment.

Decision 05-02-23, s. 20; Decision 12-04-27, s. 19.

**21.** The physician who holds any medications, vaccines, biological products and tissues as well as flammable, toxic or volatiles products and substances, shall ensure to store them in a safe place according to the standards prescribed by the government authorities, or failing that, recommended by the manufacturer.

When medications are drugs or other substances within the meaning of the Controlled Drugs and Substances Act, the physician shall furthermore maintain them under lock and key.

Decision 05-02-23, s. 21.

**22.** The physician shall ensure compliance with recognized standards pertaining to the safe storage and elimination of the medications, vaccines, biological products and tissues, flammable, toxic or volatile products and substances as well as the diagnostic laboratory equipment he holds in his keeping, and shall perform a periodic verification of such materials.

Decision 05-02-23, s. 22.

**23.** A physician who does not practice in a centre operated by an establishment shall ensure that the apparatus he has is calibrated, standardized or inspected in accordance with applicable standards, in order to ensure their normal, safe and high-quality operation. He shall keep the documentation noting any inspection and maintenance measures performed.

The physician shall likewise ensure that the disinfection and sterilization methods used for the apparatus and instruments comply with recognized standards.

The equipment must be inspected periodically; the storage areas for the apparatus and products needed in emergencies must be labelled in a way to make them visible and accessible.

Decision 05-02-23, s. 23; Decision 12-04-27, s. 20.

### **DIVISION III**

#### **PRESERVATION, USE, MANAGEMENT, ADMINISTRATION, TRANSFER, PROVISIONAL CUSTODY AND DESTRUCTION OF EFFECTS**

##### *§ 1. General Provisions*

**24.** In this Division,

(a) “transferee” means a physician or a group of physicians to whom are transferred the effects of a physician at the time of a permanent cessation of medical practice;

(b) “provisional custodian” means a physician, group of physicians or the legal representatives of a deceased physician who are entrusted with his effects before a transferee is appointed, or during the temporary cessation of medical practice.

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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(c) “effects” means the items that the physician holds, maintains and owns for the practice of his profession, specifically the records, registers, medications, substances, apparatus, instruments and equipment, as well as items entrusted to him by a patient or another person.

Decision 05-02-23, s. 24; Decision 12-04-27, s. 21.

**25.** This Division does not apply to the effects kept, held and maintained by the employer of a physician contemplated under subsections 2, 3 and 4, when this physician is immediately replaced by another physician.

Decision 05-02-23, s. 25.

**26.** For the application of this Division:

(1) any agreement respecting the transfer or the provisional custody shall be made in writing; it shall indicate the name of the transferee or the provisional custodian, the address of the principal place of practice of his profession, and as the case may be, the addresses of the other places of practice of his profession, his telephone number, the reasons giving rise to the transfer or provisional custody, and the date it takes effect; a copy of the agreement shall be sent to the secretary of the Collège within thirty days on which it takes effect. This agreement may be made on a gratuitous or onerous basis; in the latter case, it may provide remuneration for the transferee or the provisional custodian by the physician or his successors;

(2) the transferee or the provisional custodian, as the case may be, shall take the necessary preservation measures in order to safeguard the interests of the patients and ensure compliance with rules pertaining to the confidentiality of information contained in the records and in the register.

He shall, in particular:

(a) keep a list of the records and registers that were transferred to him;

(b) take the necessary measures to ensure that the records and registers are preserved and destroyed in compliance with the rules in Division I, particularly in a manner guaranteeing their confidentiality;

(c) safely dispose of medications, vaccines, biological products and tissues, as well as flammable, toxic or volatile products and substances.

He shall also ensure that the persons contemplated in the records receive communication of this transfer or custody.

This communication may be conveyed by publishing a notice to the population of the territory where the physician was practising. It must contain the name of the transferee or provisional custodian, the address of the principal place of practice of his profession and as the case may be, the addresses of the other places of practice of his profession and his telephone number. The communication must specify his status as the transferee or provisional custodian of the effects of the physician, whose name is also mentioned, as well as the place where he practiced his profession. The secretary must be informed of this communication within 30 days of it being conveyed.

Decision 05-02-23, s. 26.

*§ 2. Death, revocation of the permit and striking off the roll of the Collège*



## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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**27.** When informed of the death of a physician who had not signed a transfer agreement or a provisional custody agreement, the secretary shall incite the successors of the deceased physician to find, as soon as possible, a transferee or a provisional custodian for the effects of that physician.

In the case of failure to do so, the Collège shall designate a transferee or a provisional custodian. The successors of the deceased physician may be the provisional custodians of his effects, if this custody is exercised under the supervision or responsibility of a physician.

Decision 05-02-23, s. 27.

**28.** The person whose permit is revoked or who is struck off the roll of the Collège shall submit the name of a transferee or provisional custodian to the secretary, within 30 days of the date on which the decision takes effect.

In the case of failure to do so, the Collège shall designate a transferee or a provisional custodian.

Decision 05-02-23, s. 28.

**29.** Section 28 notwithstanding, a physician whose is temporarily struck off the roll of members of the Collège for more than 30 days but for less than one year shall retain custody of them if he has not transferred them to a transferee or a provisional custodian and if the Collège does not consider such a transfer to be necessary for the protection of the public. In this case, he shall:

(1) immediately take the steps to ensure that the records and registers he kept and maintained in the practice of his profession are preserved in a way that respects their confidential nature;

(2) take the steps necessary, within 30 days of his being struck off the roll, so that persons who have consulted him may reach him in order to have transferred to another physician, if appropriate, a copy of the information and documents contained in their record;

(3) within 30 days of his being struck off the roll and in a secure way, dispose of medications, vaccines, products and biological tissues as well as inflammable, toxic or volatile products or substances he owned in the practice of his profession;

(4) prepare and maintain a list of records transferred indicating the name of the physicians to whom they have been transferred.

Section 28 notwithstanding, the physician who has been temporarily struck of the roll of members of the Collège for 30 days or less retains custody of his effects, unless the Collège considers designation of provisional custodian to be necessary for the protection of the public. He shall then take the steps provided in paragraph (1) of the first paragraph and section 42 applies with the appropriate adaptations.

Decision 05-02-23, s. 29; Decision 12-04-27, s. 22.

**30.** Section 27 shall apply when a physician contemplated under Section 29 dies.

Decision 05-02-23, s. 30.

*§ 3. Restriction or suspension of the right to engage in professional activities*

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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**31.** The physician whose right to engage in professional activities is restricted or suspended preserves, manages and administers the effects he kept, held and maintained in performing his activities. He may use them to the extent that he is permitted by his restriction, as applicable.

He shall, when the interests of the persons who have consulted him so require, entrust to a provisional custodian the preservation, use, management and administration of these effects to a transferee.

Decision 05-02-23, s. 31.

### *§ 4. Cessation of practice*

**32.** The physician who ceases to practice his profession and has not transferred his effects to a transferee or to a provisional custodian shall retain custody unless the Collège considers such a transfer to be necessary for the protection of the public. He shall therefore:

(1) notify the secretary of the expected date of the cessation of practice, at the latest 30 days before that date;

(2) have met the obligations stipulated in subparagraphs (1) to (3) of the first paragraph of Section 29 on the day his practice ceases;

(3) draw up and keep the list stipulated in subparagraph (4) of the first paragraph of Section 29 for a period of at least 5 years from the day his practice ceases;

(4) ensure that the records and registers in his keeping are destroyed in compliance with the rules set out in the second paragraph of Section 12 and Section 14.

Decision 05-02-23, s. 32.

**33.** *(Deleted.)*

Decision 05-02-23, s. 33; Decision 12-04-27, s. 24.

### *§ 5. Powers of the Collège*

**34.** In all cases in which the Collège cannot designate a transferee or provisional custodian, the secretary automatically becomes the provisional custodian. He has custody until the Collège designates a new provisional custodian or a transferee.

When the secretary becomes the provisional custodian of the effects, he takes the measures stipulated in subparagraph (2) of Section 26.

Decision 05-02-23, s. 34.

**35.** When the Collège designates a transferee or a provisional custodian, or the secretary acts in that capacity, the physician or his successors shall reimburse the fees and expenses assumed by the Collège.

These amounts are established by means of a general resolution from the Board of directors, in application of subparagraph *q* of the first paragraph of Section 86 of the Professional Code. They include fees paid to the transferee or to the provisional custodian, as well as the expenses for

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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preserving, managing, administering, transferring, assuring custody, destroying or providing notification of the effects.

Decision 05-02-23, s. 35; O.C. 938-2008

**36.** When a transfer or provisional custody cannot be carried out in such a way as to ensure protection of the public, the secretary may at any time become the provisional custodian of the effects.

Decision 05-02-23, s. 36.

### **DIVISION IV KEEPING OF PHYSICIANS' ROOMS OR OFFICES**

**37.** The physician shall organize or ensure the organization of the consulting room or the office in a way to ensure that conversations between him, his personnel and the person consulting him cannot be understood by others.

The arrangement of the consulting room or office must ensure the privacy of patients, in particular when the patients undress.

Decision 05-02-23, s. 37; Decision 12-04-27, s. 25.

**38.** The physician shall organize or ensure the organization of a waiting room designed to receive patients, which is part of the consulting room or the office.

Decision 05-02-23, s. 38.

**39.** The physician shall organize the consulting room or the office in such a way as to ensure, at all times, cleanliness, health and safety that is in keeping with his professional practice. In particular, he shall ensure that:

- (1) the premises are sufficiently ventilated, heated and lit;
- (2) a sink is stalled in the consulting room;
- (3) the bathroom is accessible to patients;
- (4) the methods of disinfecting and sterilizing instruments, apparatus or equipment are in compliance with recognized standards;
- (5) the rules for the prevention of infections are observed;
- (6) the premises, apparatus and equipment allow surgical procedures or invasive surgery to be performed safely.

Decision 05-02-23, s. 39.

**40.** The consulting room or the office shall include the proper furnishings for the physician's professional practice.

Decision 05-02-23, s. 40.

**41.** The physician shall arrange the consulting room or office in such a way that:

## **Regulation respecting records, places of practice and the cessation of practice by a physician**

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- (1) there is no clutter;
- (2) the equipment and apparatus may be used appropriately and safely;
- (3) respect for the standards provided in Division II is not compromised;
- (4) evacuation in an emergency is facilitated.

Decision 05-02-23, s. 41; Decision 12-04-27, s. 26.

**42.** The physician who leaves the consulting room or office for more than 5 consecutive business days shall take the necessary measures to inform the persons who are trying to reach him, of the duration of his absence and the procedure to follow in case of an emergency.

A message on the answering machine and a notice on the door of the consulting room or the office, if directly accessible to the public, are deemed satisfactory in meeting the obligation stipulated in the first paragraph.

Decision 05-02-23, s. 42.

**43.** In any location where he practices his profession, the physician shall supply, on request, proof that he is a member of the Collège des médecins du Québec.

Decision 05-02-23, s. 43.

### **DIVISION V FINAL PROVISIONS**

**44.** This Regulation shall replace the Règlement sur les effets, les cabinets de consultation et autres bureaux des médecins, approved by the Office des professions du Québec on December 12, 2002 according to an approval notice published in the Gazette officielle du Québec on December 27, 2002.

Decision 05-02-23, s. 44.

**45.** *(Omitted).*

Decision 05-02-23, s. 45.