



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 7
(2003, chapter 12)

An Act to amend the Act respecting health services and social services

**Introduced 17 June 2003
Passage in principle 28 October 2003
Passage 17 December 2003
Assented to 18 December 2003**

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EXPLANATORY NOTES

This bill amends the Act respecting health services and social services to specify, in a declaratory manner, that an intermediate resource or a family-type resource is deemed not to be in the employ of or an employee of the public institution that calls upon the services of the resource and that any agreement between them to determine the applicable rules of operation is deemed not to constitute a contract of employment.

The bill confers on the Minister of Health and Social Services the power to enter into an agreement with one or more bodies representing intermediate resources or family-type resources to determine, among other things, the general conditions according to which the activities of those resources are to be carried on and to establish various measures relating to compensation for their services. It also establishes criteria for determining the representativeness of such bodies.

The bill grants to the Minister, rather than to the regional boards, the power to determine the rates or scale of rates of compensation applicable to the services of intermediate resources.

Lastly, the bill contains a transitional provision that concerns the rates of compensation already determined by the regional boards, which will continue to be applicable until the Minister has determined new rates.

Bill 7

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by inserting the following section after section 302 :

“302.1. Notwithstanding any provision inconsistent herewith, an intermediate resource is deemed not to be in the employ of or an employee of the public institution that calls upon the services of the resource and any agreement or convention entered into between them to determine the rules and the terms and conditions that apply to their relationship as regards the activities and services expected from the intermediate resource is deemed not to constitute a contract of employment.”

2. Section 303 of the said Act is amended by replacing the second paragraph by the following paragraph :

“The Minister shall determine, with the approval of the Conseil du trésor, the rates or scale of rates of compensation applicable to each type of service listed in the classification established pursuant to the first paragraph.”

3. The said Act is amended by inserting the following sections after section 303 :

“303.1. The Minister may, with the approval of the Government, enter into an agreement with one or more bodies representing intermediate resources to determine the general conditions for the carrying on of the activities of all intermediate resources and the normative framework applicable to the living conditions of users placed under the care of intermediate resources, and to establish various measures, terms and conditions relating to the compensation for the services provided by intermediate resources.

Such an agreement shall bind the regional boards, the institutions and all intermediate resources, whether or not they are members of a body that entered into the agreement.

“303.2. A body is considered to represent intermediate resources if the membership of that body includes, on a Québec-wide scale, any resource that reflects the specific character of the body and either a minimum of 20% of the total number of such resources throughout Québec or the number of resources

required to meet the needs of at least 30% of the total number of users of such resources throughout Québec.

The same applies to a group of bodies representing intermediate resources that intervene only on a local or regional scale, provided that all of these bodies combined ensure the same representation as that required under the first paragraph.

A representative body must provide the Minister, on request, with up-to-date documents establishing its constitution, and the name and address of each of its members.

A group must provide up-to-date documents establishing its constitution, the names and addresses of the bodies it represents and the name and address of each member of each of those bodies.

When a representative body is a group of bodies, the group alone is authorized to represent each of the member bodies.

For the purposes of section 303.1, an intermediate resource may not be a member of more than one representative body other than a group.”

4. Section 304 of the said Act is amended by striking out paragraph 3.

5. Section 314 of the said Act is amended

(1) by replacing “303” in the first line by “302.1”;

(2) by striking out the text in the second, third and fourth lines that follows the word “resources”.

6. The rates or the scale of rates of compensation determined by a regional board pursuant to paragraph 3 of section 304 of the Act respecting health services and social services, as it read before 18 December 2003, and the provisions of section 200 of chapter 39 of the statutes of 1998 remain applicable as regards the services provided by intermediate resources until the Minister of Health and Social Services has determined new rates or a new scale of rates in accordance with the second paragraph of section 303 of the Act respecting health services and social services, as amended by section 2 of this Act.

7. The provisions of section 302.1 of the Act respecting health services and social services, enacted by section 1 of this Act, are declaratory. They apply to administrative, quasi-judicial and judicial decisions rendered before 18 December 2003.

8. This Act comes into force on 18 December 2003.