

NATIONAL ASSEMBLY

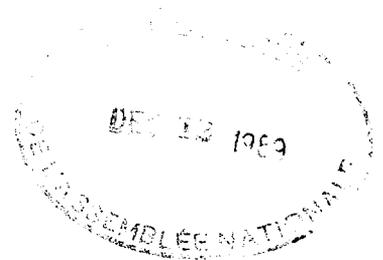
FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Draft Bill

An Act respecting health services and social services

**Presented by
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EXPLANATORY NOTES

This draft bill proposes a revision of the existing Act respecting health services and social services.

It sets forth the fundamental objectives of the health and social services system and the rights of all persons regarding health services and social services. It states the rules governing access to personal records and the confidential nature of such records.

Next, it deals with the organization of health and social services institutions. It specifies their role and defines the centres which they may operate. It also indicates the classes to which these centres may belong, and describes the status of institutions as either public or private.

This draft bill introduces a new method of organization of the boards of directors of institutions. Thus, it provides that one board of directors could administer various institutions situated in a particular territory, according to the categories or classes of centres operated by these institutions. It also specifies that certain institutions, because of the university role played by the centres they operate, would be administered by their own boards of directors. Lastly, it specifies who would be the members of these boards of directors and how they would be appointed, and lays down their operating procedure.

This draft bill reiterates the existing rules, adapted and amplified, on the organization of the human, material and financial resources of institutions.

The rules applicable to the executive directors of institutions are modified to take account of the new boards of directors. Henceforth, no executive director could hold office for longer than two consecutive four-year terms.

The functions of the various committees and councils instituted under the existing Act are retained and sometimes expanded,

particularly so in the case of the clinical staff advisory council and the beneficiaries' committee. Certain new committees are added, including the institutions committee consisting of the executive directors of all the institutions under the administration of the same board of directors. The principal function of this committee would be to coordinate inter-institutional dossiers and to advise the board of directors in this regard.

One chapter of this draft bill is specifically devoted to the intermediate resources, such as family-type resources, that may be recognized and developed by the institutions.

Other provisions of the draft bill repeat the existing rules governing the constituting documents of institutions, specifically with respect to their creation, amalgamation, conversion and dissolution. Provision is also made for the integration of one institution with another.

This draft bill also deals with community organizations. Because of the services they provide, these organizations could receive subsidies from the regional board or, in certain special cases, from the Minister.

New regional institutions would be created by this draft bill, namely, regional boards, which would succeed to the existing health and social services councils, and regional colleges.

The mission of the regional boards partly continues the existing mission of the health and social services councils, but is broader. In particular, it would include the organization and implementation, in the region, of the health and social services programs, and the allocation of budgets to the institutions and community organizations.

This draft bill provides, further, for the formation of regional colleges, specifying the number and origin of their membership. Their principal functions would be to elect the members of the board of directors of the regional board and to approve the regional priorities submitted by that board.

This draft bill also specifies the role and functions of the Minister and continues, with the necessary adjustments, the existing rules respecting permits, the financing of services, regulation and supervision. In addition, the Minister would henceforth be authorized to certify certain centres or homes for the aged and allocate funds to them to allow persons residing there to receive certain health services and social services.

This draft bill grants administrative and regulation-making powers to the Government. It also contains various penal provisions.

In addition, it establishes the procedure whereby the existing administrations of institutions and health and social services councils would be replaced, particularly with regard to the boards of directors of institutions and with regard to the replacement of such councils by regional boards. Lastly, the draft bill proposes the enactment of other transitional provisions, as well as final provisions and provisions of a purely technical nature.

Draft Bill

An Act respecting health services and social services

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

GENERAL PROVISIONS

CHAPTER I

OBJECTIVES OF THE HEALTH SERVICES AND SOCIAL SERVICES SYSTEM

1. The goal of the health services and social services system is to improve the physical, mental and social capacity of persons to act in their community and to carry out their intended roles in an acceptable manner for themselves and for the groups to which they belong.

2. The health services and social services contemplated by this Act shall be provided

(1) to reduce mortality caused by illness and trauma, to reduce morbidity and disability, to act on health determining factors, to promote rehabilitation and to reduce the impact of problems threatening to mental stability and personal development and autonomy;

(2) to make quality services continuously accessible to all persons, in order to meet the physical, mental and social needs of individuals, families and groups;

(3) to meet the needs of the population, taking into account the peculiar geographical, linguistic, sociocultural and socioeconomic conditions of each region;

(4) to favour access for the various cultural communities of Québec to health services and social services in their own languages.

3. For the aforementioned purposes, the object of the plan established by this Act is

(1) to foster the participation of the population and of groups within it in the founding, administration and development of services;

(2) to ensure adequate sharing of responsibilities among public bodies, community organizations and other intervening parties in the field of health and social services;

(3) to foster the participation, in the various sectors of activity of the community, of all intervening parties whose action may have an influence on health and welfare;

(4) to ensure the presence of qualified human resources and to favour their participation in managing and selecting guidelines for institutions;

(5) to favour the apportionment, in the most equitable and rational manner possible, of human, material and financial resources among services, institutions and regions;

(6) to promote research and teaching, the better to meet the needs of the population;

(7) to provide for the most effective and efficient health services and social services possible.

CHAPTER II

RIGHTS IN RESPECT OF HEALTH SERVICES AND SOCIAL SERVICES

4. Every person has a right to receive scientifically, humanly and socially adequate health services and social services on a continuing and personal basis, taking into account the organization and human, material and financial resources of the institutions dispensing them.

5. Every person has a right to be informed of the existence of the health and social services and resources available in his territory and of the conditions governing access to them.

6. Before giving his consent to medical or other care, a person or his representative has a right to be informed of his state of health to be acquainted with the various options open to him and of the risks and consequences generally associated with each option.

7. Every person whose life or bodily integrity is in danger has a right to receive the care required by his condition. Every establishment or physician requested to provide such care has an obligation to do so.

Consent to medical care is not required in case of emergency if the life of the person is in danger, unless the care contemplated is unusual and useless and its consequences may be intolerable for the person.

Similarly, consent is not required in case of emergency if the bodily integrity of the person is in danger and the person's consent is not obtainable in due time.

8. Every person is entitled to participate in the preparation of the program of intervention contemplated in section 149.

9. Every person who must receive extended health services and social services requiring the intervention of several resources and who belongs to the classes of beneficiaries determined by regulation has a right to a personal program of services.

The personal program of services shall be prepared by the institution that provides the greater part of the services concerned, in collaboration with the beneficiary or his representative, as the case may be. It shall indicate the various institutions or bodies concerned, the services that will be provided by each of them and the name of the person responsible for coordinating the services as a whole.

The plan shall also contain a timetable for its evaluation and revision. It may be modified at any time to take account of new circumstances.

10. The right of a person or his representatives to exercise a remedy against an institution, its directors, employees or servants or against a professional for malpractice or any other fault cannot be renounced.

The same applies in respect of intermediate resources.

11. Every person is entitled to be accompanied and assisted by the person of his choice when he wishes to take steps or to file a complaint relating to any service provided by an institution or by any person working therein.

12. An institution shall not cease to accommodate a beneficiary who has been discharged unless his condition warrants his return home or he is assured of a place in a centre operated by another institution or in a family-type resource where he will be able to receive the services required by his condition.

Subject to the first paragraph, immediately upon being discharged by a physician or dentist, the beneficiary must leave the centre accomodating him.

13. Every English-speaking person has a right to receive health services and social services in the English language, taking into account the organization and human, material and financial resources of the institutions providing such services and to the extent provided by an access program contemplated in section 241.

14. Subject to any other applicable provision of law, nothing in this Act shall restrict the freedom of a resident of Québec to choose the professional or the institution from whom or which he wishes to receive health services or social services or the freedom of a professional to agree or refuse to treat that person.

CHAPTER III

CONFIDENTIALITY OF MEDICAL OR SOCIAL RECORDS

15. The medical or social record of a beneficiary of an institution is confidential. No person may give or take verbal or written communication of it or otherwise have access to it, even for the purposes of an inquiry, except with the express or implied permission of the beneficiary, or on the order of a court or of the coroner in the exercise of his duties, or where an Act or regulation provides that such communication is necessary for its administration.

A professional, however, may examine such a record for purposes of study, teaching or research, notwithstanding subparagraph 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), with the permission of the director of professional services of the institution which keeps the

record or, failing such a director, with the permission of the executive director granted in accordance with the criteria established in section 125 of the said Act.

A beneficiary has a right to require an institution to send to another institution, or to a physician or dentist designated by him, a copy, extract or abstract of or from his record, in accordance with the regulations.

Where an institution provides a beneficiary with nominative information of a medical or social nature concerning him contained in his record, it shall, at the request of the beneficiary, provide him with the assistance of a qualified professional to help him to understand the information.

16. A beneficiary fourteen years of age or over has a right of access to his medical or social record and no institution may deny him access to it except for the moment if, in the opinion of his attending physician, that would likely be seriously prejudicial to his health. In such a case, the institution, on the recommendation of the attending physician, shall determine the time at which the record or the information contained therein may be communicated to the beneficiary, and advise him thereof.

A beneficiary to whom an institution refuses, for the moment, access to his record or to nominative information contained therein may, by way of a motion, apply to a judge of the Court of Québec or to the Commission des affaires sociales established by the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) for a review of the decision of the institution. He may also address himself to the Commission d'accès à l'information.

Notwithstanding section 83 of the Act respecting Access to documents held by public bodies and the Protection of personal information, no beneficiary has the right to be informed of the existence or to take communication of nominative information concerning him given by a third person which is contained in his record, where knowledge of the existence or the communication thereof would make it possible to identify the third person, unless that person has agreed in writing to the disclosure of the information and of its source to the beneficiary.

The third paragraph does not apply where the nominative information was furnished by a health or social services professional or by a member of the staff of a health or social services institution.

17. No beneficiary under fourteen years of age has a right, within the scope of an application to have information communicated to him or rectified, to be informed of the existence or to take communication of nominative information of a medical or social nature concerning him contained in the record held by an institution.

It is not the object of the first paragraph to restrict normal communication between a beneficiary and a health or social services professional or a member of the staff of a health or social services institution.

This section applies notwithstanding the first paragraph of section 94 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

18. The holder of parental authority has a right of access to the medical or social record of a beneficiary who is a minor.

An institution shall refuse, however, to give the holder of parental authority access to the record of a beneficiary who is a minor where

(1) the beneficiary is under fourteen years of age, an intervention within the meaning of section 2.3 of the Youth Protection Act (R.S.Q., chapter P-34.1) has been made in his regard or a decision respecting him has been made under the said Act, and the institution, after consulting the director of Youth Protection, determines that the communication of the record of the beneficiary to the holder of parental authority is or could be prejudicial to the physical or mental health of the beneficiary;

(2) the beneficiary is fourteen years of age or over and, after being consulted by the institution, refuses to allow his record to be communicated to the holder of parental authority, and the institution determines that the communication of the record of the beneficiary to the holder of parental authority is or could be prejudicial to the physical or mental health of the beneficiary.

This section applies notwithstanding the second paragraph of section 53, section 83 and the first paragraph of section 94 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

19. The following persons have a right of access to the medical or social record of a deceased beneficiary:

(1) the heirs and legal representatives of the beneficiary;

(2) the person entitled to the payment of a benefit under an insurance policy on the life of the beneficiary.

Notwithstanding the first paragraph, the heirs of a beneficiary shall not be given communication of the record of the beneficiary except for the purposes of exercising their rights as heirs.

Similarly, no person entitled to the payment of a benefit under an insurance policy on the life of a beneficiary may be given communication of the record of the beneficiary except to establish his right to the benefit.

Persons related by blood to a deceased beneficiary may be given communication of the information contained in his record to the extent that this communication is necessary to verify the existence of a genetic or a hereditary disease.

The spouse, the ascendants and the direct descendants of a deceased beneficiary may be given communication of information relating to the cause of death of the beneficiary.

This section applies notwithstanding the first paragraph of section 94 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

20. A person contemplated in section 18 or section 19 who is denied access to the record of a beneficiary by an institution may exercise the remedies provided in the second paragraph of section 16.

TITLE II

INSTITUTIONS

CHAPTER I

ROLE OF INSTITUTIONS AND INSTITUTIONAL CENTRES

21. The mission of the institutions is to provide beneficiaries with continuing and accessible quality health services and social services and, to that end, to manage their human, material and financial resources efficiently and to cooperate with other intervening parties in the field of health and social services.

22. Every person to whom health services or social services are provided by an institution is a beneficiary for the purposes of this Act.

23. The following persons are considered representatives of beneficiaries in the cases provided by this Act:

(1) the holder of parental authority in respect of a beneficiary who is a minor;

(2) the curator, spouse, father, mother, child of full age or other relative of an incapable beneficiary of full age;

(3) the representative designated by a beneficiary of full age whose state of health does not allow him to perform certain acts provided for in this Act.

24. “Institution” means a corporation expressly authorized by its constituting document to offer the services of a centre belonging to one or several of the following categories:

- (1) a local community service centre;
- (2) a hospital;
- (3) a social service centre;
- (4) a residential and extended care centre;
- (5) a rehabilitation centre.

“Institution” also means any other corporation which, to carry on any of its activities, must hold an operating permit under this Act.

25. A natural person or association of natural persons offering the services of a centre of the category referred to in subparagraph 2, 4 or 5 of the first paragraph of section 24 is deemed to be an institution.

26. A person operating a professional’s private consulting office alone or with others is not an institution.

A professional’s private consulting office is a facility, situated elsewhere than in a centre contemplated in this chapter, in which one or more physicians, dentists or other professionals regularly practise their profession individually or as a group, privately and solely on their own account.

27. A local community service centre is a facility in which everyday health services and social services, home-care services and sanitary and social prevention and action services are provided to the community.

To that end, the centre shall receive persons requiring such services for themselves or their families, evaluate their needs, provide

them with the services at the centre itself or at home or, where necessary, refer them to the centres, community organizations or persons best able to assist them.

28. A hospital is a facility to which persons are admitted for purposes of medical diagnosis, medical treatment and physical or mental rehabilitation.

To that end, the hospital shall receive persons requiring such services and evaluate their needs, provide services to in-patients, to out-patients or at home, or, where necessary, refer them to the centres, community organizations or persons best able to assist them.

29. A social service centre is a facility in which relief is provided to persons and families facing social difficulties, particularly by making prevention, social emergency, psychosocial consulting and treatment, rehabilitation, adaptation, adoption, mediation or placement services available to them.

To that end, the centre shall receive persons requiring such services for themselves or their families, evaluate their needs, provide the necessary services or, where necessary, refer them to the centres, community organizations or persons best able to assist them.

30. A residential and extended care centre is a facility in which medical and nursing care, day care, accommodation, assistance and rehabilitation, observation and maintenance services are provided to persons who, by reason of their loss of autonomy, can no longer live in their natural environment, but does not include a facility maintained by a religious institution to receive its members or followers.

31. A rehabilitation centre is a facility in which in-patient, out-patient or home-care services of adjustment, rehabilitation and reintegration are provided to persons whose condition requires that they be protected, treated or kept in protected residence, by reason of their physical or mental deficiencies or their personality, psychosocial or family difficulties, but does not include a facility maintained by a religious institution to receive its members or followers.

32. Hospitals belong to one or another of the following classes :

- (1) general and specialized hospitals;
- (2) university hospitals;
- (3) mental hospitals.

33. The Minister shall classify as a general and specialized hospital any hospital that offers all the basic medical services and specialized medical services.

34. The Minister may classify as a university hospital a hospital which, besides offering the services described in section 33, dispenses highly specialized services in several medical disciplines, evaluates health technologies, provides medical instruction in several specialities and manages a research centre or research institute recognized by the Fonds de la recherche en santé du Québec established by section 65 of the Act to promote the advancement of science and technology in Québec (R.S.Q., chapter D-9.1).

35. The Minister shall classify as a mental hospital a hospital whose main function is to provide services contemplated in section 33 to persons with problems of mental illness.

36. Rehabilitation centres belong to one or another of the following classes, depending on the type of users they serve:

- (1) rehabilitation centres for mentally deficient persons;
- (2) rehabilitation centres for physically handicapped persons;
- (3) rehabilitation centres for persons addicted to drugs;
- (4) rehabilitation centres for young persons with adjustment problems;
- (5) rehabilitation centres for young mothers with adjustment problems.

37. The Minister may recognize as a university institute a centre which, in addition to offering the services characteristic of such a centre, provides the most advanced services in a special field, takes part in the training of professionals working in the field of health or social services, carries on research and evaluates technologies or modes of intervention.

CHAPTER II

STATUS OF INSTITUTIONS

38. Institutions are public or private.

39. The following are public institutions:

(1) an institution constituted as a non-profit corporation before 1 June 1972, irrespective of the Act under which its constituting document was granted, and contemplated in sections 378 to 382;

(2) an institution constituted as a non-profit corporation after 1 June 1972 and continued in existence in accordance with sections 374 to 377;

(3) an institution incorporated under this Act;

(4) an institution resulting from an amalgamation or conversion carried out under this Act.

40. The following are private institutions:

(1) an unincorporated institution;

(2) an institution constituted as a profit-making corporation;

(3) an institution constituted as a non-profit corporation whose object is to operate a centre belonging to any of the categories mentioned in subparagraphs 2, 4 or 5 of the first paragraph of section 24, provided the centre does not accommodate more than 20 beneficiaries.

41. A private institution under agreement is an institution contemplated in section 326.

CHAPTER III

BOARDS OF DIRECTORS OF PUBLIC INSTITUTIONS

DIVISION I

ORGANIZATION

§ 1.—*Establishment*

42. Every public institution shall be represented and its affairs shall be administered by a board of directors established in accordance with this Act.

43. A board of directors shall be established for all the institutions whose head offices are in the territory of a local community service centre and which operate the following centres:

(1) a local community service centre;

(2) a hospital classified as a general and specialized hospital or a mental hospital;

(3) a residential and extended care centre;

(4) a rehabilitation centre classified as a rehabilitation centre for the mentally deficient, a rehabilitation centre for the physically deficient or a rehabilitation centre for drug addicts.

The board of directors shall administer the affairs of each of the institutions.

44. A board of directors shall be established for all the institutions whose head offices are situated in the territory of a social service centre and which operate the following centres:

(1) the social service centre;

(2) a rehabilitation centre classified as a rehabilitation centre for young persons with adjustment problems or a rehabilitation centre for young mothers with adjustment problems.

The board of directors shall administer the affairs of each of the institutions.

45. The Government shall determine the boundaries of local community service centres and of social service centres.

46. Where an institution serves more than one territory or more than one category of users, the Minister, after consulting the regional board of management of each territory served, shall determine the territory to which the institution belongs.

47. The Government may, on the recommendation of the regional board of management of the territory, change the boundaries of a territory of a local community service centre and indicate the institutions administered by the boards of directors having jurisdiction over each institution in the new territories where the size of the territory or the number of centres situated therein, the density of the population served or the linguistic and sociocultural characteristics of a part of that population warrant it.

48. A board of directors shall be established for each institution operating a hospital classified as a university hospital. Notwithstanding sections 43 and 44, the same applies to an institution operating a centre recognized as a university institute.

The board of directors shall also administer every other centre operated by such an institution.

§ 2.—*Composition of the board and mode of appointment of its members*

49. The board of directors of the institutions of each territory of a local community service centre shall be composed of the following persons, who shall be members of the board as and when they are elected or appointed:

(1) four persons elected at the public meeting held pursuant to section 52;

(2) two persons appointed by the regional board of management;

(3) two persons appointed by the Minister;

(4) two persons appointed by the members contemplated in subparagraphs 1 to 3, one chosen on the recommendation of the committees of beneficiaries of the institutions from among the members of these committees and the other on the recommendation of the regional county municipalities in the territory or, if none, of the cities or towns situated therein;

(5) three persons appointed by the members contemplated in subparagraphs 1 to 4.

Where none of the persons appointed or elected pursuant to subparagraphs 1 to 4 of the first paragraph is sixty-five years of age or over, one of the persons contemplated in subparagraph 5 of the first paragraph must be sixty-five years of age or over.

However, where an institution is a corporation contemplated in paragraph 1 of section 39 and owns the whole or part of the immovable assets it operates, one of the persons contemplated in subparagraph 1 of the first paragraph shall be appointed by the members of the institution. Not more than three persons may be appointed in that manner. Where there are more than three institutions of this nature, three persons shall be elected by a meeting composed of persons each representing one of these institutions.

50. The board of directors of the institutions in each territory of a social service centre shall be composed of the following persons, who shall be members of the board as and when they are elected or appointed:

(1) four persons elected at the public meeting held pursuant to section 52, two being relatives of a beneficiary of one of the institutions;

(2) two persons appointed by the regional board of management;

(3) one person appointed by the Minister;

(4) four persons appointed by the members contemplated in subparagraphs 1 to 3, one being appointed after consultation with bodies representative of the justice sector and another after consultation with bodies representing the school sector.

However, where an institution is a corporation contemplated in paragraph 1 of section 39 and owns the whole or part of the immovable assets it operates, one of the persons contemplated in subparagraph 1 of the first paragraph shall be appointed by the members of the institution. Not more than two persons may be appointed in that manner. Where there are more than two institutions of this nature, two persons shall be elected by a meeting composed of persons each representing one of these institutions.

51. The board of directors of each institution recognized as a university institute or of each hospital classified as a university hospital shall be composed of the following persons, who shall be members of the board as and when they are elected or appointed:

(1) three persons elected at the public meeting held pursuant to section 52;

(2) two persons appointed by the regional board of management;

(3) two persons appointed by the Minister;

(4) four persons appointed by the members contemplated in subparagraphs 1 to 3, one being appointed on the recommendation of the universities in the territory and another on the recommendation of the foundation related to the institution, where such is the case.

Where none of the persons appointed or elected pursuant to subparagraphs 1 to 3 of the first paragraph is sixty-five years of age or over, one of the persons contemplated in subparagraph 4 of the first paragraph must be sixty-five years of age or over.

However, where an institution is a corporation contemplated in paragraph 1 of section 39 and owns the whole or part of the immovable

assets it operates, two of the persons contemplated in subparagraph 1 of the first paragraph shall be appointed by the members of the institution.

52. Every three years, each board of directors shall, on such day in the month of May as it determines, hold a public meeting of the population served by every institution under its administration to elect the persons contemplated in subparagraph 1 of the first paragraph of section 49, in subparagraph 1 of the first paragraph of section 50 or in subparagraph 1 of the first paragraph of section 51, as the case may be.

The procedure for calling the meeting and for holding the election thereat shall be determined by by-law of the regional board.

53. The regional board shall take whatever measures are necessary for the carrying out of subparagraphs 4 and 5 of the first paragraph of section 49, of subparagraph 4 of the first paragraph of section 50 or of subparagraph 4 of the first paragraph of section 51, as the case may be.

54. Where the election or appointment of a member pursuant to this subdivision does not take place, the member shall be appointed by the regional board.

55. Any interested person may bring an application before the Commission des affaires sociales to contest or annul any election held pursuant to this subdivision.

The Commission may confirm or annul the election or declare another person duly elected.

Where the Commission annuls the election of a member without declaring another person duly elected, a new election must be held without delay.

A member so elected shall remain in office for the unexpired portion of the term of office of the member whose election is annulled.

§ 3.—*Term of office and eligibility of members*

56. Members of a board of directors shall remain in office until they are reappointed, reelected or replaced.

57. The following persons cannot be members of a board of directors:

(1) minors;

(2) public servants of the Ministère de la Santé et des Services sociaux or persons remunerated by the Régie de l'assurance-maladie du Québec established under the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5), a regional board, an institution or any other body dispensing services related to the field of health and social services;

(3) interdicted persons;

(4) persons in close treatment or incapable of administering their property within the meaning of the Mental Patients Protection Act (R.S.Q., chapter P-41);

(5) persons convicted in the preceding five years of an offence or crime that may entail up to three years of imprisonment;

(6) persons forfeited of office as members of the board of directors of an institution or regional board in the preceding three years, pursuant to paragraph 2 of section 342;

(7) persons convicted of an offence against this Act or the regulations in the preceding three years.

Scholarships, subsidies or sums of money granted or paid under a research contract are not deemed to be remuneration for the purposes of subparagraph 2 of the first paragraph.

58. A person ceases to be a member of a board of directors upon becoming disqualified for appointment or election as such.

59. Any member of a board of directors may resign by transmitting written notice of intention to the secretary. A vacancy is created upon the acceptance of the resignation by the board of directors.

60. Every member of a board of directors having a direct or indirect interest in an undertaking which causes the personal interest of the member to conflict with that of the board or of any of the institutions under its administration shall, under pain of forfeiture of office, disclose that interest in writing to the board of directors and abstain from sitting on the board and from participating in any deliberation or decision on any question relating to the undertaking in which the member has that interest.

The fact that a member of the board of directors is a minority shareholder of a corporation operating an undertaking contemplated

in this section does not constitute a conflict of interest if the shares of the corporation are listed on a recognized stock exchange and if the member of the board of directors concerned is not an insider of the corporation within the meaning of section 89 of the Securities Act (R.S.Q., chapter V-1.1).

61. No remedy for forfeiture of office contemplated in section 60 may be taken except by the regional board concerned, by the institution concerned or by the Minister.

62. Any vacancy occurring less than two years after the election or appointment of a member of a board of directors shall be filled within a reasonable time in accordance with the mode of election or appointment prescribed for the election or appointment of the member to be replaced, but only for the unexpired portion of the term of office of that member.

Any vacancy occurring more than two years after the election or appointment shall be filled, for the unexpired portion of the term of office of the member to be replaced, by resolution of the members of the board remaining in office. Where the board fails to fill the vacancy, the regional board of management shall do so.

Absence from the number of meetings of the board of directors determined in the internal management by-laws of the board constitutes a vacancy, in the cases and circumstances prescribed therein.

63. Members of a board of directors are not remunerated. However, they are entitled to the reimbursement of expenses made in the performance of their duties on the conditions and to the extent determined by the Government.

§ 4.—*Chairman, vice-chairman and secretary*

64. Each year, the members of a board of directors shall elect from among themselves a chairman and a vice-chairman, who shall also act as president and vice-president, respectively, of each institution under the administration of the board.

Where the chairman is absent or temporarily unable to act, the vice-chairman shall perform his duties.

65. The executive director of one of the institutions administered by the board of directors of the institutions in the territory of a local community service centre shall be appointed by the board of directors as its secretary.

As secretary of the board of directors, the executive director may take part in the deliberations of the board but is not entitled to vote, and has a term of office of one year, not renewable.

The first and second paragraphs apply to the board of directors of the institutions in the territory of a social service centre.

66. The executive director of an institution operating a university hospital or an institution recognized as a university institute is *ex officio* secretary of the board of directors of the hospital or institute.

The executive director may take part in the deliberations of the board of directors but is not entitled to vote.

DIVISION II

PARTICULAR OBLIGATIONS

67. The members of the board of directors shall, within the scope of the powers conferred on them, exercise the care, prudence, diligence and skill that a reasonable person would exercise in similar circumstances; they must also act with honesty, loyalty and in the interest of the institution or, as the case may be, of the group of institutions administered by them and of the population served.

68. Every institution must purchase, according to market conditions, liability insurance for the benefit of the members of the board of directors and their successions to cover any liability that may be incurred by such persons in the performance of their duties.

69. Every institution shall assume the defence of any member of the board of directors who is prosecuted by a third person for an act done in the performance of his duties.

In penal or criminal proceedings, however, the institution shall assume the payment of the expenses of a member of the board of directors only where he had reasonable grounds to believe that his conduct was in conformity with the law, or if he has been freed or acquitted or if the proceedings have been withdrawn or dismissed.

70. Every board of directors must, at least once a year, hold a public information meeting to which it shall invite the population served by every institution it administers.

The members of the board of directors must then make public, in accordance with the regulations, such items of information as are

prescribed with respect to the financial statements of every institution administered by the board of directors. They must also answer questions put to them with respect to the financial statements and the services provided by each of the institutions.

The procedure for calling and conducting the meeting shall be determined by by-law of the regional board.

71. The board of directors of an institution situated in the territory of a local community service centre or in the territory of a social service centre may hold several public information meetings if it considers that the size of the territory, the density of the population invited to the meeting or the nature of the services provided to the beneficiaries so justifies.

72. The board of directors of the institutions in the territory of a local community service centre or in the territory of a social service centre must invite the executive director of the institution concerned to take part in the deliberations of the board of directors each time it discusses matters or makes decisions regarding that institution.

73. In the case of an institution described in paragraph 1 of section 39 which owns all or part of the immovable assets it operates, the board of directors must notify the members of the institution of any measure that may entail a reduction in the value of the immovable assets or a change in the destination of the institution.

In no case may the board of directors alienate immovable assets of such an institution or change the destination thereof without the approval of at least two-thirds of the votes given by the members of the institution.

74. In the case of an institution described in paragraph 4 of section 39, the board of directors shall determine, by by-law, the conditions of admission for the members of the institution, their rights and obligations and the criteria or conditions relating to their resignation, suspension or exclusion.

The by-law must be submitted to the members of the institutions for approval.

DIVISION III

PROCEDURE

§ 1.—*Sittings*

75. The procedure for calling sittings of the board of directors shall be determined by by-law of the board of directors and submitted to the regional board for approval.

The board of directors shall meet at least ten times a year at such times of the year as it determines. It must, however, meet at the request of the chairman or at the request, in writing, of one-third of its members in office.

The board of directors must, at least twice a year, invite the clinical staff advisory council to discuss with it the recommendations made by the council and the report of its activities.

It shall do the same in respect of the council of physicians, dentists and pharmacists.

76. The sittings of a board of directors are public; the board of directors may, however, order that a sitting be held *in camera* to examine a matter that may cause prejudice to a person.

The chairman shall conduct the sittings of the board of directors.

77. One-half of the members in office of a board of directors, including the chairman or vice-chairman, constitutes a quorum at sittings of the board.

78. Subject to section 99, decisions are taken by a majority of the votes given by the members present. In the case of a tie, the chairman or, in his absence, the vice-chairman has a casting vote.

A member who abstains from voting on a motion is deemed to have voted against it.

79. In emergencies, resolutions in writing signed by all the members of the board of directors have the same force as if they had been passed at a sitting.

The resolutions shall be kept with the minutes of the deliberations of the board of directors.

§ 2.—*Committees of the board of directors*

1.—Executive committee

80. A board of directors may, by by-law, establish an executive committee and determine the functions, powers and duties thereof.

The executive committee shall be composed of the chairman of the board of directors, who shall chair the committee, and of at least four members of the board of directors appointed each year by the members of the board of directors at the annual meeting.

81. The secretary of the board of directors may take part in the deliberations at sittings of the executive committee, but he has no vote.

82. A person ceases to be a member of the executive committee upon becoming disqualified to sit on the committee.

83. Subject to section 82, the members of the executive committee remain in office notwithstanding the expiry of their terms until they are reappointed or replaced, provided they remain members of the board of directors.

84. Any vacancy in the office of member of the executive committee shall be filled, for the unexpired portion of the term, in accordance with the mode of appointment prescribed for the appointment of the member to be replaced.

2.—Institutions committee

85. The board of directors of the institutions situated in the territory of a local community service centre or in the territory of a social service centre shall establish an institutions committee composed of all the executive directors of the institutions and, in the absence of any executive director, of a senior executive designated by the board.

The secretary of the board of directors is *ex officio* the chairman of the institutions committee.

86. The functions of the institutions committee shall be

(1) to ensure follow-up of decisions of the board of directors on matters requiring inter-institutional coordination;

(2) to advise the board of directors on the establishment of integrated policies for the processing of the general dossiers of the institutions such as capital assets, human resources, information systems and budget control;

(3) to advise the board of directors on the possible impact of decisions regarding common dossiers on a particular institution;

(4) to advise the board of directors on the possible impact of a decision regarding a particular institution on another institution administered by the board.

A person ceases to be a member of the institutions committee upon becoming disqualified to sit on the committee.

The board of directors shall determine the rules governing the procedure of the institutions committee.

3.—Other committees

87. A board of directors may establish any other committee it considers necessary for the proper operation of any institution it administers.

The board shall determine, by by-law, the composition and functions of a committee established under this section and the terms and conditions regarding the setting up, operation and funding of such a committee.

§ 3.—*Documents and archives*

88. The minutes of the sittings of the board of directors, approved by it and signed by the chairman and the secretary, are authentic. The same rule applies to copies or extracts certified true by the chairman or the secretary.

The minutes shall indicate which institutions are bound by a decision of the board of directors. Failing such indication, all the institutions are deemed bound.

89. Every institution shall hold and keep at its head office a register of the name, address and occupation of every member of the board of directors and, where applicable, of every member of the institution, and the books containing the by-laws of the institution, the minutes of the sittings of the board of directors and, where applicable, of the executive committee and of the meetings of the members of the institution.

90. The secretary of the board of directors of the institutions in the territory of a local community service centre or in the territory of a social service centre must transmit to any institution, on request, a copy of any document in the archives of the board of directors which concerns that institution.

91. No act, document or writing binds an institution unless it is signed by the chairman, the director general or, to the extent determined by by-law of the board of directors, by a member of the staff of that institution.

CHAPTER IV

ORGANIZATION OF HUMAN RESOURCES OF INSTITUTIONS

DIVISION I

DIRECTORS

§ 1.—*Executive director*

92. The executive director of a public institution shall be appointed by the board of directors.

The executive director of a private institution shall be appointed by the holder of the operating permit for the institution.

93. The executive director of a public institution, under the authority of the board of directors, is responsible for the administration and operation of the institution. He shall set up a mode of organization designed to provide health services or social services to the public, taking into account the vocation of the institution.

He shall, in particular,

(1) see to the implementation of the resolutions of the board of directors, and of the executive committee where such is the case;

(2) prepare and submit the organization plan of the institution to the board of directors for approval;

(3) prepare the budget of the institution, transmit it to the board of directors and see that expenditures conform with the budget as approved;

(4) except for the persons referred to in the second paragraph of section 128 or the pharmacists and the head of the pharmacy

department of a hospital and except as otherwise provided by regulation for other centres, select and engage the members of the staff, including executives other than senior executives, and make recommendations to the board of directors as to the engagement and appointment of senior executives in accordance with the regulations under section 352;

(5) see to the adoption and operation of an effective system of management and supervision for the preservation and use of the resources of the institution;

(6) sign, on behalf of the institution, all contracts authorized by the board of directors, or by the executive committee where such is the case;

(7) prepare, together with the staff of the institution, the annual plan of action for staff development;

(8) foster the participation of the human resources in the management of the institution and the organization of work;

(9) transmit to the heads of the clinical department any information on the administrative and financial consequences of the activities of the physicians and dentists in their departments;

(10) meet periodically with the beneficiaries' committee, if any, to inform it as to the general administration of the institution.

94. Section 93 applies, adapted as required, to the executive director of a private institution.

95. The executive director of a public institution shall not be appointed for more than two terms of not over four years each.

96. The executive director of a public institution shall not, under pain of forfeiture of office, have a direct or indirect interest in an enterprise placing his personal interest in conflict with that of the institution. However, forfeiture of office is not incurred if such an interest devolves to him by succession or gift, provided that he renounces it or that, having informed the board of directors, he disposes of it within the time fixed by the board.

An executive director who is forfeited of office becomes disqualified from holding any office or employment as an executive in any public institution or regional board for the period of disqualification determined in the judgment, not exceeding three years.

The board of directors of a public institution, on ascertaining that an executive director is in a position of conflict of interest, shall take measures for the institution of proceedings for forfeiture of office against him. It shall also, within the ten following days, inform the Minister in writing of the situation, specifying the nature of the case and the measures it has taken.

Section 61 applies to proceedings for forfeiture of office.

97. The executive director of a public institution shall, under pain of forfeiture of office, devote himself exclusively to the work of the institution and the duties of his office.

An executive director may, however, hold another employment, office or function or provide another service if no remuneration or direct or indirect benefit whatever is paid or granted to him therefor.

An executive director may also, with the authorization of the board of directors, hold or provide, outside the health and social services sector, another employment, office, function or service for which a remuneration or a direct or indirect interest is paid or granted to him.

An executive director may, with the authorization of the Minister and the board of directors, hold or provide, within the health and social services sector, another employment, office, function or service for which a remuneration or a direct or indirect interest is paid or granted to him. However, only the authorization of the board of directors is required in the case of an office or function held within an association consisting of a majority of the institutions operating centres of the same category or within an association of executive directors in the health services and social services sector recognized by order in council for labour relations purposes.

An executive director may also hold an elective public office.

Section 61 applies to proceedings for forfeiture of office.

98. The board of directors of a public institution must, on ascertaining that the executive director of the institution is contravening one of the rules prescribed in section 97, suspend him without remuneration or take measures to institute proceedings for forfeiture of office against him, according to the seriousness of the contravention. It must also, within the following ten days, inform the Minister of the situation and indicate to him the nature of the case and the measures it has taken. A suspension imposed under this paragraph may vary from three to six months.

An executive director who is forfeited of office becomes disqualified from holding any office or employment with any public institution or regional board for the period of disqualification determined in the judgment. That period shall not exceed three years.

99. The board of directors of a public institution shall not dismiss an executive director or reduce his salary except by a resolution adopted by the vote of at least two-thirds of its members at a meeting called for that purpose.

The executive director of a public institution shall not attend a sitting of the board of directors of the institution when the board is discussing or taking a decision as to his dismissal, suspension, remuneration, renewal of engagement or other conditions related to his employment.

§ 2.—*Director of professional services*

100. A director of professional services shall be appointed for every hospital or other center of any other category provided for in the organization plan.

The board of directors shall appoint the director of professional services after consulting the clinical staff advisory council and, where applicable, the council of physicians, dentists and pharmacists.

In the case of an institution affiliated to a university, the board of directors shall also consult the university.

101. The director of professional services, under the authority of the executive director, shall

(1) direct, coordinate and supervise the activities of the heads of clinical departments referred to in section 128 and coordinate, with the other directors concerned and subject to the organization plan, the professional and scientific activities of the centre;

(2) enforce the administrative sanctions referred to in subparagraph 4 of the first paragraph of section 128 and, where applicable, inform the council of physicians, dentists and pharmacists and the heads of the clinical departments;

(3) supervise, where applicable, the operation of the committees of the clinical staff advisory council and of the council of physicians, dentists and pharmacists, satisfy himself that they are performing their duties and, in the case of the council of physicians, dentists and

pharmacists, satisfy himself that it is adequately supervising the medical, dental and pharmaceutical acts performed in the centre;

(4) assume any other functions provided for in the organization plan of the institution;

(5) take every necessary means to ensure that an examination, autopsy or expertise required under the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is made or performed.

102. The director of professional services of a hospital must be a physician.

§ 3.—*Other directors*

103. A director of nursing shall be appointed for every hospital. The board of directors shall appoint the director of nursing after consulting the executive director. The director of nursing must be a member of the *Ordre des infirmières et infirmiers du Québec*, and shall perform the duties described in the organization plan and in the by-laws.

104. If the organization plan of a centre so provides, the board of directors, after consulting the executive director, shall appoint a director of nursing, a director of hospital services and a director of administrative services. They shall perform the duties provided for in the organization plan and in the by-laws.

DIVISION II

COUNCILS AND COMMITTEES OF INSTITUTIONS

§ 1.—*Clinical staff advisory council*

105. A clinical staff advisory council shall be established for each institution. The council shall be composed of all the persons forming part of the clinical staff of the institution.

Every person holding a college or university diploma who performs duties with the institution that are characteristic of the field of the diploma and directly connected with health services, social services, research or teaching, as well as every person who carries on the professional activities of nursing assistant with the institution, forms part of the clinical staff.

Notwithstanding the foregoing, physicians, dentists and pharmacists are not members of the clinical staff of an institution in which a council of physicians, dentists and pharmacists is established.

106. The function of the clinical staff advisory council shall be to make recommendations to the board of directors on

- (1) the scientific and technical organization of the institution;
- (2) the measures to be implemented to improve the quality of the services offered by the institution;
- (3) the development of its members;
- (4) the management of the institution and the definition of its orientations.

107. The powers of the clinical staff advisory council shall be exercised by an executive committee composed of five persons forming part of the clinical staff, of the executive director of the institution and of the director of professional services, where applicable. In the case of an institution having a council of physicians, dentists and pharmacists, the executive committee shall also include a physician or dentist designated by that council.

108. The clinical staff advisory council may adopt rules for its internal management and for the creation and operation of committees. Such rules come into force on the date of their approval by the board of directors.

§ 2.—*Council of physicians, dentists and pharmacists*

109. A council of physicians, dentists and pharmacists must be established in every hospital at which not fewer than three physicians or dentists are practising and in every local community service centre at which not fewer than five physicians or dentists are practising. Such a council may be established in centres of any other category at which at least two physicians and one pharmacist are practising.

The council of physicians, dentists and pharmacists shall consist of all the physicians, dentists and pharmacists practising at the centre and, in the case of a hospital, enjoying the status required by regulation.

110. The council of physicians, dentists and pharmacists is responsible to the board of directors, in accordance with the standards determined by by-law of the board, for

(1) supervising and appreciating the medical, dental and pharmaceutical acts performed in the centre;

(2) maintaining the competence of the physicians, dentists and pharmacists practising in the centre;

(3) making the necessary recommendations to ensure that medical, dental and pharmaceutical services are properly distributed;

(4) making recommendations on the scientific and technical organization of the institution and on any project likely to have an impact on such organization;

(5) giving its opinion on the rules governing medical and dental care, on pharmaceutical services and on the rules governing the use of resources devised by the head of a clinical department;

(6) establishing modalities with respect to a continuous duty system within the centre.

In carrying out its functions, the council of physicians, dentists and pharmacists shall take into account the necessity of providing adequate services to beneficiaries, the organization of the institution and the available resources of the institution.

111. The powers of the council of physicians, dentists and pharmacists at an institution having more than five physicians or dentists shall be exercised by an executive committee composed of five physicians, dentists or pharmacists designated by the council, of the executive director of the institution, and of the director of professional services, where applicable.

The executive committee shall, in particular, carry out the functions prescribed by regulation.

112. The council of physicians, dentists and pharmacists may adopt rules for its internal management and for the creation and operation of committees. Such rules come into force on the date of their approval by the board of directors.

The council of physicians, dentists and pharmacists of a hospital shall establish the committees determined by regulation.

Notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information, the records and minutes of the council of physicians, dentists and pharmacists and of each of its committees relating to the carrying out

of the responsibilities described in subparagraphs 1 and 2 of the first paragraph of section 110 are confidential. No person may consult them except the members of the council and of its committees, the Commission des affaires sociales or the representatives of a professional corporation in the performance of the duties assigned to it by law. The executive committee of the council of physicians, dentists and pharmacists shall have access to the records and minutes of such committees.

§ 3.—*Advisory committee to management*

113. Every public institution shall establish an advisory committee to management.

The composition of the committee shall be provided for by regulation and may vary according to the category or class of centre. The committee shall, however, ensure that the various categories of employees and of the persons working at the centre are fairly represented.

114. The functions of the advisory committee to management shall consist in making recommendations to the executive director of the institution with respect to

- (1) the orientations and priorities of the institution;
- (2) the means to be implemented to ensure the complementarity of the services provided by the institution and those provided by the other institutions;
- (3) the administrative and financial consequences of the activities of the physicians and dentists at the centre, where applicable;
- (4) the distribution of beds at the centre, where applicable;
- (5) the preparation of the organization plan of the institution;
- (6) the staff of the institution and the annual plan of action for staff development.

§ 4.—*Beneficiaries' committee*

115. Every institution that operates a mental hospital, a residential and extended care centre or a rehabilitation centre shall institute a beneficiaries' committee and allocate to it the special budget fixed for that purpose in its total budget.

The committee shall be composed of five members elected by the beneficiaries of the centre. Two of the members must be beneficiaries or representatives of beneficiaries. One of the members must be a relative or the tutor of a beneficiary and two of the members must be volunteers working in the centre.

116. The term of office of the members of a beneficiaries' committee is one year and may be renewed twice.

117. The following persons cannot be members of a beneficiaries' committee:

(1) minors;

(2) public servants of the Ministère de la Santé et des Services sociaux or persons receiving remuneration from the Régie de l'assurance-maladie du Québec, a regional board, an institution or any other body dispensing services connected with health services or social services;

(3) interdicted persons;

(4) persons under close treatment or unable to administer their property within the meaning of the Mental Patients Protection Act.

Subparagraph 1 of the first paragraph does not apply to a centre at which the majority of the beneficiaries are minors.

118. The executive director of the institution shall foster the proper functioning of the beneficiaries' committee and shall inform, in writing, every beneficiary, a relative or the tutor of every minor beneficiary, and a relative or the representative of every beneficiary whose state of health prevents him from being a member of the committee, of the existence of the committee.

The executive director must allow the beneficiaries' committee to use a room for its meetings and make it possible for the committee to keep confidential records.

119. The functions of the beneficiaries' committee are:

(1) to defend the common interests of the beneficiaries or, at the request of a beneficiary, the interests of that person as a beneficiary before the institution or any competent authority;

(2) to represent, accompany and assist a beneficiary, on request, in any procedure he takes, including the filing of a complaint under subparagraph 2 of the first paragraph of section 238;

(3) to participate in improving the quality of the living conditions of the beneficiaries;

(4) to inform the beneficiaries as to the general management of the institution.

In addition, the beneficiaries' committee must adopt its operating rules and make an annual report of its activities to the board of directors.

DIVISION III

PLANS

120. Every institution must prepare an organization plan describing its administrative structures, divisions, services and departments and any other particular required by this Act or the regulations.

The organization plan must be submitted to the regional board and, at his request, to the Minister.

121. The organization plan of a hospital must, in addition, provide for the formation of clinical departments and services and for the number of physicians and dentists who may practise their professions in each of such departments and services according to the permit of the institution, the financial resources at its disposal and the regional medical staffing plan approved by the Minister.

This part of the organization plan must, after consultation with the council of physicians, dentists and pharmacists and, where applicable, with the university to which the institution is affiliated, be transmitted to the regional board, which shall approve it with or without amendment.

This part of the organization plan must be reviewed at least once every three years.

122. The organization plan of a local community service centre, a rehabilitation centre or a residential and extended care centre must also provide, where applicable, for the number of physicians and dentists who may practise their professions in the centre according to the permit of the institution, the financial resources at its disposal and the regional medical staffing plan approved by the Minister.

This part of the organization plan must be transmitted to the regional board, which shall approve it with or without amendment.

This part of the organization plan must be reviewed at least once every three years.

123. Every public institution must prepare an annual plan of action for staff development.

The plan must identify the objectives and means to be taken to ensure the participation of the staff of the institution in the orientation and management of the institution and contain measures relating to the reception, training and mobility of the staff.

124. The plan of action for staff development must be prepared with the participation of the representatives of the main groups of employees of the institution.

125. The plan of action for staff development must be filed with the advisory committee to management and adopted by the board of directors of the institution.

126. Every public institution shall establish a committee charged with verifying the quality of management of its human resources and compliance with the plan of action for staff development.

DIVISION IV

CLINICAL DEPARTMENTS OF HOSPITALS

127. Every clinical department of a hospital shall be directed by a head who must be a physician or dentist, except the clinical department of biochemistry, which may be directed by a clinical biochemist. The head of a department shall be appointed for a term of not over four years by the board of directors of the hospital, after consultation with the physicians, dentists and, where applicable, clinical biochemists practising in the department, the director of professional services of the council of physicians, dentists and pharmacists and, where applicable, the university to which the institution is affiliated.

128. Under the authority of the director of professional services of the hospital, the head of a clinical department shall

(1) see to the distribution of medical and dental care in his department;

(2) coordinate, subject to section 110, the professional activities of the physicians, dentists and, where applicable, clinical biochemists in his department;

(3) manage, subject to the second paragraph, the resources of his department to the extent provided for in the organization plan of the institution;

(4) devise, for his department, rules governing the use of the resources of the hospital; such rules may provide administrative sanctions intended, in particular, to limit or suspend the right of a physician or dentist to use the resources of the hospital;

(5) inform, where applicable, the director of professional services and the council of physicians, dentists and pharmacists of any failure by a physician or dentist in his department to comply with the rules governing the use of the resources.

The head of the radiology clinical department and the head of the clinical department of medical biology laboratories shall manage the resources of their clinical departments to the extent provided for by regulation or, failing that, in the organization plan of the institution. The management of all or part of the resources of the radiology clinical department or the clinical department of medical biology laboratories may, to the extent provided for by regulation, be entrusted to a person other than the head of such clinical department by the director of professional services.

The rules governing the use of the resources must provide, in particular, that no bed may be reserved for a particular physician or dentist for beneficiaries treated by him and that the director of professional services or his representative may, where necessary, designate a department or service in which a bed must be put at the disposal of a beneficiary.

The rules governing the use of the resources come into force on the date of their approval granted by the board of directors after consulting the council of physicians, dentists and pharmacists.

129. Under the authority of the council of physicians, dentists and pharmacists, the head of a clinical department shall

(1) supervise the manner in which medicine and dentistry are practised in his department;

(2) devise rules for his department governing medical and dental care which take into account the necessity of providing adequate

services to beneficiaries, and the organization and available resources of the institution.

Where there is no head of a clinical department or where the head is a clinical biochemist, the responsibilities provided in the first paragraph shall be carried out by the council of physicians, dentists and pharmacists.

The rules contemplated in subparagraph 2 of the first paragraph must provide that the professional practice of physicians and dentists of various clinical departments shall follow uniform rules of care.

Those rules are subject to approval by the board of directors, which may grant or withhold its approval after consulting the council of physicians, dentists and pharmacists.

DIVISION V

COMMUNITY HEALTH DEPARTMENTS IN HOSPITALS

130. The Minister, after consultation with the regional boards, shall designate the hospitals in which community health departments must be established, and determine the territory to be served by each of such departments.

131. The role of a community health department is to identify, according to health determining factors, specific health objectives for the population in its territory.

To attain such objectives, it shall carry on preventive action and health promotion and health protection activities among the public and in the work environment and foster the participation of the population, of professionals in the various fields concerned and of representatives of the various sectors of activity.

132. Every community health department shall be directed by a head appointed for not over four years by the board of directors, after consultation with the regional board, the physicians working in the department, the director of professional services, the council of physicians, dentists and pharmacists and, where applicable, the university to which the institution is affiliated.

The head of the department must be a specialist and hold a diploma in public health or community health.

133. The community health department shall, in particular, in cooperation with the institutions and taking into account the

responsibilities of the regional board and the priorities established thereby,

(1) keep up to date, analyze and provide to the regional board information on the state of health of the population in the territory of the department;

(2) identify the health problems of the population;

(3) prepare, implement and evaluate prevention and health promotion programs;

(4) carry on the health protection duties entrusted to it by the person in charge of public health protection for the region;

(5) carry on the duties respecting occupational health and safety or industrial accidents and occupational diseases entrusted to it by law or by the regulations.

134. The head of the community health department of a region is *ex officio* the person in charge of public health protection for that region.

Where there are several community health departments in a region, the Minister shall designate the head of one of them as the person in charge of public health protection for the region.

135. The main duties of the person in charge of public health protection for a region are

(1) to monitor and control infectious diseases;

(2) to monitor and control chemical, biological and physical hazards that may endanger public health;

(3) to intervene in emergency situations;

(4) to coordinate any required action respecting public health protection with the other authorities concerned.

136. In order to develop expertise in particular fields of specialization such as infectious diseases, environmental health, health promotion or occupational health, the Minister may designate certain community health departments as centres of excellence.

DIVISION VI

PROVISIONS APPLICABLE TO PHYSICIANS, DENTISTS AND PHARMACISTS

137. Every physician or dentist may practise his profession in a centre operated by an institution upon his appointment by the board of directors; he shall have the status and privileges granted to him by the board of directors, after recommendation of the council of physicians, dentists and pharmacists where applicable.

If the physician or dentist practises in a hospital, the status and privileges that may be granted to him shall be granted in accordance with the by-laws.

In addition, the enjoyment of the privileges is subject to compliance with the rules approved by the board of directors.

A physician or dentist other than an executive of the institution is not considered to be a member of the staff of the institution.

138. An institution operating a hospital or a residential and extended care centre shall not engage a pharmacist without the prior recommendation of the council of physicians, dentists and pharmacists, if any. The status granted to the pharmacist on the council shall be determined in accordance with the by-laws.

139. The director of professional services, the chairman of the council of physicians, dentists and pharmacists, the head of a clinical department or, in the case of a pharmacist, the head of the pharmacy department may, in emergencies, temporarily authorize a physician, dentist or pharmacist to practise his profession in a hospital or in a residential and extended care centre. In such a case, the person having granted the authorization must notify the executive director immediately.

Where there is a risk that the delay necessary for obtaining the authorization may cause prejudice to a beneficiary, any physician, dentist or pharmacist may, without such authorization, give such treatment or services as are required by the condition of the beneficiary.

140. A physician, dentist or pharmacist wishing to practise his profession in a hospital must address an application for appointment to the executive director in accordance with the regulations.

The credentials committee of the council of physicians, dentists and pharmacists, the composition of which is determined by

regulation, shall examine the application of the candidate and report to the council of physicians, dentists and pharmacists within 30 days of receipt of the application by the executive director.

The council of physicians, dentists and pharmacists shall then, within 30 days, address a recommendation to the board of directors in the case of an application for appointment from a physician or dentist, or to the executive director in the case of an application for appointment from a pharmacist.

The board of directors shall transmit its decision to the physician or dentist in writing within 90 days of receipt of the original application by the executive director.

If the institution is affiliated to a university, the board of directors shall make its decision after consultation with the university.

The board of directors shall, in accepting or rejecting the application of a physician or dentist, take into account the organization plan referred to in section 121, the number of physicians and dentists provided for in the plan, the available resources and the specific requirements of the institution.

The board of directors may also reject the application of a physician or dentist on the basis of criteria of qualifications, scientific competence or conduct of the physician or dentist, having regard to the specific requirements of the institution.

Every refusal must give reasons in writing.

The board of directors, within 30 days after accepting an application, must notify the regional board.

This section also applies in the case of a residential and extended care centre. However, if no council of physicians, dentists and pharmacists is established in the centre, the functions accorded it under this section, adapted as required, devolve on the board of directors of the institution.

141. The board of directors of an institution which operates a hospital or a residential and extended care centre may take disciplinary measures against a physician, dentist or pharmacist.

The disciplinary measures that may be taken against a physician, dentist or pharmacist are the following: the non-renewal of status or privileges, a reprimand, a change of status, the deprivation of privileges, the suspension of status or privileges for a specific period,

a prohibition from using certain resources of the centre and the cancellation of status or privileges.

The disciplinary measures that may be taken against a pharmacist are the following: a reprimand or the suspension or cancellation of status. The cancellation of status of a pharmacist entails his dismissal by the institution.

The board of directors must consult with the council of physicians, dentists and pharmacists, where applicable, before deciding to apply any of such measures. If the institution is affiliated to a university, the board of directors must also consult with the university.

The non-renewal or cancellation of status or privileges must give reasons and be based solely on a lack of qualifications, on scientific incompetence, negligence, misconduct or non-compliance with the by-laws of the institution or of the council of physicians, dentists and pharmacists, having regard to the specific requirements of the institution.

The imposition of disciplinary measures must be done in accordance with the procedure prescribed by regulation.

142. A physician or dentist who is not satisfied with a decision rendered in his regard under the seventh paragraph of section 140 or section 141 may appeal therefrom to the Commission des affaires sociales.

He may also appeal to the Commission if over 90 days and under 180 days have elapsed since addressing his application for appointment in accordance with the first paragraph of section 140 and if no decision has been transmitted to him.

A pharmacist who is not satisfied with a decision rendered in his regard under section 141 may also appeal therefrom to the Commission.

143. No physician or dentist may cease to practise his profession in a centre before giving written notice of at least 60 days to the board of directors.

The board of directors may authorize a physician or dentist to cease to practise his profession in the centre without notice or upon a notice of less than 60 days, however, if it considers that his leaving does not affect the quality or sufficiency of the medical or dental services provided to the population served by the centre.

144. A physician or dentist who ceases to practise his profession in a centre without the authorization of the board of directors and without notice or before the time stated in the notice becomes, from the date fixed by the Régie de l'assurance-maladie du Québec, a non-participating professional for the purposes of the Health Insurance Act (R.S.Q., chapter A-29) for a period equal to twice the number of days remaining of the time given in the notice.

The board of directors shall forthwith inform the Régie of the leaving of the physician or dentist and indicate the period for which the professional becomes a non-participating professional.

Where the board of directors believes that the leaving of a physician or dentist may affect the quality or sufficiency of the medical or dental services provided to the population served by a centre, it shall inform the Corporation professionnelle des médecins du Québec or the Corporation professionnelle des dentistes du Québec, as the case may be, in writing.

145. Every physician or dentist practising in a centre must hold a valid professional liability insurance policy for himself and his succession, accepted by the board of directors, and establish each year that the policy is in force.

A physician or dentist may fulfil the obligation described in the first paragraph, however, by furnishing each year to the board of directors proof that he is a member of the Canadian Medical Protective Association.

146. The execution of a prescription of a physician or dentist who is not a member of the council of physicians, dentists and pharmacists of a hospital or, as the case may be, of a residential and extended care centre is subject to the rules in force in the centre respecting care and the use of resources.

CHAPTER V

FUNCTIONS AND POWERS OF INSTITUTIONS

DIVISION I

SERVICES

147. Every institution, taking into account its organization and resources, shall see to it that its beneficiaries receive the health services and social services to which they are entitled under this Act.

148. Every institution shall, in particular,

(1) receive any person requiring services;

(2) provide the required health services or social services itself, or cause them to be provided by an institution, agency or person with which or with whom it has concluded a service agreement under section 152;

(3) refer persons requiring services it does not provide itself to an institution which provides them;

(4) see to it that the services it provides complement those provided by the other institutions and resources within the region and that such services are organized according to the needs of the population to be served.

149. Every institution shall prepare an intervention plan for each beneficiary belonging to a class determined by regulation, to the extent provided therein, in order to identify his needs, the objectives pursued, the methods to be used and the estimated period during which services are to be provided to him.

The intervention plan must contain a timetable for its evaluation and revision. It may be modified at any time to take account of new circumstances.

The institution shall see to it that the beneficiary is informed before any material change is made to the intervention plan.

150. Every institution shall, by by-law, determine the health services and social services it provides and the various activities it organizes, taking into account the orientations and action priorities fixed by the regional board for the attainment of the objectives of the various programs set up by the Minister.

151. An institution may make the by-laws necessary for the conduct of its affairs and the exercise of its duties. It shall make by-laws in respect of any matter determined by government regulation that is within the jurisdiction of the institution.

The institution shall, before making such by-laws, consult the council of physicians, dentists and pharmacists or the clinical staff advisory council, as the case may be, where the by-laws affect their respective fields of competence.

A copy of the by-laws made by an institution shall be transmitted to the Minister or the regional board, at their request.

152. An institution may conclude an agreement with another institution, an agency or a person for any of the following purposes:

- (1) the provision of certain health services or social services;
- (2) the provision or exchange of professional health or social services;
- (3) the provision or exchange of certain other services, such as technical, administrative or financial services.

The agreement shall indicate the cost of the services to be provided. It shall be valid only from the date on which it is filed with the regional board by the institution or institutions having concluded it.

153. With the authorization of the Minister, an institution may

- (1) enter into a contract of affiliation with a university for the purposes of offering teaching or research services, or modify or terminate such a contract;
- (2) sign letters of intent or contracts of special services for the purposes of participation in university training or research programs;
- (3) enter into a contract of association with any other educational institution recognized by the Minister of Education or the Minister of Higher Education and Science for the purposes of the provision of internship and practical training positions for students in the field of health and social services.

The terms and conditions of the contracts and letters of intent contemplated in the first paragraph must agree with the principles and general rules established by the Minister, in cooperation with the Minister of Education or the Minister of Higher Education and Science, according to their respective fields of competence.

154. With the authorization of the Government and on the conditions determined thereby, an institution may, according to law, enter into an agreement with another government or any of its departments, with an international organization or with any agency of such a government or organization with a view to the carrying out of its duties.

155. The Minister may, with a view to rationalizing services,

(1) limit to certain institutions the duty to offer such ultraspecialized services or to use such new technologies as he determines;

(2) determine the local, subregional, regional or supraregional vocation of an institution in respect of certain ultraspecialized services it offers.

No institution may offer new services of such a nature as to necessitate teams of professionals or ultraspecialized equipment determined by the Minister, or acquire ultraspecialized equipment determined by him, before obtaining his authorization in writing. The Minister shall consult with the regional board before granting such authorization.

156. A public institution may

(1) act as a home day care agency, in accordance with the Act respecting child day care (R.S.Q., chapter S-4.1) and the regulations;

(2) when the Office des services de garde à l'enfance designates it, under section 69 of the said Act, to be its regional representative, act in that capacity and exercise the functions attached thereto;

(3) exercise any power the bureau authorizes it to exercise under the said Act;

(4) make an agreement with the bureau under section 70 of the said Act.

157. An institution may participate in the implementation of a project of a community organization. To that end, it may conclude agreements with the community organization; in addition, it may assign personnel to assist users of the organization and make a financial contribution for the services provided by the organization.

158. An institution may, within the scope of its objects and powers, organize activities ancillary to the health services or social services it provides.

It may hire personnel and conclude agreements for that purpose. Revenues deriving from contributions of those using the ancillary activities must be sufficient to secure the financing of any direct or indirect expenditure chargeable to such activities in the operating budget of the institution.

Ancillary activities are not considered a commercial enterprise referred to in subparagraph 2 of the first paragraph of section 167.

159. Every institution shall take part in the periodic evaluation made by the Minister or the regional board of the quality of the services it provides and of the overall performance of the health and social services system.

160. No institution may furnish medications other than those appearing on the list drawn up by the Minister for that purpose. The list shall be updated periodically after consultation with the Conseil consultatif de pharmacologie established under section 39 of the Health Insurance Act. The Régie de l'assurance-maladie du Québec shall publish the list and each of its updatings. The list and updatings come into force on the date of publication in the *Gazette officielle du Québec*, or on any later date fixed therein, of a notice from the Minister stating that the list is drawn up or updated and that the list or the updating has been published by the Régie.

Notwithstanding the foregoing, an institution operating a hospital may furnish medications that do not appear on the list in the case of medications used for purposes exclusive to hospitals, such as curariforms, general anesthetics, diagnostic agents, immunological products, radioactive substances and physiological solutions.

It may also furnish medications other than those mentioned in the first paragraph, for purposes of clinical and fundamental research or particular medical necessity. In this event, the physician or dentist having used or prescribed such medications must so inform in writing the executive committee of the council of physicians, dentists and pharmacists, which must request the opinion of the committee on pharmacology as to the necessity of using such medications again in the same circumstances.

161. No institution may furnish prostheses or apparatuses other than those contemplated in section 3 of the Health Insurance Act or included in the insured services contemplated in the Hospital Insurance Act (R.S.Q., chapter A-28).

DIVISION II

MATERIAL RESOURCES

162. No public institution or private institution under agreement may, without prior consultation with the regional board and prior authorization of the Conseil du trésor,

(1) acquire, alienate, charge with a servitude or hypothecate an immovable or otherwise give it as security;

(2) build, enlarge, develop, improve, convert, demolish, rebuild or repair its immovables where the estimated total cost of the project amounts to a figure determined by the Government.

163. The Conseil du trésor may, on such conditions and to such extent as it may determine, delegate to the Minister the powers vested in it under section 162.

The deed of delegation shall be published in the *Gazette officielle du Québec* and shall come into force on the fifteenth day following the date of such publication.

164. A public institution shall identify, in a specific accounting item in its fixed assets fund, the net proceeds resulting from the alienation of an immovable; this sum and the revenues therefrom must be used in accordance with the applicable budgetary rules or, with the prior authorization of the Minister, for the financing of a specific activity of the operating fund of the institution.

165. No public institution or private institution under agreement may, without prior authorization of the regional board,

(1) rent an immovable;

(2) grant a lease on, lend or otherwise permit a third person to use any of its immovables;

(3) carry out any work of construction, enlargement, development, improvement, alteration, demolition, reconstruction or repair of its immovables, other than work contemplated in paragraph 2 of section 162.

166. A contract made by an institution without prior authorization of the Conseil du trésor, the Minister or the regional board is null in all cases where such authorization is required by this Act.

Furthermore, every contract must, on pain of nullity, be made in accordance with the standards, terms and procedure prescribed by regulation of the Minister.

An action in nullity of any contract made by an institution that is contrary to this section may be instituted by the Minister, the regional board or any interested person.

167. No incorporated institution may

(1) acquire shares of another corporation;

(2) operate a commercial enterprise;

(3) grant loans out of funds administered by it;

(4) dispose gratuitously of property, except in the case of property of small value or, with prior authorization of the regional board, where the property is disposed of in the interest of the institution or the object pursued;

(5) neglect to exercise or renounce a right belonging to it, except for value;

(6) grant any subsidy to a third person, except in the case of amounts that may be paid, or goods and services that may be provided, to beneficiaries or users as material or financial assistance under this Act or any other provision of law or the regulations.

An action in nullity of any decision, by-law, resolution or contract made by an institution contrary to the first paragraph may be instituted by the Minister, the regional board or any other interested person.

168. A public institution may acquire, by expropriation, any immovable situated in the municipality where it is operating a centre or in an adjacent municipality, which it needs in order to enlarge its facilities or to organize services relating to the general operations of its centre.

The Corporation d'hébergement du Québec referred to in section 323 may, in the same manner, acquire such an immovable for the purposes of the institution.

169. Any institution may solicit and receive gifts, legacies, subsidies or other voluntary contributions from any person or any public or private body wishing to assist in the attainment of the objectives pursued by the institution.

However, no institution may, without prior authorization of the regional board, accept gifts, legacies, subsidies or other contributions to which obligations or conditions are attached, except from the Government of Québec or its departments and agencies.

A gift of equipment of a value greater than that fixed by government order shall be considered to have a condition attached to it for the purposes of the second paragraph.

A gift of an immovable is deemed to be an acquisition contemplated in section 162.

170. Every amount received as a gift, legacy, subsidy or other form of contribution, except an amount granted by the Government of Québec or one of its departments or agencies, constitutes income of the institution.

However, where a contribution is made for special purposes, the amount thereof shall not be paid into the general fund of the institution, but into a special fund created by the institution and shall be deposited or invested in accordance with the provisions of the Civil Code concerning the investment of property of others, until disposition is made of it for the special purposes for which the contribution was made.

Where sums have been granted for the specific purpose of furnishing the institution with capital that must be preserved and of which only the income may be used, the amount thereof shall be paid into an endowment fund created by the institution and administered in the manner prescribed in the second paragraph.

A separate statement for each fund created under this section shall appear in the financial statements of the institution.

171. An institution may, with prior authorization of the regional board, transfer the administration of any fund contemplated in section 170, or part thereof, to a foundation or a non-profit corporation incorporated under the laws of Québec whose object is to administer the contributions paid to the institution or to several institutions or to receive directly contributions paid by other persons for special purposes.

The funds whose administration is so transferred to a foundation or non-profit corporation are deemed received in trust thereby; the foundation or corporation is, in respect of such funds, subject to the same obligations and powers as a trust company incorporated in Québec.

In case of dissolution of such foundation or non-profit corporation, the funds in respect of which the sums of money have not yet been used for the special purposes stipulated, together with the accrued income and interest derived from the investment of such funds, shall be returned to the institution and administered in the manner prescribed in section 170.

172. No executive director, senior executive or intermediate officer of a public institution may accept any sum of money or any

direct or indirect benefit from a foundation or corporation that solicits funds or gifts from the public for purposes related to health or social services.

A public institution that receives a sum of money or a direct or indirect benefit from a foundation or corporation referred to in the first paragraph must mention it in a schedule appended to its financial statements indicating the object for which the sum of money or benefit was granted.

173. A public institution may require or accept financial or material assistance from a foundation or corporation contemplated in section 171 for any of the following purposes:

(1) the purchase, construction, renovation, improvement, enlargement or development of immovable property for the purposes of the institution;

(2) the purchase, installation, improvement or replacement of furnishings, equipment or tools of the institution;

(3) the improvement or consolidation of the financial position of the institution.

The institution shall, before requiring or accepting such assistance, submit its project to the regional board for consideration and approval. The application must be accompanied with such documents and contain such information as are determined by the regional board.

After considering the relevancy and the financial viability of the project and after ascertaining that the foundation or corporation has the financial potential to honour its commitments, the regional board shall notify the institution of the eligibility of the project or of the requirements for its approval.

174. The regional board may, at any time, verify the accuracy of the information given to it by an institution concerning any project submitted under section 173, or demand information on the use to which the assistance obtained under that section is put, as the case may be.

Where an institution has obtained the right to receive assistance through false representation or has used any part thereof for purposes other than those for which it should have been used, the regional board may, of its own initiative or at the request of the Minister, declare

the institution forfeited of the benefit of the assistance granted and take any step to require the institution and the foundation or corporation providing the assistance to remedy the situation.

DIVISION III

FINANCIAL RESOURCES

§ 1.—*Provisions applicable to all institutions*

175. Every institution shall, within three months after the termination of its financial year, submit to the Minister and the regional board an annual report of its activities. The report shall contain

(1) a description of the role or vocation of the institution, with an indication of any new direction taken during the past year in that respect;

(2) a statement of the operations of the institution, indicating the objectives set at the beginning of the year and the results achieved, together with any significant changes in services or activities, staff structure, facilities or equipment.

176. An institution shall furnish to the Minister, at his request, such statements, statistics, reports and other information as he may require on its activities or as he deems appropriate for the purposes of this Act.

The Minister may request the institution to transmit a copy of the document or information to the regional board.

177. Information contained in any report or document prescribed in this division is public information from the date of expiry of the prescribed time for filing the document or report or, if it is filed after that time, from the date of filing.

178. Sums of money paid by the Government in respect of an immovable owned by an institution and standing in lieu of municipal taxes or other compensation for municipal services are deemed to be paid for and on behalf of the Minister and constitute operating costs of the institution concerned. This section applies to sums of money paid in that respect by the Government from 21 December 1979.

§ 2.—*Provisions applicable to public institutions*

179. The financial year of a public institution ends on 31 March each year.

180. Every institution shall each year establish rules and procedures for the allocation of its financial resources to the various budgetary programs, items or entries according to the requirements of its own organization plan.

The rules must allow for any budgetary transfers that may be required during the financial year for the proper operation of the institution and the adequate performance of the services it is called upon to provide.

181. The executive director of every institution shall submit the operating budget of the institution for the next financial year to the board of directors before the date it fixes.

The budget of the institution must indicate how expenditures balance against the financial resources allocated to the institution and its own income.

182. Before 1 April each year, the regional board shall inform every board of directors of the institutions within the territory of a local community service centre and every board of directors of the institutions within the territory of a social service centre in its region of the total of the amounts it is allocating to the operating budget of each institution under the administration of these boards.

Each board of directors shall, if necessary, revise the budget for each of the institutions under its administration according to the total amount indicated by the regional board, adopt the master operating budget of each institution and notify the regional board of its adoption within thirty days following the date thereof.

183. Before 1 April each year, the regional board shall transmit to every institution not contemplated in section 182 its master operating budget for the next financial year.

The institution shall, if necessary, revise its estimates to bring them into balance with the budget transmitted.

184. If, on 1 April in any year, the master operating budget of an institution has not been adopted or has not been transmitted to it, as the case may be, one-quarter of the budget for the preceding financial year shall be renewed at the beginning of each quarter of the

financial year and shall remain in force until it is replaced by the budget for the financial year concerned.

185. Every institution shall transmit to the regional board, on the dates and in the form which the board prescribes by by-law,

(1) interim reports on budget use and on the operations of the institution;

(2) an annual statistical report on the resources and services of the institution for the last financial year.

The institution shall furnish a copy of these reports to the Minister at his request.

186. The books and accounts of every institution shall be audited every year by an auditor.

187. Every institution shall appoint an auditor before 30 June each year.

The Minister may specify the mandate applicable to all auditors of institutions.

188. On failure by an institution to have its books and accounts audited or to appoint an auditor in accordance with this Act, the Minister may appoint an auditor and determine his remuneration, which shall be payable by the institution.

If the office of auditor becomes vacant before the expiry of the appointment, the board of directors of the institution shall fill the vacancy at its next meeting.

189. The following persons cannot act as auditor:

(1) a member of the board of directors of the institution, a member of an institution contemplated in paragraph 1 of section 39 or a member of the board of directors of the regional board;

(2) an employee of the institution;

(3) a partner of a person referred to in paragraph 1 or 2;

(4) a person who, during the financial year for which the audit is carried out, has, directly or indirectly, personally or through his partner, any interest or share in or in relation to a contract with the institution, receives a commission pursuant to such a contract or

derives any benefit from such a contract, unless his connection with the contract arises from the practice of his profession.

190. The auditor shall resign upon ceasing to be qualified.

191. For the performance of his duties, the auditor shall have access to all the books, registers, accounts and other accounting records and vouchers of the institution; every person having custody of such documents shall facilitate his examination of them.

The auditor may also require the members of the board of directors, officers, employees or other representatives of the institution to provide the information, explanations and documents required for the performance of his duties as auditor.

192. The auditor shall, for the financial period for which he was appointed, audit the financial statements of the institution and any other document determined by the Minister.

193. The auditor shall submit his report to the board of directors of the institution.

He shall indicate in his report

(1) whether his examination has been made in accordance with generally accepted auditing standards;

(2) whether, in his opinion, the financial statements are representative of the financial position of the institution, its operating income and the changes in its financial position, in accordance with generally accepted accounting principles applied in the same manner as in the preceding financial period;

(3) whether the accounting procedures or policies of the institution are in accordance with accepted accounting standards and any other standards applicable to the institution.

The auditor shall set out in his report all information required under his terms of reference and provide a sufficient explanation of any reservation he may have expressed.

194. The institution shall, on or before 30 June each year, submit to the Minister and the regional board its annual financial report for the last financial year, which shall be prepared in the form prescribed by the Minister and include the financial statements of the institution and any other information the Minister may require.

The annual financial report is deemed to be submitted to the Minister or the regional board only if it is accompanied with the auditor's report prescribed in section 193.

195. Every institution shall, on the conditions and in the manner determined by regulation, appoint an audit committee within its board of directors.

196. Notwithstanding any provision of law inconsistent here with, an institution may, with prior authorization of the regional board and subject to such terms and conditions as it prescribes, borrow money by any method recognized by law to pay current operating expenditures or expenditures not included in the budget of the institution.

The institution may also, with prior authorization of the Minister and subject to such terms and conditions as he prescribes, borrow money by any method recognized by law to finance capital expenditures or the debt service of the institution.

The Minister shall determine the terms and conditions according to which the regional board may allow borrowings to be made under the first paragraph.

197. At the request of the Minister or of the regional board, an institution shall, either directly or through the financial institutions with which it does business, furnish the Minister or the board with any information on its financial position.

§ 3.—*Provisions applicable to private institutions under agreement*

198. The financial year of a private institution under agreement ends on 31 March each year.

199. On 1 April each year, the Minister shall transmit to each private institution under agreement its master budget for the current financial year. He shall forward a copy thereof to the regional board. The master budget shall be established on the basis of the financing contract or agreement that has been concluded between the institution and the Minister, according to the terms and conditions prescribed therein, where such is the case.

If, on 1 April in a year, the master budget of an institution has not been transmitted to it, one-quarter of the budget for the preceding

financial year shall be renewed at the beginning of each quarter of the financial year and shall remain in force until it is replaced by the budget for the financial year concerned.

200. Every private institution under agreement is subject to sections 185 to 194 as regards reports to be submitted and audits to be made.

CHAPTER VI

INTERMEDIATE RESOURCES

DIVISION I

GENERAL PROVISIONS

201. An institution may provide services to persons through intermediate resources, for the maintenance of such persons and their integration into the community.

Any resource that is developed, controlled and financed by the institution contemplated in the first paragraph is an intermediate resource.

Every person to whom health services or social services are furnished by such a resource is a beneficiary for the purposes of this Act.

202. No municipal permit or certificate shall be refused nor proceedings instituted under any by-law on the sole ground that a construction or housing facility is to be occupied, wholly or in part, by an intermediate resource.

This section has precedence over any general or special Act and any municipal by-law adopted thereunder.

DIVISION II

FAMILY-TYPE RESOURCES

203. An institution operating a social service centre may recognize family-type resources for the placement of children, adults or aged persons.

204. A household of one or two persons receiving children in difficulty to satisfy their needs and afford them living conditions as close to those in a parental environment as possible may be recognized as a foster family.

A home of one or two persons receiving adults or aged persons to satisfy their needs and afford them living conditions as close to a natural social environment as possible may be recognized as a foster home.

205. A family-type resource may receive the number of beneficiaries fixed by regulation and afford them such services as determined therein to satisfy their needs.

The sums payable by an institution operating a social service centre to a family-type resource for taking charge of beneficiaries shall be fixed by the Government.

206. Activities and services provided by a family-type resource are deemed not to be a commercial enterprise or a means to make a profit.

207. Any person may apply to the regional board for review of a decision of an institution operating a social service centre withdrawing recognition of that person as a family-type resource.

After examining the decision, the regional board may make recommendations to the institution.

DIVISION III

OTHER RESOURCES

208. An institution may, subject to the approval of the regional board governing it, develop other intermediate resources determined by regulation.

CHAPTER VII

RULES APPLICABLE TO THE CONSTITUTING DOCUMENTS OF INSTITUTIONS

DIVISION I

GENERAL PROVISIONS

209. "Constituting document of an institution" means the special Act constituting the institution, the letters patent, supplementary letters patent, the articles of incorporation or continuance and any other document or charter granted for its incorporation.

In case of discrepancy between this Act and the constituting document of an institution, this Act shall prevail.

210. No constituting document of an institution may be granted, amended, revoked or abandoned without the written authorization of the Minister.

However, the Minister may, with the same effects, give the authorization contemplated in the first paragraph in cases where the constituting document of an institution has been granted, amended, revoked or abandoned without that authorization.

DIVISION II

INCORPORATION OF A PUBLIC INSTITUTION

211. From (*insert here the date of coming into force of this Act*), a public institution can be incorporated only pursuant to this Act.

212. Where the creation of a public institution is necessary for the amalgamation or conversion of institutions or, as the case may be, for the organization of a new centre, the institution shall be incorporated by letters patent issued by the Inspector General of Financial Institutions, at the request of the Minister.

A notice of issuance of letters patent shall be published in the *Gazette officielle du Québec*.

213. The letters patent shall indicate the category of the centre which may be operated by the institution together with, as the case may be, its class, the name of the institution and the place of its head office; they may also contain any other provision consistent with this Act.

In the case of an institution operating a university hospital or an institution recognized as a university institute, the letters patent shall indicate the names of five to eleven persons appointed as members of its board of directors until the elections or appointments provided for in section 51.

214. From the date of issuance of the letters patent, the institution is a corporation within the meaning of the Civil Code; it is vested with the general powers of such a corporation and the special powers conferred upon it by this Act.

215. When the letters patent contain a misnomer, a misdescription or a clerical error, the Inspector General of Financial

Institutions may, if there is no contestation, direct the letters patent to be corrected or cancelled and correct letters patent to be issued.

216. To amend the constituting document of a public institution, the Inspector General of Financial Institutions shall issue supplementary letters patent at the request of the Minister.

A notice of issuance of supplementary letters patent shall be published in the *Gazette officielle du Québec*.

In particular, such supplementary letters patent are issued when the Minister recognizes a centre operated by an institution as a university institute.

Where the institution has been incorporated by a special Act, the Québec Official Publisher must insert in each annual compilation of the statutes of Québec a table indicating the date of coming into force of the supplementary letters patent issued before its printing and the provisions of law which they replace or repeal.

DIVISION III

AMALGAMATION AND CONVERSION

217. The following institutions may amalgamate to form a public institution incorporated under this Act:

- (1) two public institutions;
- (2) a public institution and a private institution contemplated in paragraph 3 of section 40 or contemplated in section 383;
- (3) two or more private institutions contemplated in paragraph 2 of this section.

218. The following institutions may be converted into a public institution incorporated under this Act:

- (1) a public institution contemplated in paragraph 1 of section 39;
- (2) a private institution contemplated in paragraph 3 of section 40 or contemplated in section 383.

219. No institution may be amalgamated or converted except with its consent and on the conditions agreed upon, after consultation with the regional board, between the institution and the Minister.

220. The amalgamation or conversion shall be requested by a resolution adopted for that purpose by the board of directors.

The resolution shall indicate:

- (1) the name of the new institution;
- (2) the place in Québec where the corporate seat of the institution will be situated;
- (3) the centres whose operation will be the object of the institution and, as the case may be, the categories to which they will belong;
- (4) any other condition, term or measure concerning the administration and operation of the institution consistent with this Act.

221. Where the amalgamation or conversion involves an institution contemplated in paragraph 1 of section 39 or a private institution contemplated in paragraph 3 of section 40 or section 383 and where that institution owns all or part of the immovable assets which it operates, the conversion or amalgamation resolution must be approved by at least two-thirds of the votes cast by the members of the institution at a meeting called for that purpose.

222. Notwithstanding sections 219 to 221, the Government may, on a motion of the Minister, amalgamate two public institutions whose immovable assets are leased or have been acquired out of funds derived for the greater part from Government subsidies. The Minister shall propose such an amalgamation where, after consulting the regional board, he is of the opinion that the public interest warrants it.

The Minister shall publish in the *Gazette officielle du Québec* a notice of his intention to propose to the Government, forty-five days after the publication of the notice, the amalgamation of the institutions and the issue of letters patent to that effect by the Inspector General of Financial Institutions.

After publication of the notice, the Minister shall give the institutions concerned the opportunity to make representations to him.

223. The new institution resulting from the amalgamation or conversion, under the name given to it by the letters patent, has all the rights, acquires all the property and assumes all the obligations of the amalgamated institutions or of the converted institution, and

proceedings to which the latter are parties may be continued without continuance of suit.

DIVISION IV

INTEGRATION

224. A public institution may, within the scope of its objects, after consultation with the regional board, agree with another public institution to integrate the whole of its property, rights and obligations with those of that institution.

The integration agreement shall indicate the date on which the integrating institution shall take charge of the activities of the integrated institution, and make any necessary provision for the carrying out of the integration and for the management of the activities of the integrated institution.

The agreement must provide for the cancellation of the constituting document of the integrated institution or, as the case may be, the amendment thereof.

Each institution shall adopt the integration agreement by resolution of its board of directors. Section 221 applies, adapted as required, to the resolution.

225. The integration agreement must be submitted to the Minister for approval. The Minister shall transmit a copy of the integration agreement duly signed, together with a certified copy of each of the resolutions made for its adoption and execution, to the Inspector General of Financial Institutions.

226. From the date of integration, the integrating institution acquires the rights and property of the integrated institution and assumes the obligations thereof.

DIVISION V

DISSOLUTION

227. The Inspector General of Financial Institutions may, at the request of an institution contemplated in paragraph 2, 3 or 4 of section 39 and with the authorization of the Minister, cancel the letters patent of the institution. The cancellation takes effect sixty days after publication of notice thereof in the *Gazette officielle du Québec*.

The institution is thereupon dissolved and its property devolves, after the payment of its debts and the performance of its obligations,

to the Government or to a public institution designated by the Government.

TITLE III

COMMUNITY ORGANIZATIONS

228. This title applies to community organizations and their users.

229. A community organization is a non-profit organization, incorporated under Part III of the Companies Act (R.S.Q., chapter C-38), which works in the field of health and social services and whose board of directors is composed, in the majority, of users of the organization or members of the community.

230. A regional board may, in accordance with the eligibility and allotment criteria it determines in accordance with the applicable budgetary rules, subsidize a community organization in one or the other of the following cases:

(1) where its activities are connected, even indirectly, with the field of health and social services and where they are directed, in particular, to the provision of assistance and support services to persons in the region;

(2) where it carries on activities at the regional level for the promotion and defence of the rights and interests of users of its services or beneficiaries of health or social services in the region.

Such an organization must also, if it provides accommodation, comply with the conditions established by regulation as to the maximum number of persons it may accommodate and the average duration of their stay.

231. A group of community organizations is not eligible for a subsidy. However, members who contribute to its financing remain eligible.

232. The Minister may, in accordance with the applicable budgetary rules, subsidize the community organizations which attend, for the whole of Québec, to the defence of the rights or promotion of the interests of users of community organizations or the rights or interests of beneficiaries.

233. The Minister may, in accordance with the applicable budgetary rules, subsidize community organizations in respect of

activities which meet new needs or take novel approaches, or which are directed at special groups of persons not provided for in the program of a regional board.

TITLE IV

REGIONAL INSTITUTIONS

CHAPTER I

REGIONAL HEALTH AND SOCIAL SERVICES BOARDS

DIVISION I

GENERAL PROVISIONS

234. The Government shall establish, for each region it determines, a regional health and social services board.

The main object of a regional board is to organize and implement, in the region, health and social services programs in order to

(1) ensure public participation in the management of the health and social services system;

(2) ensure protection of the rights of beneficiaries;

(3) ensure the coordination and cooperation of persons from the various sectors of the community who are active in the field of health and social services;

(4) allocate the budgets to the institutions and community organizations;

(5) control the budgets of the institutions and community organizations;

(6) evaluate the health and social services programs.

235. The name of a regional board must include the expression “regional board” and indicate the region for which it is established.

236. A regional board is a corporation within the meaning of the Civil Code; it is vested with the general powers of such a corporation and the special powers conferred upon it by this Act.

DIVISION II

FUNCTIONS AND POWERS

§ 1.—*Functions and powers regarding the public*

237. To ensure public participation in the organization and administration of health services and social services, the regional board shall

(1) see to the implementation of the mechanisms for public participation provided for in this Act, such as the formation of beneficiaries' committees;

(2) see to the observance of the provisions concerning the appointment of members to boards of directors of institutions;

(3) see to the formation and smooth operation of the regional college.

238. To ensure protection of the rights of beneficiaries, the regional board must

(1) inform the public in its territory of the health services and social services available to them, and of their rights and obligations in respect thereof;

(2) receive and deal with complaints of beneficiaries relating to services they have received or should have received from an institution, examine them and make the appropriate recommendations, as the case may be, to the institution and to the Minister;

(3) award to a community organization which it shall designate after consultation with, in particular, the beneficiaries' committees and the associations concerned, the mandate of assisting and accompanying beneficiaries wishing to make a complaint.

The provisions of Chapter III of Title I apply to every record kept by the regional board in carrying out its functions under subparagraph 2 of the first paragraph in respect of nominative information of a medical or social nature contained in that record.

239. The executive director of an institution which receives a recommendation addressed by a regional board in accordance with subparagraph 2 of the first paragraph of section 238 must, not later than thirty days after receipt of the recommendation, advise the

regional board in writing of the effect the institution has given to the recommendation.

If the regional board is of the opinion that the rights of the complainant or of other persons who could find themselves in the same situation as the complainant are at risk because of the attitude of the institution concerned, it may make an application to the Commission des affaires sociales, which shall deal therewith in accordance with its governing Act.

§ 2.—*Functions and powers related to programs*

240. A regional board must, in cooperation with the institutions, the community organizations and the multi-sectoral consultative groups to which they belong, where such is the case, prepare and implement the health and social services programs required to meet the needs of the public in its region, taking into consideration its socio-sanitary resources and the financial resources set aside for that purpose.

The regional board, in cooperation with the institutions concerned, may also prepare inter-institutional programs to meet certain needs of the public in its region which the board considers to have priority.

The preparation of these programs must take into account, where applicable, the regulations, orientations and policies of the Minister in that regard.

241. Every regional board, in cooperation with the institutions, and jointly with other regional boards, as the case may be, shall prepare a program of access to health services and social services in the English language for persons contemplated in section 13 in the institutions it indicates, taking into account the organization and resources of such institutions.

The program of access must be approved by the Government.

242. For the exercise of these functions, the regional board must, in particular,

(1) ensure, in cooperation with the community health departments in the region, that the information on the state of public health in the region is up to date and accessible;

(2) identify public needs with a view to regional planning of programs;

(3) annually determine regional priorities and obtain approval thereof from the regional college;

(4) inform the Minister of public needs with a view to the establishment of ministerial policies regarding health and social services programs;

(5) implement inter-institutional programs to meet needs that the board considers to have priority;

(6) evaluate, at intervals determined by the Minister, the effectiveness of the health and social services programs implemented in its region, taking into account, in particular, the attainment of program objectives and the degree of satisfaction of beneficiaries with regard to the programs;

(7) prepare and implement, in accordance with the directives of the Minister, a program to evaluate the quality of services offered by the institutions;

(8) execute any specific mandate which the Minister, with the approval of the Government, grants to it.

243. A regional board may, for the exercise of its functions, require from the institutions and the community health and social services organizations in its region the necessary information concerning their clientele, services requested and provided, and resources used.

§ 3.—*Functions and powers related to the coordination of health services and social services*

244. A regional board shall coordinate the work of the institutions and community organizations in its region and promote consultation and cooperation between them for the purpose of ensuring a rational use and equitable distribution of resources which take account of the complementarity of the institutions and organizations, eliminate duplication between them and permit the setting up of common services.

245. A regional board shall cooperate with the other bodies in the region, particularly the municipalities, the regional branches of government departments, and socio-economic organizations, in activities likely to improve public health and welfare.

246. The regional board must prepare, in accordance with the regulations, a regional medical and dental staffing plan for the

institutions in the region, on the basis, particularly, of each and all of the organization plans it has approved under sections 121 and 122.

The regional plan must be reviewed at least once every three years.

The regional plan, accompanied with the organization plans used in preparing it, must be submitted to the Minister, who shall approve it with or without amendments.

Where the Minister amends the regional plan, he shall inform any institution of the amendments affecting its organization plan, where such is the case.

247. The regional board shall establish, in accordance with the standards determined by regulation, a regional system for the admission, discharge and transfer of beneficiaries to or from residential and extended care or rehabilitation, except beneficiaries of rehabilitation centres for physically handicapped persons and persons addicted to drugs, and from care and shelter centres for young mothers with adjustment problems.

Every institution operating a hospital, a residential and extended care centre or a rehabilitation centre for the mentally handicapped or for young persons with adjustment problems must submit its admission and discharge criteria and its policy on the transfer of beneficiaries to the regional board for approval.

248. The Minister may require an institution contemplated in the second paragraph of section 247 to submit to him, instead of the regional board, considering its special vocation, its criteria on admissions and discharge and its policy on the transfer of beneficiaries.

The Minister shall in such a case obtain the opinion of the regional board.

Once approved by the Minister, the criteria and policies of the institution bind the institution and the regional board.

249. A regional board shall ensure that the institutions in the region carry out the functions of reception, evaluation and referral of beneficiaries, and that intermediary resources undergo orderly development, taking into account the ability of the population concerned to integrate them.

250. The regional board established for the region of Montréal Métropolitain shall, for the apportionment of emergency cases, have the following functions:

(1) to establish criteria on admissions and policies on transfers of beneficiaries to public institutions and private institutions under agreement;

(2) to ensure that adequate operating standards for emergency services are adopted in such institutions or, if they are not, fix such standards;

(3) to ensure that such institutions adopt and apply, in respect of the use and allocation of beds, standards in conformity with the requirements of adequate apportionment of emergency cases or, if they do not, fix such standards;

(4) to devise and set up a regional information system to keep in daily touch with the situation in the centres operated by these institutions as to the number and nature of registrations and admissions of beneficiaries and their transfer and transport by ambulance.

§ 4.—*Functions and powers related to physical and financial resources*

251. A regional board has the function of allocating, out of the master budget transmitted to it by the Minister for that purpose, the financial resources provided for the implementation and operation of the health and social services programs prepared for the region.

A regional board is responsible, to the extent and on the conditions prescribed by the Minister in accordance with the applicable budgetary rules, for the allocation of budgets to the public institutions and private institutions under agreement in its region and the granting of subsidies to community organizations in its region in accordance with section 230.

252. A regional board has the function of examining applications from institutions in respect of physical resources which must be submitted to it for its opinion or authorization in accordance with this Act or the regulations. It must reply to them with diligence.

253. A regional board may act as the exclusive representative of the institutions in any region it designates, where it considers this advantageous for these institutions, for one or the other of the following purposes:

(1) the supply in common of such property as it determines, except the classes of property indicated by the Minister;

(2) the supply of common services in the cases and on the conditions determined by the Minister.

The regional board established for the region of Québec may, with the authorization of the Minister, to the extent and on the conditions he determines, give to PARTAGEC Inc., a non-profit corporation incorporated by letters patent issued on 8 July 1966 under Part III of the Companies Act, the mandate to carry out on its behalf for the institutions it designates, the functions provided for in the first paragraph.

254. A regional board must, in accordance with the rules determined by the Minister, exercise control of the budgets and subsidies allocated according to section 251.

DIVISION III

OPERATING BUDGET

255. The financial year of a regional board shall end on 31 March each year.

256. On 1 April each year, the Minister shall transmit to each regional board its operating budget for the current financial year. Failing this, one-quarter of the budget for the preceding financial year shall be renewed at the beginning of each quarter of the financial year and shall remain in force until it is replaced by the budget for the financial year concerned.

In addition, the Minister may, if he considers it expedient, transmit a capital budget to a regional board on the conditions he determines.

257. No later than 30 June each year, every regional board must make a report to the Minister of its activities for the year ended on the preceding 31 March. The report must also contain any information the Minister may prescribe. It must have received the approval of the regional college. The Minister shall table it before the National Assembly, if in session, within 30 days of its receipt or, if not in session, within 30 days of resumption.

In addition, a regional board must at all times furnish to the Minister any information on its activities that he may require.

258. A regional board is subject to sections 176, 177 and 185 and 195, adapted as required, concerning the reports and audits which must be made.

259. Notwithstanding any provision of law inconsistent herewith, any regional board may, with the authorization of the Minister and according to the conditions he determines, borrow by any mode recognized by law.

At the request of the Minister, a regional board shall, either directly or through the financial institutions with which it does business, provide the Minister with any information on its financial condition.

DIVISION IV

BOARDS OF DIRECTORS

§ 1.—*Composition*

260. The powers of a regional board shall be exercised by a board of directors consisting of fifteen members.

Fourteen members shall be elected by the regional college from among its own members, as follows:

(1) seven persons from boards of directors of institutions, including at least one person from the board of directors of the institutions in the territory of a local community service centre, one person from the board of directors of the institutions in the territory of a social service centre and, where such is the case, one person from the board of directors of a private institution under agreement and one person from the board of directors of an institution operating a university hospital or a university institute;

(2) two persons from community organizations;

(3) three persons from the municipal sector, the education sector and groups concerned with the field of health or social services;

(4) two persons from the socio-economic groups.

The fifteenth member shall be appointed by the Government on the recommendation of the Minister.

That member shall be selected by the Minister from a list of three persons drawn up by the elected members of the board of directors and approved by at least two-thirds of them.

He is *ex officio* chairman of the board of directors of the regional board and executive director of the regional board.

§ 2.—*Organization*

261. The elected members of the board of directors of a regional board remain in office until they are re-elected or replaced by the regional college.

The term of office of the chairman of the board of directors is four years.

The term of office of the members and the chairman of the board of directors cannot be renewed more than once.

262. Sections 57 to 61 and 63 apply, adapted as required, to the members of the board of directors of a regional board.

263. Any vacancy occurring less than two years after the election of the member concerned of a board of directors shall be filled within a reasonable time by following the mode of election prescribed for the election of the member to be replaced, but only for the unexpired portion of the term of office of that member.

Any vacancy occurring more than two years after the election shall be filled from among the members of the regional college for the unexpired portion of the term of office of the member to be replaced, by resolution of the members of the board remaining in office. If the board fails to fill the vacancy, the Minister may fill it.

In particular, absence from the number of meetings of the board of directors determined in its internal rules of management constitutes a vacancy in the cases and circumstances therein prescribed.

264. The members of a board of directors shall elect a vice-chairman of the board and a secretary each year. If the chairman is absent or temporarily unable to act, the vice-chairman shall exercise the functions of chairman.

265. Section 67 applies adapted as required to the members of the board of directors, and sections 68 and 69 apply similarly to the regional board.

266. At least once a year, every regional board must hold a public information meeting to which it shall invite the population of the region for which the board is established.

At the meeting, the members of the board of directors must make public, in accordance with the regulations, the prescribed information respecting the financial statements of the regional board. They must also answer questions put to them relating to these statements, to the functions, priorities and orientations assumed by the regional board and to relations between the board and the institutions in the region for which it is established.

The mode of calling the meeting and procedure to be followed at the meeting shall be determined by the Minister.

267. A regional board may hold several public information meetings if it considers that the size of the region or the density of the regional population warrants it.

268. The procedure for calling meetings of the board of directors shall be determined by by-law of the board and submitted to the Minister for approval.

The board of directors shall meet at such times as it determines.

However, it must meet at the request of the chairman or at the written request of one-third of its members in office.

269. Sections 76 and 77 apply, adapted as required, to meetings of the board of directors.

Decisions are made by a majority of votes of the members present. In the case of a tie-vote, the chairman or, in his absence, the vice-chairman has a casting vote.

A member who abstains from voting on a motion is deemed to have voted against it.

270. The board of directors of a regional board may, by by-law, establish an executive committee and determine its functions, powers, duties and procedure.

The executive committee shall consist of the chairman of the board of directors, who shall preside, and at least four members of that board appointed annually by its members at a general meeting thereof and chosen respectively from each of the four groups of members contemplated in the second paragraph of section 260.

271. Sections 82 to 84 apply, adapted as required, to the executive committee.

272. A regional board may, by by-law,

(1) create the necessary committees for the pursuit of its objects, including management committees;

(2) determine the composition, functions, duties and powers, methods of business management, internal management rules and financing of such committees;

(3) determine the mode of appointment, qualifications, functions, duties and powers, term of office and mode of dismissal of the members of such committees.

Such a by-law comes into force on the date of its approval by the Minister.

273. The first paragraph of section 88 and sections 89 and 91 apply, adapted as required, to the documents and records of a regional board.

DIVISION V

EXECUTIVE DIRECTOR

274. The executive director of a regional board is responsible, under the authority of the board of directors, for the administration and operation of the board within the scope of its by-laws.

275. Sections 96 to 98 apply, adapted as required, to the executive director.

CHAPTER II

REGIONAL COLLEGES

276. A regional college is established for each region of Québec in which the Government establishes a regional board.

277. The functions of a regional college are

(1) to elect the members of the board of directors of the regional board every three years;

(2) to approve the list of regional priorities as to health services and social services submitted to it by the regional board;

(3) to approve the annual report of the regional board.

278. A regional college shall be composed as follows:

(1) one-half of the members shall be elected by the members of the boards of directors of the institutions in the region from among their own members;

(2) one-quarter shall be persons elected by the community organizations in the region designated by the regional board;

(3) one-quarter shall be persons elected by the organizations in the region which the regional board designates as being the most representative of socio-economic groups, persons elected from the municipal and education sectors and persons elected by other groups concerned with the field of health or social services.

Within 30 days of being formed, the college must proceed to elect the members of the board of directors of the regional board.

279. The Minister shall fix the number of members of each regional college. The number may vary according to the region, taking account particularly of the number of boards of directors of institutions concerned.

The Minister may also determine the distribution of the members contemplated in subparagraphs 1 and 3 of the first paragraph of section 278 in order to ensure an equitable representation of the institutions, groups and persons contemplated therein.

280. The members of a regional college shall be designated every three years according to the procedure determined by regulation of the Minister.

281. The following persons cannot be members of a regional college:

(1) minors;

(2) public servants of the Ministère de la Santé et des Services sociaux or persons receiving remuneration from the Régie de l'assurance-maladie du Québec, a regional board, an institution or any other body providing services related to the field of health or social services;

(3) interdicted persons;

(4) persons in close treatment or unable to administer their property within the meaning of the Mental Patients Protection Act;

(5) persons convicted within the preceding five years of an offence or crime that may entail up to three years of detention;

(6) persons forfeited of office as members of the board of directors of an institution or regional board within the preceding three years, pursuant to paragraph 2 of section 342;

(7) persons convicted of an offence under this Act or the regulations within the preceding three years.

Scholarships, subsidies or sums of money paid under a research contract are not deemed to be remuneration for the purposes of subparagraph 2 of the first paragraph.

282. The term of office of members of a regional college is three years.

283. A person ceases to be a member of a regional college upon losing the quality necessary for his appointment.

284. Any vacancy among the members of a regional college shall be filled within a reasonable time by following the mode of appointment prescribed for the member to be replaced, but only for the unexpired portion of the term of office of that member.

285. The members of a regional college remain in office, notwithstanding the expiry of their term, until they are reappointed or replaced.

286. Each regional college shall establish its rules of internal management.

287. The members of a regional college shall elect a president and a vice-president from among their number.

In case of a tie-vote at a meeting of the members of the regional college, the president shall have a casting vote.

288. The members of a regional college shall not, as such, receive any remuneration; however, they are entitled to reimbursement of expenditures made in the exercise of their functions on the conditions and to the extent determined by the Government.

TITLE V

COORDINATION, CONTROL AND REGULATION OF HEALTH
SERVICES AND SOCIAL SERVICES

CHAPTER I

THE MINISTER

DIVISION I

MINISTERIAL FUNCTIONS

289. The Minister, in cooperation with the other ministers concerned, shall formulate general policy on health and see that it is carried out. To that effect, he shall

(1) establish health and social services programs and see to their implementation or that they are carried out by the regional boards;

(2) ensure inter-regional coordination of health services and social services;

(3) allocate resources among the regions;

(4) see to the protection of the public health;

(5) coordinate research in the field of health services and social services.

290. The Minister, in exercising his functions under this Act, may, notwithstanding any provision inconsistent herewith, to the extent and on the conditions fixed by the Government, implement any experimental project concerning the organization of the human or physical resources of the institutions designed to favour integration in the organization and provision of health services and social services.

He may, for the purposes contemplated in the first paragraph, enter into agreements with institutions or professionals.

DIVISION II

PERMITS

§ 1.—*Issue and renewal*

291. No person may carry on the activities of a local community service centre, hospital, social service centre, residential and

extended care centre or rehabilitation centre except the holder of a permit issued for that purpose by the Minister.

No person may, in any way, purport to be authorized to carry on the activities of a centre mentioned in the first paragraph except the holder of a permit issued pursuant to this Act.

292. No person may operate a facility under a name or corporate name containing the words “local community service centre”, “hospital centre”, “hospital”, “social service centre”, “residential and extended care centre” or “rehabilitation centre” except the holder of a permit issued for that purpose.

Notwithstanding the first paragraph, the corporate name of a foundation attached to an institution may contain the name of that institution.

A person may, however, operate a facility under a name or corporate name containing the words “veterinary hospital” without holding a permit issued pursuant to this Act.

293. The facilities of an institution may be identified by a name other than that of the institution.

However, no institution may operate a facility under a name other than that indicated on its operating permit for the facility, where such is the case.

294. The permit shall indicate any category of centres which the institution is authorized to operate, the class to which they belong, if any, their capacity and a list of the facilities at the disposal of the institution.

295. Every person applying for a permit must transmit an application to the Minister in accordance with the regulations. The person must possess the qualifications, meet the conditions and provide the information and documents prescribed by regulation.

The Minister shall issue a permit if of the opinion that it is in the public interest.

296. A permit is granted for a period of two years ending on 31 March.

In the case of a first permit, the Minister may grant it for a period of less than two years ending on 31 March of the year for renewal of permits generally.

297. A permit shall be renewed for two years if its holder possesses the qualifications, fulfils the conditions and provides the information and documents prescribed by regulation.

When renewing a permit, the Minister may however, after consultation with the regional board, change the class or capacity indicated on the permit, if of the opinion that it is in the public interest. Before changing the class or capacity indicated on a permit, the Minister must give the permit holder an opportunity to be heard.

The decision of the Minister to modify a permit is final and without appeal.

The holder of a permit that has been modified must take the necessary steps to comply with the changes made to the permit within six months of receiving it.

§ 2.—*Obligations of permit holders*

298. The activities of a permit holder must be confined within the limits fixed in the permit.

299. No permit holder may assign or transfer the permit without the written authorization of the Minister.

Nor may the holder, without such authorization, carry on activities at addresses other than those entered on the permit.

§ 3.—*Suspension, cancellation and refusal of renewal*

300. The Minister may suspend, cancel or refuse to renew the permit of any holder who

(1) has been convicted of an offence under this Act or the regulations or an indictable offence in connection with the operation of the service for which the permit is held;

(2) no longer fulfils the conditions required by regulation to obtain the permit;

(3) is insolvent or is about to become so;

(4) is unable to ensure adequate health services or social services;

(5) fails to comply with an order given under section 301;

(6) fails to conform to a voluntary undertaking given pursuant to section 302.

301. Where a permit holder contravenes paragraph 4 of section 300, the Minister, instead of suspending, cancelling or refusing to renew the permit, may order the holder to make the necessary correctives within the time he fixes.

302. Where the Minister has reasonable grounds to believe that a permit holder is in contravention of this Act or the regulations, he may accept a voluntary undertaking from the holder to comply therewith.

303. Before suspending, cancelling or refusing to renew a permit, the Minister shall give the holder notice thereof and an opportunity to be heard. The permit holder must give indication in writing of the intention to be heard within fifteen days of receiving the notice. That time limit is peremptory and extinguishes the right of appeal.

Where the Minister suspends, cancels or refuses to renew a permit, he shall notify the holder in writing, giving the reasons on which his decision is based.

304. A permit holder whose permit is suspended or cancelled or whose application for renewal is rejected may appeal from the Minister's decision to the Commission des affaires sociales

(1) if the reasons of fact or law invoked in support of the decision are clearly erroneous;

(2) if the procedure followed is affected by gross irregularity;

(3) if the decision has not been rendered impartially.

305. Within one month from service of the declaration of appeal, the Minister shall transmit the record respecting the decision appealed from to the clerk of the Commission des affaires sociales.

DIVISION III

APPROVAL OF CERTAIN PRIVATE RESOURCES FOR FUNDING PURPOSES

306. With a view to allowing elderly people with decreasing independence to receive various health services or social services, the Minister may allocate financial allowances to private residences for the elderly or to private institutions not under agreement which

operate a residential and extended care centre; the allowances may vary according to the type of services offered.

307. Only a natural or legal person holding a certificate of approval under this division may receive a financial allowance under section 306.

308. Any person operating a private residence for the elderly or any private institution not under agreement operating a residential and extended care centre, who or which meets the requirements determined by the Minister, is eligible for approval.

309. An eligible person applying for approval must submit an application to the Minister on the form provided by the latter.

310. Before deciding on an application for approval, the Minister shall obtain the advice of the regional board.

He may make the issue of a certificate of approval subject to the conditions he determines.

311. A certificate of approval issued by the Minister remains in force as long as the holder complies with this Act and meets the requirements and conditions determined by the Minister.

The Minister may, however, issue a certificate of approval for a fixed period of time or a temporary certificate, where he considers it necessary.

312. The holder of a certificate of approval must, prior to the fact, inform the Minister in writing of any change of address of the residence or centre, of any alienation of assets or shares or of any transaction making the holder ineligible for approval.

313. The Minister may suspend or revoke a certificate of approval upon the application of the holder or where the holder no longer meets the conditions prescribed by this Act or the requirements and conditions determined by the Minister.

Before deciding to cancel, suspend or revoke a certificate of approval, the Minister must give the person concerned an opportunity to be heard and obtain the advice of the regional board.

314. A certified copy of the Minister's decision, with the reasons on which it is based, must be sent by registered or certified mail to the person concerned.

315. Only the holder of a certificate of approval issued pursuant to this Act may call itself an approved residence or approved institution or associate the notion of approval with a residence or institution.

DIVISION IV

FINANCING OF SERVICES

316. The Minister shall see to it that the funds necessary for the financing of the health and social services system are allocated fairly, on the basis of general objectives and regional priorities.

He shall establish resource allocation mechanisms in order to allow the regional boards to realize the programs for which they are responsible and to manage the related budgets.

317. Each year, after consultation with the regional boards, the Minister shall establish budgetary rules, which he shall submit to the Conseil du trésor for approval, to determine the amount of expenditures for general operation, investment and debt service which is eligible for the subsidies to be granted to the regional boards in the form of a general budget for each program.

In those budgetary rules, the Minister must provide for the payment of subsidies designed to bring about a fair allocation among the regions.

The budgetary rules shall also provide for the allocation of subsidies to other persons and organizations eligible for such funding who or which carry out a special obligation arising from this Act or from an agreement entered into pursuant to this Act.

318. Each year, the Minister shall establish special budgetary rules for the regional boards pertaining to the allocation of budgets to institutions and the granting of subsidies to the community organizations contemplated in this Act.

319. The budgetary rules referred to in sections 317 and 318 may stipulate that the allocation of a subsidy may be made

(1) on the basis of general criteria concerning all those eligible or of special norms concerning only one or some of them;

(2) subject to general conditions applicable to all those eligible or to special conditions applicable to only one or some of them;

(3) subject to authorization from the Minister;

(4) to only one or some of those eligible.

320. The budgetary rules may also deal with

(1) the use of the revenue that may be received and the financial contributions that must be demanded pursuant to this Act and the incidence of such revenue and contributions on the computation or payment of subsidies;

(2) the frequency of instalments and other terms and conditions of payment of a subsidy.

321. The Minister may, on the conditions he determines, grant a subsidy on behalf of the Government to any regional board or public institution to provide, out of the funds voted annually for such purpose by Parliament, for the total or partial payment in principal and interest of any loan contracted or to be contracted by the regional board or public institution.

The regional board or public institution must allocate the proceeds of the loan contemplated in the first paragraph to the payment of investment expenditures and the related debt service expenditures, the repayment of loans obtained for the purposes of such expenditures or the payment of costs and expenses related to such loans.

The Minister may deposit with the Minister of Finance, for management, all amounts allocated to payment of the capital of the loan contracted by the regional board, the public institution or the Corporation d'hébergement du Québec contemplated in section 323, to constitute a sinking fund for the payment out of these sums, on the dates specified in the loan, of the capital of the loan and, out of the proceeds or revenue of the fund, the loans of any regional board or public institution or of the Corporation.

322. The Minister may withhold or cancel the whole or part of the amount of a subsidy intended for a regional board, public institution, private institution under agreement or community organization where it refuses or neglects to observe a provision of this Act or the regulations.

The Minister cannot, however, withhold or cancel a subsidy granted under section 321 for the payment in capital and interest of any duly authorized loan obtained by a regional board or public institution.

323. The Minister may, on the conditions he determines, assume the carrying out of any obligation of the Corporation d'hébergement du Québec, which Corporation is incorporated for exclusively charitable purposes, or grant, on behalf of the Government, a subsidy of the same nature as that contemplated in section 321 to provide for the payment of any loan obtained by that Corporation, where the loan or obligation is obtained or undertaken, directly or indirectly, for one or other of the following purposes:

(1) the acquisition, construction or alteration of an immovable used or to be used by an institution, a regional board or any other person, association or corporation specially designated by the Minister;

(2) the administration and maintenance of such an immovable and the acquisition or obtention, by supply contract, of the furniture and equipment necessary for such an immovable and any other services that may be required;

(3) the securing of the financing of such activities.

The Minister may also determine which members of the personnel of the Ministère de la Santé et des Services sociaux will be assigned to the operation of the Corporation d'hébergement du Québec, and provide the Corporation with equipment and premises for its operations.

324. Not later than 30 June each year, the Corporation d'hébergement du Québec must make a report to the Minister of its activities for the preceding fiscal year; the report must also contain all the information that the Government or the Minister may prescribe.

The Corporation must, in addition, provide the Minister at any time with any information he may require on its operations.

325. The books and accounts of the Corporation d'hébergement du Québec shall be audited each year by the Auditor General and also whenever the Government so orders; the audit reports must be attached to the annual report of the Corporation.

326. The Minister, if he considers it in the public interest and justified by the needs of a region, may enter into an agreement with a private institution for either of the following purposes:

(1) the remuneration of the institution for the health services and social services it provides under the agreement, at a flat rate fixed

by the Government for any category of centres or services it designates;

(2) the full or partial reimbursement of the institution for expenditures which are eligible for subsidies under the budgetary rules referred to in section 318.

327. The Minister, with the approval of the Conseil du trésor and on the conditions it determines, may negotiate and accept terms and conditions applicable to all financing agreements entered into under paragraph 2 of section 326 and, saving the exceptions prescribed by the Minister, to all private institutions under agreement.

328. In order to facilitate the administrative and financial management of the public institutions, private institutions under agreement and regional boards, the Minister shall publish and keep up to date a financial management handbook containing, among other particulars, the following:

- (1) the policies applicable to the keeping of books and accounts;
- (2) a description of the items of the master budget;
- (3) a classification and definition of the centres of activity;
- (4) a grouping of financial and operational data by centres of activity;
- (5) guidelines on accounting methods and data collection;
- (6) the items of the annual financial report.

DIVISION V

REGULATIONS

329. The Minister may, with the approval of the Conseil du trésor, make regulations applicable to institutions and regional boards, and to the Corporation d'hébergement du Québec contemplated in section 323, respecting norms, conditions and procedure to be observed for procurement, purchases in common and mandates for that purpose, construction of immovables, alienation of property, leasing of immovables and contracts related to such matters.

330. The Minister, in making regulations under section 329, may determine cases where his approval or that of the regional board is required.

331. For the administration of the regulations, the Minister may, in addition, prescribe and deliver model contract forms or other standard documents.

332. The Minister shall make regulations to determine the procedure for calling and holding the public meeting which a regional board must hold, and the procedure for the appointment of members to a regional college.

DIVISION VI

SUPERVISORY POWERS

§ 1.—*Inspection*

333. A person authorized in writing by the Minister to carry out an inspection may at any reasonable time enter any premises, other than a professional's private consulting office, in which he has reason to believe that operations or activities for which a permit is required by law are carried on, or any centre, in order to ascertain whether this Act and the regulations are being observed.

The person must, if so required, produce a certificate signed by the Minister attesting his quality.

§ 2.—*Provisional administration*

334. The Minister may, for a period not exceeding 120 days, administer, in the place and stead of the board of directors, the institutions in the territory of a local community service centre, the institutions in the territory of a social service centre, an institution operating a hospital classified as a university hospital or an institution recognized as a university institute,

(1) if an institution has no permit, no longer meets the conditions required for obtaining a permit, or has had its permit cancelled under this Act;

(2) if the permit of an institution has been suspended under this Act and the causes for the suspension have not been remedied within thirty days of the date on which it took place;

(3) if an institution indulges in practices or tolerates a situation which could endanger the health or well-being of persons the institution receives or could receive or which are inconsistent with the pursuit of its objects;

(4) where he considers that there has been a serious fault, particularly malfeasance, breach of trust or other misconduct by one or more members of the board of directors or executive committee or if the board or committee is seriously remiss in the performance of its obligations under this Act, particularly by making expenditures not provided for in the budget of an institution or not specially authorized in accordance with this Act.

The first paragraph applies, adapted as required, to private institutions under agreement.

335. The Minister may also assume the administration of a regional board for a period not exceeding 120 days where he considers that there has been a serious fault, particularly malfeasance, breach of trust or other misconduct by one or more members of the board of directors or executive committee or where the board or committee is seriously remiss in the performance of its obligations under this Act.

336. The period of 120 days may be extended by the Government for any length of time it determines, up to ninety additional days.

337. Where the Minister assumes provisional administration as in sections 334 and 335, he shall make a preliminary report of his findings to the Government as soon as possible, together with his recommendations.

338. Before submitting his preliminary report to the Government, the Minister shall give the board of directors referred to in section 334, the regional board or the private institution under agreement, as the case may be, an opportunity to make representations.

The Minister shall attach to his report a summary of the representations made to him by the board of directors, regional board or private institution under agreement.

339. Where the Minister assumes provisional administration in accordance with this subdivision, the powers of the board of directors referred to in section 334, regional board or private institution under agreement, as the case may be, are suspended and the Minister has these powers.

340. No person who, under the authority of the Minister, assumes provisional administration pursuant to section 334 or section 335, as the case may be, may be prosecuted for any act performed in good faith in the exercise of his duties.

CHAPTER II

THE GOVERNMENT

DIVISION I

ADMINISTRATIVE MEASURES

341. The Government may, where the preliminary report made by the Minister pursuant to section 337 confirms the existence of a situation described in section 334 or 335,

(1) attach such restrictions and conditions to the permit of the institution as it deems appropriate;

(2) prescribe the time by which any situation described in section 334 or 335 must be remedied;

(3) order the Minister to continue his administration or to relinquish it and not to resume it unless the board of directors contemplated in section 334, the regional board or the private institution under agreement, as the case may be, fails to comply with the conditions imposed by the Government pursuant to subparagraph 1 or 2.

The Government shall, in addition, order the Minister to make a final report to it upon ascertaining that the situation described in section 334 or 335 has been corrected or that it will not be possible to correct it.

342. After receiving the final report of the Minister, the Government may take one or several of the following measures:

(1) terminate the provisional administration on the date it fixes;

(2) declare the members of the board of directors contemplated in section 334, the members of the regional board or the members of the board of directors or the director of the private institution under agreement, as the case may be, forfeited of office and provide for the appointment or election of their replacements;

(3) exercise any power conferred upon it by section 341.

343. Upon the recommendation of the Minister, the Government may appoint a controller entrusted with ensuring the proper use of the public funds granted to an institution or a regional board which does not exercise adequate budgetary control.

Where a controller is appointed under this section, his powers are determined by the order of appointment, and every person exercising administrative functions at the institution or regional board is bound to submit to his directives, within the limits of the powers assigned to him.

No undertaking may be entered into on behalf of the institution or regional board nor any disbursement made without the countersignature of the controller. Any agreement not in keeping with this paragraph is null.

344. The Government may entrust a person it designates with the responsibility of inquiring into any matter pertaining to the quality of health services or social services and to the administration, organization and operation of an institution or regional board.

The person so designated is vested, for the purposes of the inquiry, with the immunity and powers of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

345. During or after an inquiry or after the appointment of a controller, the Government may order that all or part of the functions or powers of a board of directors contemplated in section 334, regional board or private institution under agreement be suspended for a period of not more than six months and appoint an administrator to exercise the functions and powers so suspended.

The administrator appointed by the Government may, subject to the rights of third persons in good faith, annul a decision taken before his appointment under the powers which have been suspended.

The Government may extend the suspension and the mandate of the administrator for a period of not more than six months.

346. An administrator appointed by the Government cannot be prosecuted for an act performed in good faith in the exercise of his duties.

347. The Government shall determine each year the number of positions available in the post-doctoral medical training programs. This number includes

(1) the general practice or family medicine training positions;

(2) the other training positions required for one or another of the specialties recognized by regulation under the Medical Act.

In order to promote what it considers a rational distribution of medical resources among the regions, the Government may each year authorize certain of the positions provided for in subparagraph 2 of the first paragraph, conditional on the acceptance by the trainees of an agreement, which may contain a penal clause, to work for a period not exceeding four years in the region or for the institution determined by the Minister. These positions cannot exceed 25 % of the number of positions intended for new trainees among the total number of positions provided for in subparagraph 2 of the first paragraph.

When a position contemplated in the second paragraph has not been filled, it automatically becomes a general practice or family medicine training position which does not involve an agreement to work in a particular region or for a particular institution.

The Government may also, if it deems it appropriate, authorize certain additional training positions in post-doctoral training programs intended for graduate students of a university or school situated outside Canada or the United States conditionally on the acceptance by the trainees of an agreement, which may contain a penal clause, to work for a period of four years in the region or for the establishment determined by the Minister.

The number of the positions referred to in the second paragraph shall be determined after the Minister has consulted the Corporation professionnelle des médecins du Québec, the deans of the faculties of medicine in Québec and the regional boards of the regions where the trainees are to work.

DIVISION II

REGULATIONS

§ 1.—*Administration of this Act*

348. The Government may, by regulation,

(1) determine, according to the categories of centres and also according to the classes to which they belong, if any, the divisions, services and departments which must appear on the organization plan, the duties of the head of each such division, service and department

together with his qualifications, if any, the form of the organization plan, the items it must include and the methods or rules according to which it must be prepared;

(2) prescribe the terms and conditions for the establishment of an auditing committee, determine its functions and powers, its operating rules, its composition, the qualifications required of its members and the mode of their appointment;

(3) determine which categories of centres, or classes of centres as the case may be, must provide emergency services to beneficiaries requiring such services, prescribe the cases where a beneficiary is entitled to receive emergency services and, if appropriate, determine the care and services they include and fix the maximum bed occupancy period for a beneficiary in an emergency service;

(4) determine, for the purposes of subparagraph 4 of the second paragraph of section 93, the cases where the selection and hiring of certain members of the staff come under the authority of the board of directors of the institution;

(5) fix the minimum amount of liability insurance that a physician or dentist must hold under section 145;

(6) determine what conditions and measures of hygiene and safety must be observed or taken, as the case may be, in an institution;

(7) determine what regulations a regional board or an institution may or must adopt;

(8) determine what information relating to the financial statements a regional board or a public institution must disclose at its annual information session and the form in which it must be presented;

(9) provide for the creation of admission systems and committees by institutions or regional boards and determine their function and minimum membership;

(10) determine, in the case of a regional board, the form of the medical and dental staffing plan, the items it must contain and the methods or rules according to which it must be prepared;

(11) determine, for the purposes of the preparation of a regional medical and dental staffing plan or of an organization plan, the methods or rules relating to the computation of the medical and dental staff, which may vary according to the regions, the categories of

centres or the classes, if any, to which these centres belong, and according to the activities taking place in them;

(12) determine the form and content of an application for the issue or renewal of a permit, the qualifications required of the applicant, the conditions he must fulfil and the information and documents he must provide;

(13) determine the number of beneficiaries which a family-type resource may receive and the kind of services it may offer to these beneficiaries;

(14) determine, for the purposes of section 208, the other intermediary resources which an institution may develop, the activities that may be carried on therein, the categories of beneficiaries who may receive the services provided by these resources, and the categories of centres which may develop such resources;

(15) determine the conditions relating to the maximum number of persons which a community organization may shelter and the average length of their stay.

349. The Government may, by regulation,

(1) prescribe norms respecting the making and keeping of records of beneficiaries, the particulars and documents contained therein and the examination and transfer of such records;

(2) determine the categories of beneficiaries for whom service plans or intervention plans must be prepared;

(3) prescribe the terms and conditions of registration, opening of a record, admission, transfer or discharge of beneficiaries in a centre or intermediary resource.

350. The Government may, by regulation applicable to hospitals and, where such is the case, to residential and extended care centres,

(1) prescribe the mode of appointment of the head of the pharmacy department and the pharmacists, and determine what person or authority shall appoint them;

(2) prescribe the designation of a person responsible for the activities to be carried on in the clinical departments of radiology and medical biology laboratories and in the department of pharmacy, prescribe the functions, required qualifications and mode of

appointment of that person, and determine what person or authority shall appoint that person;

(3) prescribe the terms and conditions according to which the responsibilities of head of a clinical department may be exercised;

(4) prescribe the content of the application for appointment form which must be filled out by a physician, dentist or pharmacist, the statuses which the board of directors may grant them, the conditions on which such a status is granted, the powers and duties attached to it, and the norms relating to the granting of privileges to a physician or dentist;

(5) prescribe what committees the council of physicians, dentists and pharmacists must appoint, the functions of these committees, norms relating to their composition, the mode of appointment of their members, their rules of procedure, and norms relating to the making and disclosure of the records of such committees and the person responsible for keeping them;

(6) prescribe the procedure for the taking of disciplinary measures by the board of directors with respect to a physician, dentist or pharmacist, and the circumstances in which such measures may be taken;

(7) determine what person or authority has power to suspend the privileges of a physician or dentist, or the status of a pharmacist, in urgent cases, and the procedure applicable for such a suspension;

(8) prescribe the obligation for the board of directors to establish an advisory committee to the general management, determine the functions, powers and composition of this committee, and the qualifications and mode of appointment of its members.

351. The Government may, by regulation applicable to all categories of centres other than hospitals,

(1) prescribe the mode of appointment of the heads of the divisions, services or departments contemplated in paragraph 1 of section 348 and determine what person or authority shall appoint them;

(2) identify divisions, services or departments for which the organization plan, instead of providing for their establishment, may provide for the designation of a person responsible for the activities that must be carried on therein, prescribe the functions, required qualifications and mode of appointment of that person, and determine what person or authority shall appoint that person.

352. The Government may, by regulation, establish the norms and scales to be followed by the regional boards, public institutions and private institutions under agreement, for

(1) the selection, appointment, remuneration and other conditions of employment of executive directors and senior and intermediate officers;

(2) the remuneration and other conditions of employment of the other staff members, taking into account the collective agreements in force.

The Government may establish by regulation, for persons contemplated in subparagraphs 1 and 2 of the first paragraph who are not governed by a collective agreement, a procedure of appeal for cases of dismissal, non-renewal or termination of employment other than the cases arising from proceedings for forfeiture of office. The regulation may also prescribe a procedure for arbitration of disagreements over the interpretation and application of the conditions of employment established thereby. Lastly, it may prescribe the mode of designation of an arbitrator and the measures he may take after hearing the parties.

353. The Government may, by regulation, establish conflict of interest standards for senior or intermediate officers of regional boards or public institutions as well as standards concerning exclusivity of office for senior officers of such boards or institutions.

Under pain of suspension, no senior officer or, where applicable, no intermediate officer may contravene any of the standards established under the first paragraph.

354. The Government may, by regulation, establish the measures which must be taken by an institution or regional board and the persons holding an employment or carrying on an occupation therein in order to prevent or bring to an end the conflicts of interest that may arise from the awarding of contracts between an institution or regional board and a person or firm in which such persons hold a direct or indirect interest.

355. The Government may, by regulation, for any region it indicates, designate which of the institutions recognized under paragraph *f* of section 113 of the Charter of the French language (R.S.Q., chapter C-11) are required to make their health services and social services available in the English language to the persons contemplated in section 13.

§ 2.—*Standards relating to the contribution of the beneficiaries*

356. The Government shall determine, by regulation, the contribution that may be required of beneficiaries accommodated in a centre operated by an institution or taken in charge by a family-type resource.

The amount of the contribution may vary according to the circumstances or the needs identified by regulation. The contribution shall be required by the institution or by the Minister. The beneficiaries themselves are bound to pay it; however, in the case of a beneficiary who is a minor, the contribution may be required of his father or mother or any other person determined by regulation; in the case of a married beneficiary, the contribution may be required of the spouse, and in the case of a member of a religious community, the contribution may be required of the community.

357. The Minister or an institution designated by regulation may, upon the application of a person of whom payment of a contribution is required under section 356, exempt such person from paying that contribution in accordance with the terms and conditions and in the cases determined by regulation.

358. The Government shall determine, by regulation, the amount of the personal expense allowance which must be granted each month to a beneficiary accommodated in a centre operated by an institution or in a family-type resource.

359. The Government may, in a regulation made under sections 356, 357 or 358

(1) prescribe the automatic indexing of all or part of the amounts fixed in the regulation, according to the index provided therein;

(2) prescribe a different financial contribution according as the beneficiary or the person of whom payment of the financial contribution may be required is resident in Québec or not and define, for that purpose, the expression "resident in Québec".

360. A beneficiary or any person of whom payment of a financial contribution may be required must not, in the two years preceding the moment when the beneficiary was accommodated or taken in charge, have waived his rights, or alienated property or liquid assets without due consideration or have squandered such property or assets with the intention of making himself eligible for an exemption from payment or in such a way that he would be required to pay a lower contribution than what he would otherwise have been required to pay.

Where provisions of the first paragraph are violated, the Minister or the institution contemplated in section 357 may institute proceedings for the recovery of the value of the rights, property or liquid assets by which a third person has benefitted as a result of the waiver, alienation or squandering, after subtracting the just consideration paid by the third person, and may also take any other measure provided for by such regulation.

361. Any person may appeal before the Commission des affaires sociales from any decision respecting the exemption from payment requested under section 357.

362. No institution which operates a rehabilitation centre for young persons with adjustment problems may use sums derived from the consolidated revenue fund to provide services to children or adolescents who have not been referred to it by an institution operating a social service centre or under the Youth Protection Act (R.S.Q., chapter P-34.1) or the Act respecting young offenders (R.S.C., 1985, chapter Y-1).

When an adolescent is placed under the Act respecting young offenders, the contribution for a minor beneficiary established according to section 356 shall apply, and any person of whom it may be required is bound to pay it if not exempt therefrom under sections 357 and 361.

363. The contribution of a beneficiary is payable each month in a single payment.

It bears interest at the rate fixed by the Government in accordance with section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

No institution may waive payment of a beneficiary's contribution, or of the interest.

364. All proceedings for the recovery of a beneficiary's contribution are prescribed three years from the date on which it became payable.

TITLE VI

PENAL PROVISIONS

365. Every person who contravenes any of the provisions of this Act or the regulations of the Government or of the Minister is guilty

of an offence and liable to a fine of not less than \$250 nor more than \$1 150 in the case of a natural person or a fine of not less than \$575 nor more than \$5 750 in the case of a legal person.

Notwithstanding the first paragraph, every executive director, senior officer or intermediate officer of a public institution who contravenes the first paragraph of section 172 is guilty of an offence and is liable to a fine equal to twice the sum of money or value of the benefit he received.

366. Every person who omits or refuses to provide the information, reports, or other documents required to be communicated under this Act is guilty of an offence.

367. Every person who knowingly provides the Minister, Inspector General or any other person with information, reports or other documents required to be communicated under this Act which are false or misleading is guilty of an offence.

368. Every person who omits or refuses to keep a book or register required under this Act or to make a required entry therein is guilty of an offence.

369. Every person who hinders the performance of the functions of a person making an inspection, investigation or examination under this Act is guilty of an offence.

370. Where a corporation is guilty of an offence against this Act or a regulation, any director, employee or agent of the corporation who has prescribed or authorized the commission of the offence or assented thereto or acquiesced or participated therein is deemed a party to the offence and is liable to the same penalty as that prescribed for the corporation, whether or not it has been prosecuted or convicted.

371. Every person who, through an action or omission on his part, helps another person to commit an offence may be convicted of the offence as if he had committed it himself, if he knew or should have known that his action or omission would as a probable consequence assist in the commission of the offence.

372. Every person who, by encouragement, advice or orders, induces another person to commit an offence may be convicted of the offence as if he had committed it himself, as well as of any other offence committed by the other person as a result of the encouragement,

advice or orders, if he knew or should have known that such encouragement, advice or orders would have as a probable consequence the commission of the offence.

373. Proceedings instituted under this title are brought by the Attorney General or by any person generally or specially authorized by him for that purpose.

TITLE VII

REPLACEMENT OF PREVIOUS REGIME

CHAPTER I

CONTINUITY OF LEGAL PERSONS

DIVISION I

THE INSTITUTIONS

374. Every establishment incorporated under the Act respecting health services and social services (R.S.Q., chapter S-5) or resulting from an amalgamation or conversion made under the said Act continues in existence and is deemed, from (*insert here the date of coming into force of this Act*), to be an institution incorporated under this Act.

The rights, obligations and acts of the institution are not affected by the continuation. They remain in force and preserve their effect to the extent that they are consistent with this Act.

375. If the continued establishment operated a hospital centre for short term care, it is deemed to have as its object, from the date of continuation, the operation of a general and specialized hospital within the meaning of this Act, unless the hospital has been classified by the Minister as a university hospital under section 34 or as a psychiatric hospital under section 35.

In order to make the amendments necessary for the application of the first paragraph, supplementary letters patent shall be issued in accordance with section 216.

376. If the continued establishment operated a hospital centre for long term care or a shelter centre, it is deemed to have as its object, from the date of continuation, the operation of a residential and extended care centre within the meaning of this Act.

In order to make the amendments necessary for the application of the first paragraph, supplementary letters patent shall be issued in accordance with section 216.

377. If the continued establishment operated a rehabilitation centre, it is deemed to have as its object, from the date of continuation, the operation of a rehabilitation centre belonging to one or more of the classes listed in section 36 and determined by the Minister.

In order to make the amendments necessary for the application of the first paragraph, supplementary letters patent shall be issued in accordance with section 216.

378. A public institution contemplated in paragraph 1 of section 39 continues its activities under this Act from (*insert here the date of coming into force of this Act*) and is deemed to have as its object, from that date, the operation of a centre belonging to one or several of the categories mentioned in subparagraphs 1 to 5 of the first paragraph of section 24.

The first paragraphs of sections 375, 376 and 377 apply, adapted as required, to that institution.

379. Any provision of the constitution of an institution contemplated in section 378 that is incompatible with a provision of this Act is inoperative and deemed to have been replaced, from (*insert here the date of coming into force of this Act*), by the corresponding provision of this Act, until supplementary letters patent have been obtained by the institution, where such is the case.

380. Notwithstanding any incompatible provision of law, the Inspector General of Financial Institutions may, upon an application by the institution contemplated in section 378 and with the written authorization of the Minister, issue supplementary letters patent to replace the provisions of the documents incorporating the institution by the corresponding provisions of this Act or to repeal provisions of these incorporating documents for which there is no corresponding provision in this Act.

The Inspector General shall publish such supplementary letters patent in the *Gazette officielle du Québec*, with a notice indicating the date on which they come into effect.

381. Where the institution contemplated in section 380 has been incorporated by a special Act, the Québec Official Publisher must insert in each annual compilation of the statutes of Québec a table indicating the date of coming into force of the supplementary letters

patent issued before its printing and the provisions of law which they replace or repeal.

382. The application contemplated in section 380 must be signed by the president or vice-president and by the secretary of the institution. It must be supported by a by-law passed by the board of directors. In the case of an institution contemplated in section 221, the by-law must also be approved in accordance with that section.

383. Notwithstanding paragraph 1 of section 39, an institution holding a permit on (*insert here the date of coming into force of this Act*) and incorporated as a non-profit organization before 1 January 1974, remains a private institution when the sums it receives, where such is the case, and which are derived from the consolidated revenue fund do not cover more than 80 percent of the net amounts it would receive for its current operating expenditures if it were a public institution.

384. Public institutions continue to be administered by the boards of directors established under the Act respecting health services and social services (R.S.Q., chapter S-5), until they are replaced by boards of directors established under Chapter II of this title.

385. Notwithstanding sections 42, 43 and 384, a public institution contemplated in paragraph 1 of section 39 which operates a residential and extended care centre on (*insert here the date of coming into force of this Act*) is represented and has its affairs administered by the board of directors formed according to its constituting document, if it meets the following conditions:

(1) the corporation is a religious community or a corporation established under the Act incorporating that religious community or under a special Act which applies to it;

(2) the immovable assets used for the operation of the centre were the property of such a corporation on 21 December 1977;

(3) it has been given the written authorization of the Minister to that effect.

Nevertheless, the board of directors remains subject to the other provisions of this Act which are not inconsistent and to the regulations respecting the board of directors of a public institution.

DIVISION II

HEALTH AND SOCIAL SERVICES COUNCILS AND REGIONAL BOARDS

386. Every health and social services council in existence on (*insert here the date of coming into force of this Act*) continues in existence under this Act on its territory and is, from that date, a regional board established under this Act.

387. Notwithstanding section 260, the members of the board of directors of a regional board contemplated in section 386 remain in office until the new board of directors of that regional board has been formed in accordance with the provisions of Chapter II of this title.

388. The regional board shall have all the functions granted to it by this Act. However, it shall have those functions relating to the implementation of health and social services programs only from the time jurisdiction over such programs is assigned to it by the Minister.

CHAPTER II

BOARDS OF DIRECTORS AND REGIONAL COLLEGES

DIVISION I

FORMATION OF THE FIRST BOARDS OF DIRECTORS OF INSTITUTIONS

389. Simultaneously with the publication of the order establishing the boundaries of the territories of the local community service centres and of the social service centres, the Minister shall give notice in the *Gazette officielle du Québec* of the names of the institutions operating a centre which he has classified as a university hospital or recognized as a university institute within the territories delimited therein. The notice shall also indicate to which territory the institutions contemplated in section 46 shall belong.

Within 90 days of publication of the order and notice provided for in the first paragraph, the public institutions must proceed to form the first boards of directors in accordance with this division.

The Minister may take any required measure to ensure the setting up, by the institutions, of these first boards of directors. The regional board must see to the carrying out of these measures.

390. Notwithstanding section 49, the first board of directors of the public institutions in the territory of a local community service

centre shall be composed of members of the boards of directors of those institutions in office on (*insert here the date of coming into force of this Act*), distributed as follows:

(1) four persons elected by a meeting of the members elected under paragraph *a* of section 78 of the Act respecting health services and social services (R.S.Q., chapter S-5), except the members chosen from among the members from the beneficiaries' committees;

(2) one person elected by a meeting of the members elected under paragraph *a* of sections 78, 79 and 82 of the said Act from among the members from the beneficiaries' committees;

(3) two persons appointed by the regional board and chosen from among the members already appointed by the regional council under paragraph *b* of sections 78, 79 and 82 of the said Act;

(4) two persons appointed by the Minister and chosen from among the members already appointed by him under paragraph *c* of sections 78, 79 and 82 of the said Act.

Four more persons appointed by the members contemplated in subparagraphs 1 to 4 of the first paragraph shall also be members of the board of directors.

If none of the persons appointed or elected under subparagraphs 1 to 4 of the first paragraph is 65 years of age or over, one of the persons contemplated in the second paragraph must be 65 years of age or over.

However, if an institution is a corporation contemplated in paragraph 1 of section 39 of this Act and owns all or part of the immovable assets it operates, one of the persons contemplated in subparagraph 1 of the first paragraph shall be appointed by the members of that institution. Not more than three persons may be so appointed. If there are more than three institutions of this kind, three persons shall be elected by a meeting of persons each of whom represents one of these institutions.

391. Notwithstanding section 50, the first board of directors of the public institutions in the territory of a social services centre shall be composed of members of the boards of directors of these institutions in office on (*insert here the date of coming into force of this Act*), distributed as follows:

(1) four persons elected by a meeting of the members elected under paragraph *a* of sections 81 and 82 of the Act respecting health

services and social services (R.S.Q., chapter S-5), including two from among the members from the beneficiaries' committees;

(2) two persons appointed by the regional board and chosen from among the persons already appointed by the regional council under paragraph *b* of sections 81 and 82 of the said Act;

(3) one person appointed by the Minister and chosen from among the members already appointed by him under paragraph *c* of sections 81 and 82 of the said Act.

Four more persons appointed by the members contemplated in subparagraphs 1 to 3 of the first paragraph shall also be members of the board of directors, including one appointed after consultation with representative organizations of the justice sector, and another, after consultation with representative organizations of the school sector.

However, if an institution is a corporation contemplated in paragraph 1 of section 39 of this Act and owns all or part of the immovable assets it operates, one of the persons contemplated in subparagraph 1 of the first paragraph shall be appointed by the members of that institution. Not more than two persons may be so appointed. If there are more than two institutions of this kind, two persons shall be elected by a meeting of persons each one of whom represents one of these institutions.

392. Notwithstanding section 51, the first board of directors of each institution recognized as a university institute or of each hospital classified as a university hospital shall be composed of members of the boards of directors of the institution in office on (*insert here the date of coming into force of this Act*), distributed as follows:

(1) three persons elected by a meeting of the members elected under paragraph *a* of section 79 or of section 82 of the Act respecting health services and social services (R.S.Q., chapter S-5), as the case may be;

(2) two persons one of whom has already been appointed by the regional council under paragraph *b* of section 79 or of section 82 of the said Act, as the case may be, and the other appointed by the regional board;

(3) two persons who have already been appointed by the Minister under paragraph *c* of section 79 or of section 82 of the said Act, as the case may be;

(4) one person who has already been appointed by the university affiliated with the institution under paragraph *k* of section 79 or of section 82 of the said Act, as the case may be.

Three more persons appointed by the members contemplated in subparagraphs 1 to 4 of the first paragraph shall also be members of the board of directors, including one appointed upon the recommendation of the foundation attached to the institution.

If none of the persons appointed or elected under the first paragraph is 65 years of age or over, one of the persons contemplated in the second paragraph must be 65 years of age or over.

However, if an institution is a corporation contemplated in paragraph 1 of section 39 of this Act and owns all or part of the immovable assets it operates, two of the persons contemplated in subparagraph 1 of the first paragraph shall be appointed by the members of that institution.

393. The regional board shall publish in the *Gazette officielle du Québec* the list of institutions in its region which have had their first board of directors formed in accordance with this division.

On the fifteenth day following the publication of the notice, the members elected or appointed in accordance with this division shall come into office, and they shall remain in office until the elections have been held under section 49, 50 or 51, as the case may be.

The first annual general meetings provided for in section 52 must be held in the month of May of the second year following that of the coming into force of this Act.

DIVISION II

FORMATION OF THE REGIONAL COLLEGES AND NEW BOARDS OF DIRECTORS OF THE REGIONAL BOARDS

394. No later than six months after the formation of the first boards of directors of the public institutions, the first regional colleges shall be formed in accordance with this Act.

Within 30 days of being formed, the regional colleges must elect the members of the new boards of directors of the regional boards.

The members of the regional colleges remain in office until they have been reelected or replaced according to the procedure

established under section 280. The election shall be held in the year following that of the first public meetings held in accordance with the third paragraph of section 393.

TITLE VIII

FINAL PROVISIONS

395. No provision of this Act may be interpreted as limiting the powers of the revisory committees instituted by section 41 of the Health Insurance Act or of the professional corporations contemplated in the Professional Code.

The representatives of the professional corporations contemplated in the Professional Code shall have access to any centre or facility maintained by an institution for the performance of the functions which the professional corporations must fulfil to ensure protection of the public.

396. Section 95 has effect with respect to the executive director of a public institution in office on the date of coming into force of this Act only from the date of extension or renewal of his contract, where such is the case.

397. The Gouvernement du Québec is subrogated *pleno jure* in the recourse of any beneficiary against a third person up to the cost of the services it has assumed following harm caused through the fault of that third person.

Common fault entails a reduction in the amount of the subrogation in the same proportion as the recourse of the beneficiary.

The Minister has the power to transact on any claim arising from this section and he may delegate that power.

The insurer of the liability of a third person cannot be released from his obligation to compensate him for his responsibility resulting from this section otherwise than by payment.

An undertaking by a person to release a third person or his insurer from their responsibility resulting from this section or to compensate them for it is invalid and must be considered as not written in any agreement, transaction or receipt.

The rights acquired as a result of the subrogation provided in this section are part of the public domain of Québec from the time they arose and are subject to the rules applicable to rights included therein; however, the resulting right of action is prescribed after three years.

398. This Act replaces the Act respecting health services and social services (R.S.Q., chapter S-5) except to the extent that it concerns the territory of the Cree health and social services council of James Bay and the territory of the Kativik health and social services council.

The title of the Act respecting health services and social services is replaced by the following: “An Act respecting health services and social services for the Cree, Inuit and Naskapi Native Peoples”.

399. The Minister of Health and Social Services is responsible for the administration of this Act.

400. The provisions of this Act come into force on (*insert here the date of assent to this Act*).

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