

chapter S-2.2, r. 1

Updated to 1 May 2017

## **Regulation under the Public Health Act**

### **Public Health Act**

(chapter S-2.2, s. 137)

#### **DIVISION I**

##### **LIST OF CRITERIA FOR THE PURPOSES OF SECTIONS 79 AND 83 OF THE PUBLIC HEALTH ACT**

**1.** The following sections establish the criteria that the Minister of Health and Social Services must observe when drawing up, by regulation, a list of intoxications, infections and diseases pursuant to sections 79 and 83 of the Public Health Act (chapter S-2.2).

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O.C. 756-2003, s. 1.

**2.** With respect to the list drawn up pursuant to section 79 of the Act, the intoxications, infections and diseases that may be included for reporting to public health authorities must satisfy the following criteria:

- (1) they present a risk for the occurrence of new cases in the population, either because the disease or infection is contagious, or because the origin of the intoxication, infection or disease may lie in a source of contamination or exposure in the environment of the person affected;
- (2) they are medically recognized as a threat to the health of the population, as defined in section 2 of the Act, that may result in serious health problems in the persons affected;
- (3) they require vigilance on the part of public health authorities or an epidemiological investigation; and
- (4) public health or other authorities have the power to take action in their respect to prevent new cases, to control an outbreak or to limit the magnitude of an epidemic, through the use of medical or other means.

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O.C. 756-2003, s. 2.

**3.** With respect to the list drawn up under section 83 of the Act, the diseases and infections for which treatment is mandatory for any person affected must satisfy the following 6 criteria:

- (1) present a risk of contagion through person-to-person contact;
- (2) present a high risk of contagion through the airborne route;
- (3) be characterized as chronic, contagious diseases or infections if not treated;
- (4) be recognized as serious diseases or infections for the individuals affected, in terms of lethality or morbidity, in the short or long-term;
- (5) respond to medical treatment with demonstrated efficacy to eliminate or significantly reduce the contagion; and
- (6) respond to no means of treatment other than the treatment to reduce the risk of contagion, apart from the isolation of the person affected.

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O.C. 756-2003, s. 3.

#### **DIVISION II**

##### **CONDITIONS RESPECTING COMPENSATION FOR VICTIMS OF VACCINATION**

**4.** For the purposes of section 71 of the Act, the conditions apply to vaccination, by inoculation with a vaccine or immunoglobulins, against any of the following diseases or infections:

- Anthrax
- botulism
- chickenpox
- cholera
- diphtheria
- European tick-borne encephalitis
- *Haemophilus influenzae* Type b infections
- HPV infections
- influenza
- Japanese encephalitis
- Lyme disease
- measles
- meningococcal infections
- mumps
- pertussis
- plague
- poliomyelitis
- pneumococcal infections
- rabies
- respiratory syncytial virus
- rotavirus infections
- rubella
- shingles
- smallpox
- tetanus
- travellers' diarrhea
- tuberculosis
- typhoid

— viral hepatitis A

— viral hepatitis B

— yellow fever

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O.C. 756-2003, s. 4; O.C. 10-2009, s. 1.

**5.** A person claiming compensation must submit a claim in writing to the Minister indicating

(1) the name, date of birth and address of the victim, as well as the victim's health insurance number;

(2) where the person is acting as the representative of the victim or as a person entitled to a death benefit, his or her own name, address and capacity;

(3) the name or nature of the immunizing product giving rise to the claim, the place where the vaccination was carried out, the name of the person who carried out the vaccination if known to the claimant, and the date of vaccination of the victim or of the person vaccinated from whom the victim believes the disease or infection was contracted;

(4) the date of the first manifestation of symptoms of bodily injury; and

(5) the date of death in the case of a claim for a death benefit.

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O.C. 756-2003, s. 5.

**6.** The claimant must sign the claim which must be accompanied by a medical certificate stating the bodily injury sustained by the victim and assessing the causal link between the bodily injury and the vaccination.

Where the claimant is acting as the representative of the victim, the claimant must also attach to the claim proof of his or her entitlement to act in that capacity.

In the case of an application for a death benefit, the claimant must also attach to the claim the death certificate and proof of his or her entitlement to claim a death benefit.

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O.C. 756-2003, s. 6.

**7.** The claimant must, in addition, provide the Minister, or the Société de l'assurance automobile du Québec if the Minister has entered into an agreement with that body for the purposes of this Division, with the particulars required for the application of the Automobile Insurance Act (chapter A-25) and its regulations for the purposes of calculation of the compensation.

Where the claimant does not provide the particulars required under the first paragraph, the claimant must give the Minister or the Société de l'assurance automobile du Québec the authorization necessary to obtain the particulars from third persons concerned.

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O.C. 756-2003, s. 7.

**8.** The claimant must provide the Minister with proof of any fact establishing his or her entitlement to compensation.

The Minister may accept any form of proof the Minister considers useful for the purposes of justice.

The Minister may also require the submission of any document, book, paper or writing the Minister considers necessary.

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O.C. 756-2003, s. 8.

**9.** An application for compensation is duly filed with the Minister if it is filed at one of the Minister's offices in Québec or Montréal or is mailed to one of those offices within the time prescribed by section 73 of the Act.

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O.C. 756-2003, s. 9.

**10.** Upon receipt of an application for compensation, the Minister shall send an acknowledgement to the claimant.

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O.C. 756-2003, s. 10.

**11.** An application for compensation may be withdrawn or amended at any time by means of a notice in writing signed by the claimant.

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O.C. 756-2003, s. 11.

**12.** Any application submitted under this Division shall be studied by an evaluation committee made up of 3 members, except in the cases referred to in the second and third paragraphs of section 22.

The committee shall consist of a physician appointed by the Minister and of a physician appointed by the claimant; it shall be chaired by a third physician appointed by the first 2.

Where a member of the committee is absent or unable to act before the committee has made its recommendations to the Minister, the member shall be replaced as soon as possible in the manner provided for in the second paragraph.

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O.C. 756-2003, s. 12.

**13.** The Minister shall assume the cost of the services rendered by the members of the evaluation committee and by any persons added to the committee when required, and the cost of any services rendered by any expert physician consulted by the committee.

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O.C. 756-2003, s. 13.

**14.** The committee's functions shall be

- (1) to study the cases submitted to it and assess the injury sustained in each case;
- (2) to evaluate if there is a probable causal link between the injury sustained by the victim and the vaccination;
- (3) to evaluate, with the assistance of the Société de l'assurance automobile du Québec, the compensation, if any, to be paid pursuant to the Automobile Insurance Act (chapter A-25) and its regulations; and
- (4) to make recommendations to the Minister on the matters referred to in paragraphs 1 to 3.

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O.C. 756-2003, s. 14.

**15.** The committee or one of its members may examine the victim.

The examination must be performed taking into consideration the victim's clinical history, including

- (1) a statement of relevant antecedents;
- (2) physical and mental disorders and their development;

(3) intercurrent difficulties and illnesses; and

(4) drug history.

The examination must include a physical examination with particular emphasis on the system affected by the vaccination.

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O.C. 756-2003, s. 15.

**16.** From indications obtained by examination of the victim and from any other relevant indication, the committee or the committee member who performed the examination must

(1) make a diagnosis; and

(2) determine the victim's disability and the percentage of permanent impairment of the victim's physical or mental integrity resulting from the vaccination, having regard to the provisions of the Automobile Insurance Act (chapter A-25) pursuant to which the victim is paid compensation.

The committee or the committee member must also mention any special considerations that could affect the disability and the nature and duration of any proposed treatment.

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O.C. 756-2003, s. 16.

**17.** Where the victim's disability cannot be determined in a definitive manner, a provisional determination must be made.

Where the committee determines a provisional disability, it shall fix a date or time when it will meet again to make a final recommendation on the application.

Sections 14 to 16 and 19 to 24 apply in such a case, with the necessary modifications.

No reimbursement may be claimed by virtue of the fact that the definitive disability of the victim is less than his or her provisional disability.

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O.C. 756-2003, s. 17.

**18.** Sections 15 to 17 do not apply to a claim for a death benefit.

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O.C. 756-2003, s. 18.

**19.** The committee must, in addition, request the opinion of an expert physician where, in the opinion of a member of the committee, the opinion is required for medical evaluation of the victim or to establish the probability of the causal link between the injury sustained and the vaccination.

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O.C. 756-2003, s. 19.

**20.** The committee must give the victim or claimant the opportunity to provide any relevant information or documents to complete his or her file.

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O.C. 756-2003, s. 20.

**21.** The recommendations of the committee must be adopted by a majority vote and reasons must be given.

Any dissenting member may attach his or her own recommendations and reasons to the majority recommendations.

O.C. 756-2003, s. 21.

**22.** The Minister shall give a decision in writing, after studying the recommendations of the committee and of any dissenting member.

Where an application appears, however, on its face, to be prescribed or inadmissible for a reason other than a reason of a medical nature, the Minister may render a decision without the application having been studied by an evaluation committee.

The same applies where the Minister must render a new decision or an additional decision on a claim and the decision does not involve any reason of a medical nature.

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O.C. 756-2003, s. 22.

**23.** The Minister shall send the decision to the claimant by mail and shall send a copy to the members of the committee.

The decision has effect from the date of mailing.

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O.C. 756-2003, s. 23.

**24.** Any compensation unpaid at the time of the victim's death shall be paid to the victim's estate.

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O.C. 756-2003, s. 24.

**25.** Where the prescription period provided for in the Act expires on a day on which the Minister's offices are not open, the time period is extended to the next working day, and the application for compensation may be validly made on that day.

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O.C. 756-2003, s. 25.

**26.** No proceeding under this Division may be considered void and disallowed for defect of form or procedural irregularity.

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O.C. 756-2003, s. 26.

**27.** If there is an interruption in postal service, the Minister may accept or use any other method of filing or notification.

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O.C. 756-2003, s. 27; I.N. 2016-01-01 (NCCP).

**28.** The Minister may enter into an agreement with the Société de l'assurance automobile du Québec respecting the application of this Division, in particular respecting payment by the Société of the compensation provided for in this Division and reimbursement by the Minister of the cost of the compensation and the administrative costs related thereto.

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O.C. 756-2003, s. 28.

**29.** Sections 4 to 28 replace Chapter X of the Regulation respecting the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation and the disposal of human bodies (R.R.Q., 1981, c. P-35, r. 1).

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O.C. 756-2003, s. 29; .

**30.** *(Omitted).*

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O.C. 756-2003, s. 30.

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## REFERENCES

O.C. 756-2003, 2003 G.O. 2, 2222

O.C. 10-2009, 2009 G.O. 2, 51