

chapter A-33, r. 10

Regulation respecting the conciliation and arbitration procedure for accounts of members of the Ordre des audioprothésistes du Québec

Hearing-aid Acousticians Act
(chapter A-33, s. 3).

Professional Code
(chapter C-26, s. 88).

TABLE OF CONTENTS

DIVISION I	
CONCILIATION.....	1
DIVISION II	
ARBITRATION	
§ 1. — <i>Application for arbitration</i>	10
§ 2. — <i>Council of arbitration</i>	15
§ 3. — <i>Hearing</i>	20
§ 4. — <i>Arbitration decision</i>	25

SCHEDULE I

SCHEDULE II

DIVISION I

CONCILIATION

1. The syndic of the Ordre des audioprothésistes du Québec must send a copy of this Regulation to every person who requests it.

O.C. 398-2008, s. 1.

2. A client who has a dispute with a hearing-aid acoustician concerning the amount of an account for professional services that has been paid in whole or in part, or that remains unpaid, may apply in writing for conciliation by the syndic within 60 days of the date of receipt of the account.

O.C. 398-2008, s. 2.

3. A hearing-aid acoustician whose account is the subject of an application for conciliation may consent to conciliation by the syndic, despite the expiry of the 60-day period.

O.C. 398-2008, s. 3.

4. A hearing-aid acoustician may not bring legal action for the recovery of an account for professional services as long as the time to file an application for conciliation is not expired.

O.C. 398-2008, s. 4.

5. Within 5 days of receiving an application for conciliation, the syndic must so notify the hearing-aid acoustician or, if the syndic cannot notify the acoustician personally within that time, the hearing-aid acoustician's firm. The syndic must also send the client a copy of this Regulation.

O.C. 398-2008, s. 5.

6. A hearing-aid acoustician may not, from the receipt of an application for conciliation by the syndic, bring legal action for the recovery of an account as long as the dispute may be settled by conciliation or arbitration.

However, a hearing-aid acoustician may apply for provisional measures in accordance with article 623 of the Code of Civil Procedure (chapter C-25.01).

O.C. 398-2008, s. 6; I.N. 2016-01-01 (NCCP).

7. The syndic must proceed with the conciliation in the manner the syndic considers most appropriate. To that end, the syndic may require from the hearing-aid acoustician or the client any information or document he or she considers necessary.

O.C. 398-2008, s. 7.

8. Any agreement reached by the client and the hearing-aid acoustician must be in writing, signed by the parties, and filed with the secretary of the Order and the syndic. It may consist of a letter from the syndic to the client and the member acknowledging the agreement.

O.C. 398-2008, s. 8.

9. If conciliation does not lead to an agreement within 30 days of the date of receipt of the application for conciliation, the syndic must, within the following 30 days, send a conciliation report by registered mail to the client and the hearing-aid acoustician.

The report must contain, where applicable, the following information:

(1) the amount of the account for fees in dispute;

(2) the amount that the client acknowledges owing;

(3) the amount that the hearing-aid acoustician acknowledges having to reimburse or is willing to accept in settlement of the dispute; and

(4) the amount suggested by the syndic during conciliation as payment to the hearing-aid acoustician or reimbursement to the client.

The syndic must also send the client a form provided for in Schedule I and describe the procedure and deadline for submitting the dispute to arbitration.

O.C. 398-2008, s. 9.

DIVISION II

ARBITRATION

§ 1. — *Application for arbitration*

10. If conciliation does not lead to an agreement, the client may apply for arbitration of the account within 30 days of receipt of the conciliation report by sending the form in Schedule I, duly completed, to the secretary of the Order.

The client must enclose a copy of the conciliation report with the application for arbitration.

O.C. 398-2008, s. 10.

11. Within 5 days of receiving an application for arbitration, the secretary of the Order must so notify the hearing-aid acoustician concerned by registered mail or, if the secretary cannot notify that person personally within that time, the hearing-aid acoustician's firm.

O.C. 398-2008, s. 11.

12. An application for arbitration may not be withdrawn unless it is withdrawn in writing with the consent of the hearing-aid acoustician.

O.C. 398-2008, s. 12.

13. A hearing-aid acoustician who acknowledges having to reimburse a client must deposit the amount with the secretary of the Order, who must then remit it to the client.

In such a case, the arbitration must proceed and pertain only to the amount still in dispute.

O.C. 398-2008, s. 13.

14. An agreement reached between the client and the hearing-aid acoustician after the application for arbitration must be recorded in writing, signed by the parties and filed with the secretary of the Order.

If the agreement is reached after the council of arbitration has been formed, the agreement must be recorded in the arbitration decision and the council decides the expenses as provided in the first paragraph of section 29.

O.C. 398-2008, s. 14.

§ 2. — *Council of arbitration*

15. A council of arbitration must be composed of 3 arbitrators when the amount in dispute is \$1,500 or more and of a single arbitrator when the amount in dispute is less than \$1,500.

O.C. 398-2008, s. 15.

16. The board of directors must appoint the member or members of the council of arbitration from among the members of the Order and, if the council consists of 3 arbitrators, the board of directors must appoint the chair.

O.C. 398-2008, s. 16.

17. Before acting, the members of the council of arbitration must take the oath provided for in Schedule II.

O.C. 398-2008, s. 17.

18. The secretary of the Order must inform in writing the arbitrators and the parties that a council has been formed.

O.C. 398-2008, s. 18.

19. An application for the recusation of an arbitrator may be made only on one of the grounds provided for in article 202 of the Code of Civil Procedure (chapter C-25.01), excluding paragraph 5 of that article. It must be sent in writing to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 10 days of receiving the notice provided for in section 18 or 10 days after the cause for recusation becomes known.

The board of directors must rule on such an application and, where required, must see that the recused arbitrator is replaced.

O.C. 398-2008, s. 19; I.N. 2016-01-01 (NCCP).

§ 3. — *Hearing*

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

O.C. 398-2008, s. 20.

21. A party may be represented by an advocate or assisted by another person it chooses.

O.C. 398-2008, s. 21.

22. The council of arbitration must, with diligence, hear the parties, receive their evidence or record their failure to appear. To that end, it must follow the rules of procedure it considers most appropriate.

The council may ask the parties to submit, within a given time, a statement of their pretensions with supporting documents.

O.C. 398-2008, s. 22.

23. If a party requires the recording of testimony, it must pay the cost thereof.

O.C. 398-2008, s. 23.

24. Should an arbitrator die or become unable to act, the others must complete the hearing.

In the case of a council of arbitration with a single arbitrator, the latter must be replaced by a new arbitrator and a new hearing must be held.

O.C. 398-2008, s. 24.

§ 4. — *Arbitration decision*

25. The council of arbitration must decide within 60 days after completion of the hearing.

O.C. 398-2008, s. 25.

26. The decision is made by a majority of the members of the council; should there not be a majority, the decision is made by the chair.

The decision must be reasoned and signed by the single arbitrator or by the arbitrators who concur in it. The fact that an arbitrator refuses or is unable to sign must be mentioned in the decision, which has the same effect as though signed by all the arbitrators. A dissenting member may state the reasons for his or her refusal in the decision.

O.C. 398-2008, s. 26.

27. The expenses incurred by the parties for the holding of the arbitration must be borne by each of them.

O.C. 398-2008, s. 27.

28. In its arbitration decision, the council of arbitration may maintain or reduce the account in dispute, determine the reimbursement or payment to which a party may be entitled, where applicable, and rule on the amount that the client acknowledged owing and that the client sent with the application for arbitration. For those purposes, the council may take into account the quality of the services provided.

O.C. 398-2008, s. 28.

29. In its decision, the council of arbitration may decide the arbitration expenses, namely the expenses incurred by the Order for the arbitration. The total amount of the expenses may not exceed 15% of the amount to which the arbitration pertains.

The council of arbitration may also, when the account in dispute is confirmed in whole or in part or a reimbursement is awarded, add interest and an indemnity as provided in articles 1618 and 1619 of the Civil Code, calculated from the date of the application for conciliation.

O.C. 398-2008, s. 29.

30. The arbitration decision is binding on the parties and is enforceable after homologation pursuant to articles 645 to 647 of the Code of Civil Procedure (chapter C-25.01).

O.C. 398-2008, s. 30; L.N. 2016-01-01 (NCCP).

31. The council of arbitration must file the arbitration decision with the secretary of the Order, who must send it to each party and the syndic within 10 days of the filing.

O.C. 398-2008, s. 31.

32. This Regulation replaces the Regulation respecting the procedure for conciliation and arbitration of accounts of hearing-aid acousticians (R.R.Q., 1981, c. A-33, r. 5). However, the former Regulation shall continue to govern the conciliation and arbitration procedure for accounts when conciliation was applied for with the syndic before 22 May 2008.

O.C. 398-2008, s. 32.

33. *(Omitted).*

O.C. 398-2008, s. 33.

SCHEDULE I

(ss. 9 and 10)

Application for ACCOUNT arbitration

I, _____ the _____ undersigned,

(name of the client)

(domicile)

Declare that:

(1) _____

—

(name of hearing-aid acoustician)

is claiming from me (or refuses to reimburse me) a sum of money for professional services.

(2) I have enclosed a copy of the conciliation report.

(3) I am applying for arbitration of the account under the Regulation respecting the conciliation and arbitration procedure for accounts of members of the Ordre des audioprothésistes du Québec (chapter A-33, r. 10).

(4) I declare that I have received and have taken cognizance of the above-mentioned Regulation.

(5) I agree to abide by the procedure set out in the Regulation and, where required, to pay to _____

(name of hearing-aid acoustician)

the amount of the arbitration decision.

Signature

O.C. 398-2008, Sch. I.

SCHEDULE II

(s. 17)

OATH

I declare under oath that I will discharge all the duties and exercise all the powers of arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I also declare under oath that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may have knowledge in the exercise of my functions.

(signature)

Oath _____ taken _____ before _____

(name and position, profession or quality)

at _____

on

(municipality)

(date)

(signature)

O.C. 398-2008, Sch. II.

UPDATES

O.C. 398-2008, 2008 G.O. 2, 1281

S.Q. 2008, c. 11, s. 212