

chapter O-7, r. 16

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

Optometry Act
(chapter O-7, s. 3).

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

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SCHEDULE I

SCHEDULE II

DIVISION I

CONCILIATION

1. A client who has a dispute with a member of the Ordre des optométristes du Québec concerning the amount of an unpaid account for professional services may file a written application for conciliation with the syndic, provided that the member has not instituted proceedings to recover the account.

O.C. 1364-94, s. 1.

2. A client who has a dispute with a member concerning the amount of an account for professional services that he has already paid in whole or in part may also file a written application for conciliation with the syndic within a 45-day period from the date of receipt of the account.

O.C. 1364-94, s. 2.

3. A member may not institute proceedings to recover an account for professional services before the expiry of a 45-day period from the date of receipt of the account by the client.

O.C. 1364-94, s. 3.

4. Within 3 days of receiving an application for conciliation, the syndic shall notify the member concerned or, where he is unable to notify the member personally within that period, shall notify the member's office. He shall also send the client a copy of this Regulation.

Once the syndic has received the application for conciliation, the member may not institute proceedings to recover his account so long as the dispute may be settled by conciliation or arbitration.

Notwithstanding the foregoing, a member may institute proceedings to request provisional measures in accordance with article 623 of the Code of Civil Procedure (chapter C-25.01).

O.C. 1364-94, s. 4; I.N. 2016-01-01 (NCCP).

5. The syndic shall proceed with the conciliation using such procedure as he considers appropriate.

O.C. 1364-94, s. 5.

6. Any agreement reached during conciliation shall be put in writing, shall be signed by the client and the member and shall be filed with the secretary of the Order.

O.C. 1364-94, s. 6.

7. Where conciliation does not lead to an agreement within 60 days from the date of receipt of the application for conciliation, the syndic shall send a report on the dispute to the client and to the member by registered mail.

The report shall contain the following information, where applicable:

(1) the amount of the account in dispute;

(2) the amount that the client acknowledges owing;

(3) the amount that the member acknowledges having to reimburse or is willing to accept as a settlement of the dispute;

(4) the amount suggested by the syndic during conciliation as a payment to the member or as a reimbursement to the client.

The syndic shall send the client the form in Schedule I and shall indicate to him the procedure and deadline for submitting the dispute to arbitration.

O.C. 1364-94, s. 7; I.N. 2016-01-01 (NCCP).

DIVISION II

ARBITRATION

§ 1. — Application for arbitration

8. Within 30 days of receiving the conciliation report, the client may apply for arbitration of the account by sending the form in Schedule I to the secretary of the Order.

A copy of the conciliation report shall accompany the client's application for arbitration.

O.C. 1364-94, s. 8.

9. Within 3 days of receiving an application for arbitration, the secretary of the Order shall notify the member concerned or, where he is unable to notify the member personally within that period, shall notify the member's office.

O.C. 1364-94, s. 9.

10. A client who wishes to withdraw his application for arbitration shall so notify the secretary of the Order in writing.

O.C. 1364-94, s. 10.

11. A member who acknowledges having to reimburse an amount to a client shall deposit that amount with the secretary of the Order, who shall then remit it to the client.

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

O.C. 1364-94, s. 11.

12. Any agreement reached by the parties after the application for arbitration has been filed shall be put in writing, shall be signed by the parties and shall be filed with the secretary of the Order. Where the parties reach an agreement after a council of arbitration has been formed, the agreement shall be recorded in the arbitration award.

O.C. 1364-94, s. 12.

§ 2. — Council of arbitration

13. The council of arbitration shall be composed of 3 arbitrators where the amount in dispute is \$750 or more, and of a single arbitrator where the amount is less than \$750.

O.C. 1364-94, s. 13.

14. The board of directors shall appoint the member or members of the council of arbitration from among the members of the Order and, if the council is composed of 3 arbitrators, shall designate the chair and the secretary thereof.

O.C. 1364-94, s. 14.

15. Before acting, the members of the council of arbitration shall take the oath in Schedule II.

O.C. 1364-94, s. 15.

16. The secretary of the Order shall send written notice to the arbitrators and to the parties informing them of the formation of the council of arbitration.

O.C. 1364-94, s. 16.

17. A request that an arbitrator be recused may be filed only for a reason provided for in article 202 of the Code of Civil Procedure (chapter C-25.01). The request shall be sent in writing to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 20 days of receipt of the notice provided for in section 16 or of the day which the reason for the request becomes known.

The board of directors shall decide the request and, where applicable, shall see that the arbitrator is replaced.

O.C. 1364-94, s. 17; I.N. 2016-01-01 (NCCP).

§ 3. — *Hearing*

18. The secretary of the Order shall give the parties or their advocates and the arbitrators at least 10 days' written notice of the date, time and place of the hearing.

O.C. 1364-94, s. 18.

19. The parties are entitled to be represented or assisted by an advocate.

O.C. 1364-94, s. 19.

20. The council of arbitration shall, as soon as possible, hear the parties, receive their evidence or record any failure on their part. For those purposes, it shall follow such procedure as it considers appropriate.

O.C. 1364-94, s. 20.

21. A party requesting that the testimony be recorded shall assume the cost thereof.

O.C. 1364-94, s. 21.

22. Should an arbitrator die or be unable to act, the other arbitrators shall see the matter through.

If the council of arbitration consists of a single arbitrator, he shall be replaced by a new arbitrator and the dispute shall be reheard.

O.C. 1364-94, s. 22.

§ 4. — *Arbitration award*

23. The council of arbitration shall issue its award within 45 days of the end of the hearing.

O.C. 1364-94, s. 23.

24. The award shall be a majority award of the members of the council.

The award shall give reasons and shall be signed by all the members. Where a member refuses or is unable to sign, the others shall mention that fact and the award shall have the same effect as though it were signed by all the members.

O.C. 1364-94, s. 24.

25. The costs incurred by a party for the arbitration shall be borne by that party.

O.C. 1364-94, s. 25.

26. In its award, the council of arbitration may uphold or reduce the amount of the account in dispute, determine the reimbursement or payment to which a party may be entitled, and rule on the amount that the client acknowledges owing and that he sent with his application for arbitration.

O.C. 1364-94, s. 26.

27. In its award, the council of arbitration may decide the arbitration expenses, which are the expenses incurred by the Order for the arbitration. The total expenses may not exceed 10% of the amount to which the arbitration pertains.

Where the account in dispute is upheld in whole or in part, or where a reimbursement is granted, the council of arbitration may, from the date of the application for conciliation, add interest and an indemnity thereto in accordance with articles 1618 and 1919 of the Civil Code.

O.C. 1364-94, s. 27.

28. The arbitration award is binding on the parties but is subject to forced execution only after having been homologated in accordance with the procedure provided for in articles 645 to 647 of the Code of Civil Procedure (chapter C-25.01).

O.C. 1364-94, s. 28; I.N. 2016-01-01 (NCCP).

29. The arbitration award shall be filed with the secretary of the Order and shall be sent to each party or to their advocates within 10 days after being filed.

O.C. 1364-94, s. 29.

30. *(Omitted).*

O.C. 1364-94, s. 30.

31. *(Omitted).*

O.C. 1364-94, s. 31.

SCHEDULE I

(s. 8)

APPLICATION FOR ARBITRATION OF AN ACCOUNT

I, the undersigned, _____ (*client's name*) _____ (*domicile*) _____ declare that:

(1) _____ (*member's name*) _____ is claiming from me (or refuses to reimburse to 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 the accounts of members of the Ordre des optométristes du Québec (chapter O-7, r. 16).

(4) I have received a copy of the Regulation mentioned above and have taken cognizance thereof.

(5) I agree to submit to the procedure provided for in the Regulation and, where required, to pay to _____ (*member's name*) _____ the amount of the arbitration award.

(signature)

O.C. 1364-94, Sch. I.

SCHEDULE II

(s. 15)

OATH

I swear that I will perform all my duties and exercise all my powers as an arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I also swear that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.

Oath taken before _____ (*name and function, profession or capacity*) _____ at
_____ (*municipality*) _____ (*date*) _____

(signature)

O.C. 1364-94, Sch. II.

UPDATES

O.C. 1364-94, 1994 G.O. 2, 4152

S.Q. 2008, c. 11, ss. 212 and 213

