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**Part**

**2**

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**Laws and Regulations**

Volume 141

**Summary**

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### Contents

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**PROVINCE OF QUÉBEC**

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 8 OCTOBER 2009

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## OFFICE OF THE LIEUTENANT-GOVERNOR

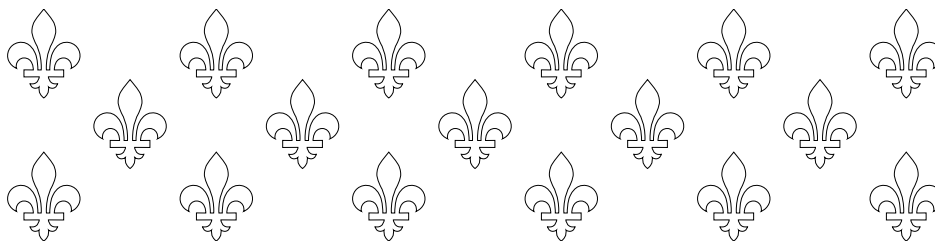
*Québec, 8 October 2009*

This day, at eleven o'clock in the morning, His Excellency the Lieutenant-Governor was pleased to sanction the following bill:

- 22 An Act respecting the governance of the Régie des rentes du Québec and amending various legislative provisions

To this bill the Royal assent was affixed by His Excellency the Lieutenant-Governor.





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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 22  
(2009, chapter 41)

**An Act respecting the governance of the  
Régie des rentes du Québec and amending  
various legislative provisions**

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**Introduced 17 March 2009  
Passed in principle 14 May 2009  
Passed 6 October 2009  
Assented to 8 October 2009**

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**Québec Official Publisher  
2009**

## **EXPLANATORY NOTES**

*The purpose of this Act is to make the Régie des rentes du Québec subject to the Act respecting the governance of state-owned enterprises and to introduce new governance rules into its constituting act, in particular as regards the composition and operation of its board of directors.*

*The Act stipulates that the board of directors will consist of 15 members, at least two thirds of whom must qualify as independent directors. It distinguishes between the functions of the chair of the board of directors and those of the president and chief executive officer, and prescribes new rules for appointing board members. The Act also establishes an investment policy committee and a citizen service committee, in addition to the committees listed in section 19 of the Act respecting the governance of state-owned enterprises.*

*The Régie des rentes du Québec will also be subject to new rules concerning the disclosure and publication of information.*

*The Act changes the date on which the Board's fiscal year ends as well as the date on which its activities report for the preceding fiscal year must be submitted to the Minister.*

*Lastly, the Act contains transitional provisions.*

## **LEGISLATION AMENDED BY THIS ACT:**

- Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1).



## Bill 22

### AN ACT RESPECTING THE GOVERNANCE OF THE RÉGIE DES RENTES DU QUÉBEC AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE QUÉBEC PENSION PLAN

**1.** The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing sections 14 to 23.4 by the following sections:

“**14.** The Board is administered by a board of directors consisting of 15 members, including the chair and the president and chief executive officer.

“**15.** The Government shall appoint the members of the board of directors, other than the chair and the president and chief executive officer, taking into consideration the expertise and experience profiles approved by the board of directors, after consultation with bodies that the Minister responsible for the administration of this Act considers representative of the business sector, labour, the socio-economic sector and retired persons.

These members are appointed for a term of up to four years.

“**16.** The Government shall appoint the chair of the board of directors for a term of up to five years.

“**17.** On the recommendation of the board of directors, the Government shall appoint the president and chief executive officer, taking into consideration the expertise and experience profile approved by the board.

If the board of directors does not recommend a candidate for the position of president and chief executive officer within a reasonable time, the Government may appoint the president and chief executive officer after notifying the members of the board of directors.

The president and chief executive officer is appointed for a term of up to five years.

**“18.** On the expiry of their term, members of the board of directors shall remain in office until they are replaced or reappointed.

**“19.** A vacancy on the board of directors is filled in accordance with the rules of appointment to the board.

Non-attendance at a number of meetings of the board of directors determined by the Board’s internal by-laws constitutes a vacancy in the cases and circumstances specified in the by-laws.

**“20.** If the president and chief executive officer is absent or unable to act, the board of directors may designate a vice-president to exercise the functions of that position.

**“21.** Members of the board of directors other than the president and chief executive officer receive no remuneration, except in the cases, on the conditions and to the extent that may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

**“22.** The board of directors shall establish an investment policy committee and a citizen service committee in addition to the governance and ethics committee, audit committee and human resources committee prescribed by section 19 of the Act respecting the governance of state-owned enterprises (chapter G-1.02).

**“23.** The functions of the investment policy committee include

(1) formulating and submitting to the board of directors a policy for investing the sums deposited with the Caisse de dépôt et placement du Québec under this Act;

(2) making recommendations on the investment policy to the board of directors; and

(3) reporting to the board of directors on the implementation of the investment policy by the Caisse de dépôt et placement du Québec, the yield of the sums deposited and any other issue concerning the investment policy.

**“23.1.** The functions of the citizen service committee include formulating policy directions for services to citizens, submitting them to the board of directors and following up on them.

**“23.2.** The rules relating to the quorum at meetings of the board of directors and meetings of its committees are determined by the Board’s internal by-law.

**“23.3.** The president and chief executive officer is assisted by one or more vice-presidents appointed by the Government.

The vice-presidents are appointed for a term of up to five years.

On the expiry of their term, the vice-presidents shall remain in office until they are replaced or reappointed.

**“23.4.** The Government shall determine the remuneration, employee benefits and other conditions of employment of the president and chief executive officer and the vice-presidents.

**“23.4.1.** The president and chief executive officer and the vice-presidents are the senior officers of the Board. The office of president and chief executive officer and the office of vice-president are full-time positions.

**“23.4.2.** If a vice-president is absent or unable to act, the president and chief executive officer shall designate a member of the Board’s personnel to exercise the functions of that position.

**“23.4.3.** Every internal by-law of the Board comes into force on the date of its publication on the Board’s website or any subsequent date specified in the by-law.”

**2.** Section 23.6 of the Act is amended

(1) by replacing “by the president” in the first paragraph by “by the chair of the board of directors or the president and chief executive officer”;

(2) by replacing “by-laws of internal management” in the first paragraph by “internal by-laws”.

**3.** Section 31 of the Act is amended by replacing “by the president” in the second paragraph by “by the president and chief executive officer”.

**4.** Section 33 of the Act is amended by replacing “The indemnities and allowances provided for in section 19, the salaries of the president” by “The remuneration and the reimbursement of expenses provided for in section 21, the remuneration of the president and chief executive officer”.

**5.** Section 36 of the Act is amended by replacing “March” by “December”.

**6.** Section 37 of the Act is amended

(1) by replacing “June” in the first paragraph by “April”;

(2) by inserting “, in addition to the information under sections 36, 38 and 39 of the Act respecting the governance of state-owned enterprises,” after “That report must also contain” in the first paragraph.

## ACT RESPECTING THE GOVERNANCE OF STATE-OWNED ENTERPRISES

**7.** Schedule I to the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) is amended by inserting “Régie des rentes du Québec” in alphabetical order.

## SUPPLEMENTAL PENSION PLANS ACT

**8.** Section 251 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended

(1) by replacing “by the president of the Régie or by” by “by the chair of its board of directors, the president and chief executive officer of the Régie or”;

(2) by replacing “internal management by-laws” by “internal by-laws”.

## TRANSITIONAL AND FINAL PROVISIONS

**9.** The requirements relating to the number of independent members of the board of directors of the Régie des rentes du Québec and to the independence of the chair of the board of directors provided in section 4 of the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) and the requirement provided in the second paragraph of section 19 of that Act apply as of the date set by the Government. That date must be set as soon as possible and the provisions referred to in this section are to apply not later than 14 December 2011.

The same applies to the requirement that the audit committee include a member of a professional order of accountants as set out in the second paragraph of section 23 of that Act.

**10.** The Government may, in accordance with the Act respecting the governance of state-owned enterprises, determine that a member of the board of directors of the Régie des rentes du Québec in office on 7 October 2009 has the status of independent director.

**11.** The members of the board of directors of the Régie des rentes du Québec in office on 7 October 2009 continue in office for the unexpired portion of their term on the same terms, until they are replaced or reappointed.

A member of the board of directors of the Régie des rentes du Québec in office on that date who has not obtained the status of independent director may, despite section 19 of the Act respecting the governance of state-owned enterprises, be a member of a committee referred to in that section until the number of independent directors on the board corresponds to two thirds of the membership.

**12.** The president and general manager of the Régie des rentes du Québec continues in office as president and chief executive officer for the unexpired portion of the term on the same terms.

He exercises the functions of chair of the board of directors until the position is filled in accordance with section 16 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) enacted by section 1 of this Act.

**13.** The vice-presidents of the Régie des rentes du Québec in office on 7 October 2009 continue in office for the unexpired portion of their term on the same terms.

**14.** This Act comes into force on 8 October 2009, except section 5, which comes into force on 1 April 2010, and paragraph 1 of section 6, which comes into force on 1 July 2010.



## Regulations and other Acts

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Gouvernement du Québec

### O.C. 1103-2009, 21 October 2009

Professional Code  
(R.S.Q., c. C-26)

#### Dispensing opticians — Code of ethics — Amendments

Regulation to amend the Code of ethics of dispensing opticians

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), amended by sections 1 and 56 of chapter 11 of the Statutes of 2008, the board of directors of a professional order must make, by regulation, a code of ethics governing the general and special duties of the professional towards the public, clients and the profession, particularly the duty to discharge professional obligations with integrity;

WHEREAS the board of directors of the Ordre des opticiens d'ordonnances du Québec made the Regulation to amend the Code of ethics of dispensing opticians;

WHEREAS, under section 95.3 of the Professional Code, a draft of the Regulation was sent to every member of the Order at least 30 days before being made by the board of directors;

WHEREAS, pursuant to section 95 of the Code, amended by sections 1 and 63 of chapter 11 of the Statutes of 2008 and by section 4 of chapter 16 of the Statutes of 2009, and subject to sections 95.0.1 and 95.2 of the Code, the latter section having been amended by sections 1 and 65 of chapter 11 of the Statutes of 2008, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Code of ethics of dispensing opticians was published in Part 2 of the *Gazette officielle du Québec* of 4 February 2009 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation to amend the Code of ethics of dispensing opticians, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

---

### Regulation to amend the Code of ethics of dispensing opticians\*

Professional Code  
(R.S.Q., c. C-26, s. 87; 2008, c. 11, s. 56)

**1.** The Code of ethics of dispensing opticians is amended by inserting the following after section 1.01:

**“1.01.01.** A dispensing optician must take reasonable measures to ensure compliance with the Dispensing Opticians Act (R.S.Q., c. O-6), the Professional Code (R.S.Q., c. C-26) and their regulations by any person other than a dispensing optician who collaborates with him in the carrying on of professional activities and any partnership or joint-stock company within which the dispensing optician carries on professional activities.

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\* The Code of ethics of dispensing opticians, made by Decision dated 9 February 1983 (1983, *G.O.* 2, 1945), was last amended by the regulation approved by Order in Council 578-2005 dated 15 June 2005 (2005, *G.O.* 2, 2055). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 March 2009.

**1.01.02.** A dispensing optician who carries on professional activities within a partnership or joint-stock company must take reasonable measures to ensure that the Dispensing Opticians Act, the Professional Code and their regulations are complied with by the partnership or joint-stock company.

The duties and obligations under the Dispensing Opticians Act, the Professional Code and their regulations are not changed or reduced by the fact that a member practises within a partnership or joint-stock company.”.

**2.** Section 3.02.02 is amended by adding the following paragraph at the end:

“Similarly, a dispensing optician must avoid any misrepresentation with respect to the competency or effectiveness of the services generally provided by the persons with whom he carries on professional activities within the same partnership or joint-stock company.”.

**3.** Section 3.04.01 is amended by adding the following paragraph at the end:

“A dispensing optician may not invoke the liability of the partnership or joint-stock company within which he carries on professional activities or the liability of another person also carrying on activities within the same partnership or company as a ground for excluding or limiting his personal civil liability.”.

**4.** Section 3.05.01 is amended by inserting “, the interest of the partnership or joint-stock company within which he carries on professional activities or in which he has an interest and the interest of any other person carrying on activities within the partnership or joint-stock company or not” after “personal interest”.

**5.** The following is inserted after section 3.05.01:

**“3.05.01.01.** A dispensing optician may not be a party to an agreement in which the nature and the extent of professional expenses may influence the quality of his practice.

An agreement entered into by a dispensing optician or a company of which he is a partner or shareholder regarding the enjoyment of a building or space to carry on his professional activities must be entirely recorded in writing and include a statement by the parties that the obligations arising from the agreement comply with the provisions of this Code, and a clause authorizing release of the agreement to the Order on request.”.

**6.** Section 3.05.05 is replaced by the following:

**“3.05.05.** In particular, the fact of practising the profession jointly or in association with a natural or legal person who is not a dispensing optician or optometrist constitutes a conflict of interest for a dispensing optician.

Carrying on professional activities within a partnership or joint-stock company referred to in the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company approved by Order in Council 1104-2009, 21 October 2009 does not constitute a conflict of interest for a dispensing optician.”.

**7.** The following is inserted after 3.05.05:

**“3.05.05.01.** A dispensing optician must take the necessary measures to ensure that information and documents relevant to professional secrecy are not disclosed to a partner, shareholder, director, manager, officer or employee of a partnership or joint-stock company within which the dispensing optician carries on professional activities or in which he has an interest, as soon as he becomes aware that the partner, shareholder, director, manager, officer or employee has a conflict of interest.

The following factors must be considered in assessing the effectiveness of such measures:

- (1) size of the partnership or company;
- (2) precautions taken to prevent access to the dispensing optician’s file by the person having a conflict of interest;
- (3) instructions given to protect confidential information or documents related to the conflict of interest; and
- (4) isolation, from the dispensing optician, of the person having a conflict of interest.”.

**8.** Section 3.05.06 is amended by replacing “ask the client if he authorizes him to continue his professional services” by “cease to carry on his professional activities, unless the client, after being informed of the nature of the conflict of interest and the facts relating thereto, authorizes the dispensing optician in writing to continue.”.

**9.** Section 3.05.07 is amended by adding the following at the end: “, except for



(1) a person, trust or enterprise referred to in subparagraph 1 of section 2 or subparagraph 1 of section 3 of the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company; or

(2) a partnership or joint-stock company within which he carries on professional activities.”.

**10.** Section 3.05.09 is amended by inserting “, except for customary tokens of appreciation and gifts of small value” after “profession”.

**11.** The following is inserted after 3.05.09:

“**3.05.09.01.** Despite section 3.05.09, a dispensing optician is not in a conflict of interest if he accepts a discount from a supplier for one of the following reasons:

(1) for prompt regular payment, if the discount appears on the invoice and is in keeping with marketplace rules in similar matters; or

(2) due to the volume of products purchased related to the practice of the profession of dispensing optician, if the discount appears on the invoice or the statement of account and is in keeping with marketplace rules in similar matters.”.

**12.** Section 3.06.07 is replaced by the following:

“**3.06.07.** A dispensing optician must take reasonable measures to ensure that every person with whom he carries on his professional activities does not disclose to a third person the confidential information of which he may have taken cognizance.”.

**13.** Subdivision 7 of Division III is replaced by the following:

“§7. *Accessibility and rectification of records*

**3.07.01.** A dispensing optician must respond promptly, at the latest within 20 days of its receipt, to any request made by a client to consult or obtain a copy of documents that concern the client in any record made in his respect.

**3.07.02.** A dispensing optician may charge the client reasonable fees for the reproduction or transcription of the documents and the cost of transmitting a copy of the documents.

A dispensing optician who intends to charge fees for the reproduction, transcription or transmission of the documents requested must first inform the client of the approximate amount to be paid.

**3.07.03.** A dispensing optician must provide a client or a person designated by the client, on request, with all information that would allow him to obtain a benefit to which he may be entitled.

**3.07.04.** A dispensing optician must, at the written request of the client and at the latest within 20 days of the date of the request, provide any person designated by the client with the relevant information in the record kept or maintained by the dispensing optician in the client’s respect.

**3.07.05.** A dispensing optician must respond promptly, at the latest within 20 days of its receipt, to any request made by a client to have information that is inaccurate, incomplete, ambiguous, outdated or unjustified corrected or deleted in any document concerning the client. He must also respect the client’s right to make written comments in the record.

A dispensing optician must give the client, free of charge, a copy of the information filed in the record so that the client may verify that the information has been corrected or deleted or, where applicable, give the client an attestation stating that the client’s written comments have been filed in the record.

**3.07.06.** A dispensing optician must send a copy, free of charge, of the corrected information or an attestation stating that the information has been deleted or, where applicable, that the written comments have been filed in the record, to every person from whom the dispensing optician received the information that was the subject of the correction, deletion or comments, and to every person to whom the information was communicated.

**3.07.07.** A dispensing optician may temporarily deny access to personal information contained in a client’s record if its disclosure would likely cause serious harm to the client’s health. In such a case, the dispensing optician determines the time at which consultation may take place and informs the client thereof. In addition, the dispensing optician must inform the client of the reasons for the refusal, enter the reasons in the record and inform the client of all available remedies.

**3.07.08.** A dispensing optician must respond promptly to any written request from a client to have a document returned to the client.”.

**14.** Section 3.08.08 is revoked.

**15.** The following paragraph is added at the end of section 3.09.01:

“No dispensing optician may allow a partnership or joint-stock company within which he carries on his professional activities to engage in, by any means whatsoever, advertising that is false, misleading, incomplete or likely to mislead the public.”

**16.** The following paragraphs are added at the end of section 4.02.01:

“(n) to fail to promptly notify the secretary of the Order where, pursuant to the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3), a dispensing optician or the partnership or company within which he carries on professional activities has made an assignment of property for the benefit of his creditors, is the subject of a receiving order, or has made a proposal that has been rejected by his creditors or dismissed or annulled by the court;

(o) to carry on professional activities within, or to have an interest in, a partnership or joint-stock company whose name compromises the dignity of the profession of dispensing optician or with a person who, to the optician’s knowledge, acts in a manner that compromises the dignity of the profession of dispensing optician;

(p) to carry on professional activities within, or to have an interest in, a partnership or company, where a partner, shareholder, director, manager, officer or employee of the partnership or company, has been struck off the roll for more than 3 months or has had his professional permit revoked, unless the partner, shareholder, director, manager, officer or employee

i. ceases to hold a position of director, officer or manager within the company within 15 days of the date on which the mandatory striking off or revocation of permit has become effective;

ii. ceases, if applicable, to attend any shareholder meeting and to exercise his right to vote within 15 days of the date on which the mandatory striking off or revocation of permit has become effective; or

iii. disposes of his voting shares or turns them over to a trustee within 15 days of the date on which the mandatory striking off or revocation of permit has become effective;

(q) to fail to take reasonable measures to put an end to, or prevent the repeated performance of, an act derogatory to the dignity of the profession performed by another person carrying on professional activities within the partnership or company, and that was brought to the dispensing optician’s attention more than 30 days earlier; and

(r) to intimidate a person or to take reprisals or threaten to take reprisals against a person who

i. has reported derogatory conduct or behaviour or intends to do so; or

ii. has taken part or cooperated in an inquiry into derogatory conduct or behaviour or intends to do so.”

**17.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

9501

Gouvernement du Québec

**O.C. 1104-2009, 21 October 2009**

Professional Code  
(R.S.Q., c. C-26)

**Dispensing optician  
— Practice of the profession within a partnership  
or a joint-stock company**

Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company

WHEREAS, under paragraph *p* of section 94 of the Professional Code (R.S.Q., c. C-26), the board of directors of a professional order may make a regulation respecting the practice of a profession within a partnership or a joint-stock company;

WHEREAS, under paragraphs *g* and *h* of section 93 of the Professional Code, amended by section 61 of chapter 11 of the Statutes of 2008, the board of directors must then, by regulation, impose on its members who carry on their professional activities within a partnership or joint-stock company the obligation to furnish and maintain coverage, on behalf of the partnership or company, against liabilities of the partnership or company arising from fault in the practice of their profession and fix the conditions and procedure applicable to a declaration made to the order;

WHEREAS the board of directors of the Ordre professionnel des opticiens d'ordonnances du Québec made the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company;

WHEREAS, under section 95.3 of the Professional Code, a draft of the Regulation was sent to every member of the Order at least 30 days before being made by the board of directors;

WHEREAS, pursuant to section 95 of the Code, amended by sections 1 and 63 of chapter 11 of the Statutes of 2008 and by section 4 of chapter 16 of the Statutes of 2009, and subject to sections 95.0.1 and 95.2 of the Code, the latter section having been amended by sections 1 and 65 of chapter 11 of the Statutes of 2008, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, pursuant to the first paragraph of section 95.2 of the Professional Code, a regulation made by the board of directors under section 65, 88, 89, 90 or 91, paragraph *a, b, d, e, f, g* or *h* of section 93 or paragraph *a, j, n* or *o* of section 94 of the Code must be transmitted for examination to the Office, which may approve it with or without amendment, and the same applies to any regulation under paragraph *p* of section 94 of the Code if it is not the first regulation made by the board of directors under that paragraph;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company was published in Part 2 of the *Gazette officielle du Québec* of 4 February 2009 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS the Office has approved Division II of the Regulation pertaining to the partnership's or joint-stock company's security, and section 12 pertaining to the declaration;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

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## **Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company**

Professional Code  
(R.S.Q., c. C-26, s. 93, pars. *g* and *h* and s. 94, par. *p*;  
2008, c. 11, s. 1, pars. 1 and 3 and s. 61, pars. 5 and 6)

### **DIVISION I GENERAL**

**1.** Dispensing opticians may, subject to the terms, conditions and restrictions established in this Regulation, carry on their professional activities within a limited liability partnership or joint-stock company within the meaning of Chapter VI.3 of the Professional Code (R.S.Q., c. C-26).

**2.** Dispensing opticians may carry on their professional activities within a partnership or joint-stock company that holds itself out exclusively as a partnership or joint-stock company of dispensing opticians if the following conditions are met:

(1) more than 50% of the units or shares are held

(a) by dispensing opticians;

(b) by a joint-stock company at least 90% of the voting rights attached to the units or shares are held entirely by a dispensing optician; or

(c) by a combination of persons, trusts or other enterprises referred to in subparagraphs *a* and *b*;

(2) a third person may not compel the persons, trusts or other enterprises referred to in subparagraph 1 to redeem the units or shares that it holds in the partnership or company;

(3) more than 50% of the voting rights attached to the partnership units or company shares are held by persons, trusts or other enterprises referred to in subparagraph 1, and the other voting rights, where applicable, are held

(a) by optometrists;

(b) by legal persons, trusts or any other enterprise whose voting rights attached to the units or shares are held entirely by persons referred to in subparagraph *a*; or

(c) by a combination of persons, trusts or other enterprises referred to in subparagraphs *a* and *b*; and

(4) more than 50% of the partners or directors appointed by the partners to manage the affairs of the limited liability partnership and the directors of the board of directors of the joint-stock company are dispensing opticians, and the other persons, where applicable, are optometrists.

Dispensing opticians must ensure that the conditions are listed, as the case may be, in the partnership contract, the articles, the shareholders' agreement or any other document relating to the constitution and operation of the company or partnership.

**3.** In cases other than those referred to in section 2, dispensing opticians are authorized to carry on professional activities within a partnership or joint-stock company if the following conditions are met:

(1) more than 50% of the units or shares are held

(a) by dispensing opticians or optometrists;

(b) by legal persons, trusts or other enterprises whose voting rights attached to the units or shares are held entirely by one or more persons referred to in subparagraph *a*; or

(c) by a combination of persons, trusts or other enterprises referred to in subparagraphs *a* and *b*;

(2) a third person may not compel the persons, trusts or other enterprises referred to in subparagraph 1 to redeem the units or shares that it holds in the partnership or company;

(3) all the voting rights attached to the partnership units or company shares are held by persons, trusts or other enterprises referred to in subparagraph 1; and

(4) all the partners or directors appointed by the partners to manage the affairs of the limited liability partnership and the directors of the board of directors of the joint-stock company are persons referred to in subparagraph *a* of subparagraph 1.

Dispensing opticians must ensure that the conditions are listed, as the case may be, in the partnership contract, the articles, the shareholders' agreement or any other document relating to the constitution and operation of the company or partnership.

**4.** Dispensing opticians must at all times ensure that the partnership or joint-stock company allows them to comply with the Professional Code, the Dispensing Opticians Act (R.S.Q., c. O-6) and the regulations made under that Code or that Act.

**5.** If a dispensing optician becomes aware that a condition set out in this Regulation or in Chapter VI.3 of the Professional Code is no longer met, the dispensing optician must, within 15 days, take the necessary measures to comply, failing which the dispensing optician is no longer authorized to carry on professional activities within the partnership or joint-stock company.

**6.** The name of the partnership or joint-stock company must not be a number name.

**7.** Where a dispensing optician carries on professional activities within a joint-stock company, the income resulting from the professional services rendered within and on behalf of the company belongs to the company, unless agreed otherwise.

## DIVISION II

### SECURITY AGAINST THE PROFESSIONAL FAULT OF PARTNERSHIP OR JOINT-STOCK COMPANY MEMBERS

**8.** To be authorized to carry on professional activities in accordance with this Regulation, a dispensing optician carrying on professional activities within a partnership or joint-stock company must furnish and maintain security, on behalf of the partnership or company, by means of an insurance or suretyship contract or by joining a group plan contract, against the professional liability of the partnership or company arising from fault on the part of the dispensing optician in carrying on professional activities within the partnership or joint-stock company.

**9.** The security must include

(1) an undertaking by the insurer or surety to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the dispensing optician pursuant to the Règlement sur l'assurance-responsabilité professionnelle des membres de l'Ordre des opticiens d'ordonnances du Québec, made by Decision dated 9 February 1983, up to the amount of

the security, any sum that the partnership or joint-stock company may be legally bound to pay to third persons on a claim filed during the coverage period and arising from fault on the part of the dispensing optician in the carrying on of professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer or surety to take up the cause of the partnership or joint-stock company and defend it in any action against it and to pay, in addition to the amounts covered by the security, all legal costs of actions against the partnership or joint-stock company, including the costs of the inquiry and defence and interest on the amount of the security;

(3) an undertaking that the security is not less than \$1,000,000 per claim and \$2,000,000 per year for all claims filed against the partnership or joint-stock company within a 12-month coverage period;

(4) an undertaking by the insurer or surety to give the secretary of the Order a 30-day prior notice before terminating or modifying the insurance or suretyship contract when the modification affects a condition set out in this Regulation; and

(5) an undertaking by the insurer or surety to immediately notify the secretary of the Order when the insurance or suretyship contract is not renewed.

The suretyship contract referred to in section 8 must be with a bank, savings and credit union, trust or insurance company and provide that the surety will provide the coverage in accordance with the conditions of this Regulation and will pay, by waiving the benefit of division and discussion, in lieu of the partnership or joint-stock company up to the amount of the suretyship.

### **DIVISION III** **COMMUNICATION OF INFORMATION**

**10.** Within 15 days of the continuance of a general partnership as a limited liability partnership or of the activities continued within a joint-stock company, dispensing opticians carrying on professional activities within a general partnership or joint-stock company must publish, in a newspaper distributed in the locality in which the partnership has its place of business, a notice informing its clients, in general terms, of the nature, scope and effects of the change of status of the partnership or joint-stock company, in particular with respect to the dispensing optician's professional liability and that of the partnership or joint-stock company.

**11.** A dispensing optician who wishes to carry on professional activities within a partnership or joint-stock company must first provide the secretary of the Order with

(1) the declaration referred to in section 12, accompanied by the fees payable prescribed by the board of directors of the Order;

(2) a statement to the effect that the partnership or joint-stock company is covered by security in compliance with Division II;

(3) in the case of a joint-stock company, a copy of the incorporating instrument issued by the competent authority, certifying the existence of the joint-stock company;

(4) written confirmation that the partnership or joint-stock company is registered in Québec;

(5) an undertaking from the partnership or joint-stock company within which the dispensing optician carries on professional activities allowing a person, committee, council or tribunal referred to in section 192 of the Professional Code to require disclosure of and obtain any information listed in section 15 from a person; and

(6) where applicable, a true copy of the declaration required under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45), stating that the general partnership has become a limited liability partnership.

**12.** A dispensing optician must make a declaration under professional oath on a form provided by the secretary of the Order that contains the following information:

(1) the dispensing optician's name, member number and status within the partnership or joint-stock company;

(2) the name of the partnership or joint-stock company within which the dispensing optician carries on professional activities and the registration number assigned to it by the enterprise registrar;

(3) the legal form of the partnership or joint-stock company and the fact that the partnership or joint-stock company complies with the conditions set out in section 1 and, where applicable, section 2 or 3;

(4) where a member carries on professional activities within a limited liability partnership, the address of the establishments of the partnership in Québec, specifying the address of the principal establishment, names and home addresses of all the partners, their percentage of units and an indication of their management functions, as the case may be;

(5) where the member carries on professional activities within a joint-stock company, the address of the head office of the company and of its establishments in Québec, the names and home addresses of all the shareholders, their percentage of voting shares and non-voting shares and an indication of their functions of director and officer, as the case may be; and

(6) where applicable, the date on which the general partnership became a limited liability partnership or a joint-stock company.

**13.** If more than one dispensing optician carries on professional activities within a partnership or joint-stock company, one representative may make a declaration for all the dispensing opticians in the partnership or company.

The representative's declaration is deemed to be each dispensing optician's declaration and each dispensing optician remains responsible for the accuracy of the information provided pursuant to section 12.

The representative must be a dispensing optician who is a partner, director, officer or shareholder of the partnership or company.

**14.** To retain the right to carry on professional activities within a partnership or joint-stock company, a dispensing optician or representative must

(1) update and provide, before 31 March of each year, the declaration prescribed in section 12; and

(2) promptly notify the secretary of the Order of any change in the security prescribed in Division II or in the information given in the declaration prescribed in section 12 that might violate the conditions set out in sections 2 and 3.

#### DIVISION IV INFORMATION ACCESSIBILITY

**15.** The information that may be required from a partnership or joint-stock company pursuant to paragraph 5 of section 11 are as follows:

(1) if the dispensing optician carries on professional activities within a limited liability partnership,

(a) the partnership contract and amendments;

(b) the declaration of registration of the partnership and any update;

(c) the names and home addresses of the partnership's principal officers; and

(d) an up-to-date register of the partners;

(2) if the dispensing optician carries on professional activities within a joint-stock company,

(a) an up-to-date register of the articles and by-laws;

(b) an up-to-date register of securities;

(c) an up-to-date register of the shareholders;

(d) an up-to-date register of the directors;

(e) any shareholders' agreement and voting agreement, and amendments;

(f) any agreement concerning a stock option with voting rights or concerning any other right, even if conditional, granted to a person to be issued such stock;

(g) the declaration of registration of the joint-stock company and any update; and

(h) the names and home addresses of the company's principal officers.

#### DIVISION V TRANSITIONAL AND FINAL

**16.** A dispensing optician who carries on professional activities within a joint-stock company constituted before the date of coming into force of this Regulation must comply with the requirements of this Regulation not later than one year following that date.

**17.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

Gouvernement du Québec

**O.C. 1105-2009, 21 October 2009**

Professional Code  
(R.S.Q., c. C-26)

**Medical electrophysiology technologist  
— Professional activities that may be engaged  
— Amendment**

Regulation amending the Regulation respecting professional activities that may be engaged in by a medical electrophysiology technologist

WHEREAS, under paragraph *h* of section 94 of the Professional Code (R.S.Q., c. C-26), amended by section 1 and paragraph 3 of section 62 of chapter 11 of the Statutes of 2008, the board of directors of a professional order may make a regulation to determine, among the professional activities that may be engaged in by members of the order, those that may be engaged in by the persons or categories of persons indicated in the regulation, and the terms and conditions on which such persons may engage in such activities;

WHEREAS, in accordance with paragraph *h* of section 94 of the Professional Code, the board of directors of the Collège des médecins du Québec has consulted the Ordre des infirmières et infirmiers du Québec, the Ordre professionnel des inhalothérapeutes du Québec, the Ordre professionnel des technologistes médicaux du Québec and the Ordre des technologues en imagerie médicale et en radio-oncologie du Québec before the making of the Regulation amending the Regulation respecting professional activities that may be engaged in by a medical electrophysiology technologist;

WHEREAS, pursuant to section 95 of the Code, amended by sections 1 and 63 of chapter 11 of the Statutes of 2008 and by section 4 of chapter 16 of the Statutes of 2009, and subject to sections 95.0.1 and 95.2 of the Code, the latter section having been amended by sections 1 and 65 of chapter 11 of the Statutes of 2008, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation amending the Regulation respecting professional activities that may be engaged in by a medical electrophysiology technologist was published in Part 2 of the *Gazette officielle du Québec* of 17 June 2009 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation amending the Regulation respecting professional activities that may be engaged in by a medical electrophysiology technologist, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

**Regulation amending the Regulation  
respecting professional activities that  
may be engaged in by a medical  
electrophysiology technologist\***

Professional Code  
(R.S.Q., c. C-26, s. 94, par. *h*; 2008, c. 11, s. 62)

**1.** The Regulation respecting professional activities that may be engaged in by a medical electrophysiology technologist is amended by replacing “2010” in section 6 by “2013”

**2.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

9503

\* The Regulation respecting professional activities that may be engaged in by a medical electrophysiology technologist, approved by Order in Council 1281-2005 dated 21 December 2005 (2006, *G.O.* 2, 207), was amended once by the regulation approved by Order in Council 31-2009 dated 14 January 2009 (2009, *G.O.* 2, 15B).





## Draft Regulations

### Draft Regulation

An Act respecting contracting by public bodies  
(2006, c. 29)

#### Supply, service and construction contracts of public bodies — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting supply contracts of public bodies, the Regulation to amend the Regulation respecting service contracts of public bodies and the Regulation to amend the Regulation respecting construction contracts of public bodies, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft regulations impose on enterprises interested in entering into a supply, service or construction contract with a public body the obligation to send an attestation from the Minister of Revenue indicating in particular that they have filed the returns and reports required under fiscal laws.

They also provide that the Chair of the Conseil du trésor will report to the Government about the first year of application of those measures.

The draft regulations have no impact on the public and should have no negative impact on enterprises, including small and medium-sized businesses.

Further information on the draft regulations may be obtained by contacting Lucien Turcotte, Director, Direction de la réglementation et des politiques de gestion contractuelle, Secrétariat du Conseil du trésor, 875, Grande Allée Est, bureau 2.339, Québec (Québec) G1R 5R8; telephone: 418 644-3421; fax: 418 528-6877; e-mail: lucien.turcotte@sct.gouv.qc.ca

Any person wishing to comment on the draft regulations is requested to submit written requests within the 45-day period to the Minister responsible for Government Administration and Chair of the Conseil du trésor, 875, Grande-Allée Est, Québec (Québec) G1R 5R8.

MONIQUE GAGNON-TREMBLAY,  
*Minister responsible for Government Administration  
and Chair of the Conseil du trésor*

### Regulation to amend the Regulation respecting supply contracts of public bodies\*

An Act respecting contracting by public bodies  
(2006, c. 29, s. 23, 1st par., subpar. 3)

**1.** The Regulation respecting supply contracts of public bodies is amended by inserting the following after section 37:

#### “DIVISION IV ATTESTATION FROM THE MINISTER OF REVENUE

**37.1.** Every supply contract involving an expenditure equal to or greater than \$25,000 must, in a case other than the case set out in subparagraph 1 of the first paragraph of section 13 of the Act, be entered into with a supplier who has obtained an attestation from the Minister of Revenue of Québec.

The attestation is issued to every supplier who, on the date indicated in the attestation, has filed the returns and reports that the supplier had to file under fiscal laws and who has no overdue account payable to the Minister of Revenue of Québec, in particular when its recovery has been legally suspended or arrangements have been made with the supplier to ensure payment and the supplier has not defaulted.

The supplier must send the attestation to the public body with the supplier's tender if the contract is awarded following a call for tenders, or before the contract is entered into if it is awarded by mutual agreement. The attestation must not have been issued more than 90 days before the tender closing time or, in the case of a contract by mutual agreement, more than 90 days before the contract award date.

An attestation held by the supplier is considered as an eligibility requirement within the meaning of section 6.

**37.2.** The Chair of the Conseil du trésor is to report to the Government about the first year of application of section 37.1.”.

**2.** This Regulation comes into force on 1 June 2010.

\* The Regulation respecting supply contracts of public bodies, made by Order in Council 531-2008 dated 28 May 2008 (2008, G.O. 2, 2079), was amended once, by Order in Council 694-2009 dated 18 June 2009 (2009, G.O. 2, 1861A).

## Regulation to amend the Regulation respecting service contracts of public bodies\*

An Act respecting contracting by public bodies (2006, c. 29, s. 23, 1st par., subpar. 3)

**1.** The Regulation respecting service contracts of public bodies is amended by inserting the following after section 50:

### “DIVISION IV ATTESTATION FROM THE MINISTER OF REVENUE

**50.1.** Every service contract involving an expenditure equal to or greater than \$25,000 must, in a case other than the case set out in subparagraph 1 of the first paragraph of section 13 of the Act, be entered into with a service provider who has obtained an attestation from the Minister of Revenue of Québec.

The attestation is issued to every service provider who, on the date indicated in the attestation, has filed the returns and reports that the provider had to file under fiscal laws and who has no overdue account payable to the Minister of Revenue of Québec, in particular when its recovery has been legally suspended or arrangements have been made with the provider to ensure payment and the provider has not defaulted.

The service provider must send the attestation to the public body with the service provider’s tender if the contract is awarded following a call for tenders, or before the contract is entered into if it is awarded by mutual agreement. The attestation must not have been issued more than 90 days before the tender closing time or, in the case of a contract by mutual agreement, more than 90 days before the contract award date.

An attestation held by the service provider is considered as an eligibility requirement within the meaning of section 6.

The Chair of the Conseil du trésor is to report to the Government about the first year of application of section 50.1.”.

**2.** This Regulation comes into force on 1 June 2010.

## Regulation to amend the Regulation respecting construction contracts of public bodies\*

An Act respecting contracting by public bodies (2006, c. 29, s. 23, 1st par., subpar. 3)

**1.** The Regulation respecting construction contracts of public bodies is amended by inserting the following after section 40:

### “DIVISION III ATTESTATION FROM THE MINISTER OF REVENUE

**40.1.** Every construction contract involving an expenditure equal to or greater than \$25,000 must, in a case other than the case set out in subparagraph 1 of the first paragraph of section 13 of the Act, be entered into with a contractor who has obtained an attestation from the Minister of Revenue of Québec.

The attestation is issued to every contractor who, on the date indicated in the attestation, has filed the returns and reports that the contractor had to file under fiscal laws and who has no overdue account payable to the Minister of Revenue of Québec, in particular when its recovery has been legally suspended or arrangements have been made with the contractor to ensure payment and the constructor has not defaulted.

The contractor must send the attestation to the public body with the constructor’s tender if the contract is awarded following a call for tenders, or before the contract is entered into if it is awarded by mutual agreement. The attestation must not have been issued more than 90 days before the tender closing time or, in the case of a contract by mutual agreement, more than 90 days before the contract award date.

An attestation held by the contractor is considered as an eligibility requirement within the meaning of section 6.

**40.2.** The Chair of the Conseil du trésor is to report to the Government about the first year of application of section 40.1.”.

**2.** This Regulation comes into force on 1 June 2010.

9500

\* The Regulation respecting service contracts of public bodies, made by Order in Council 533-2008 dated 28 May 2008 (2008, G.O. 2, 2099), was last amended by Order in Council 696-2009 dated 18 June 2009 (2009, G.O. 2, 1863A).

\* The Regulation respecting construction contracts of public bodies, made by Order in Council 532-2008 dated 28 May 2008 (2008, G.O. 2, 2086), was last amended by the regulation made by Order in Council 695-2009 dated 18 June 2009 (2009, G.O. 2, 1862A).

## Decisions

### Decision

An Act respecting elections and referendums in municipalities  
(R.S.Q., E-2.2)

#### **Chief Electoral Officer — Certain electors in the electoral district of Mile-End in the borough of Plateau-Mont-royal of the city of Montréal**

Decision of the Chief Electoral Officer pursuant to the powers conferred upon him by section 90.5 of the act respecting elections and referendums in municipalities, concerning certain electors in the electoral district of Mile-End in the borough of Plateau-Mont-royal of the city of Montréal

WHEREAS municipal elections will be held in the City de Montréal on November 1, 2009;

WHEREAS, following a technical error in the computer processing of traffic lane intervals, 178 electors domiciled at 33, Chemin de la Côte-Sainte-Catherine, in the electoral district of Mile-End, located in the borough of Plateau-Mont-Royal, were incorrectly entered on the list of electors for the electoral district of Robert Bourassa, located in the borough of Outremont;

WHEREAS, due this error, the 178 electors mentioned above will be unable to exercise their right to vote in the electoral district in which they are domiciled;

WHEREAS the revision period for the City of Montreal ended on September 30, 2009;

WHEREAS section 90.5 of the Act respecting elections and referendums in municipalities states that if, subsequent to an error, a provision of the Act does not meet the demands of the resultant situation, the Chief Electoral Officer may adapt the provision in order to achieve its object;

WHEREAS the Chief Electoral Officer has first informed the Minister of Municipal Affairs, Regions and Land Occupancy of the decision he intends to make;

The Chief Electoral Officer, pursuant to the powers conferred upon him by section 90.5 of the Act respecting elections and referendums in municipalities, has decided to adapt the Act respecting elections and referendums in municipalities in order to authorize the returning officer of the City of Montreal to take the following steps:

1. The preamble forms an integral part of this decision.
2. The returning officer of the City of Montreal shall produce a statement of changes to the list of electors for polling subdivision no. 12 of the electoral district of Robert Bourassa, located in the borough of Outremont, in order to remove the names of the 178 electors domiciled at 33, Chemin de la Côte-Sainte-Catherine.
3. The returning officer of the City of Montreal shall produce a statement of changes to the list of electors for polling subdivision no. 79 of the electoral district of Mile-End, located in the borough of Plateau-Mont-Royal, in order to enter the names of the 178 electors domiciled at 33, Chemin de la Côte-Sainte-Catherine.
4. The said statements of changes shall be incorporated into the list of electors for the districts in question;
5. The returning officer shall, at the earliest opportunity, send the statements of changes to every authorized party pursuant to Chapter XIII and to every candidate concerned by this decision;
6. The returning officer shall take all the necessary steps to inform the 178 electors concerned of the names of the candidates for whom they may vote and the place at which they may exercise their right to vote.
7. This decision shall take effect on October 7, 2009.

Québec, 7 October 2009

MARCEL BLANCHET,  
*Chief Electoral Officer and  
Chair of the Commission de la  
représentation électorale*

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Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

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