

2. Notwithstanding paragraph 1 of section 2.2, the fee payable for the initial apportioned registration of a vehicle to April 30, 2001 is that set by section 2.4.

3. This regulation comes into force on 1 January 2001.

3818

Draft Regulation

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

Bailiffs

—Code of Ethics

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Chambre des huissiers de justice du Québec has adopted the Code of Ethics of the Bailiffs.

This regulation, the text of which appears below, will be examined by the Office des professions du Québec in application of section 95 of the Professional Code. Afterwards, it will be submitted, with the Office's recommendation, to the Government approval, with or without any modifications, upon the expiry of 45 days following this publication.

The goal of this regulation is to update the Code of Ethics of the Bailiffs concerning the duties and obligations of the bailiff towards the public, a mandator, colleagues, the profession and the Chambre.

This is how the applicable rules to the bailiff, in the execution of his mandate entrusted by a mandator, notably as regards to conflicts of interests, availability, independence, integrity and liability have been clarified to consider the actual professional practice context.

According to the Chambre des huissiers de justice du Québec, the updating of the Code of Ethics of the Bailiffs was necessary in order to ensure a better protection of the public and an increased supervision of the professional practice. In addition, according to the Chambre, there will be no other impact on business, in particular small and medium sized businesses.

Further information regarding this regulation may be obtained by contacting Mr. Ronald Dubé, General Director and Secretary of the Chambre des huissiers de justice du Québec, at the following address: 1100, boulevard Crémazie Est, bureau 215, Montréal (Québec) H2P 2X2; telephone number: (514) 721-1100; facsimile number: (514) 721-7878.

Any person who wishes to formulate comments regarding this regulation is asked to send them, before the expiry of the 45 day-period mentioned hereabove, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. These comments will be forwarded by the Office to the Minister responsible of the application of laws governing professionals; they may also be forwarded to the professional order that made the regulation, for instance the Chambre des huissiers de justice du Québec, as well as to interested persons, departments and organisations.

*Chairman of the Office des
professions du Québec,*
JEAN-K. SAMSON

Code of ethics of the bailiffs

Professional Code
(R.S.Q., c. C-26, s. 87)

CHAPTER I GENERAL DUTIES

1. The bailiff, in his capacity as an auxiliary of justice, a ministerial and public officer, exercises a public duty.

In addition, to the obligation of impartiality imposed by Section 12 of the Court Bailiffs Act (R.S.Q., c. H-4.1), he shall act in a manner which is purely objective, respectful, in moderation and with dignity; he shall act in a manner avoiding all methods and attitudes likely to damage the honour and the dignity of his profession.

2. A bailiff must discharged his professional duties with integrity.

3. A bailiff must exercise his profession according to the generally recognize norms and practices. To this end, he shall maintain up to date his knowledge and perform those acts in order that it be perfected and developed.

4. The bailiff shall, in the exercise of his profession, abstain from acting in a manner which embarrasses, humiliates or scorn an individual; he shall abstain from pronouncing indelicate or inappropriate remarks.

5. The bailiff shall be properly attired. He must abstain from wearing dressed attire which could lead a person to believe that he is a member of a police force or is a security agent.

CHAPTER II
DUTIES AND OBLIGATIONS TOWARD THE
MANDATOR, THE PERSON SUBJECT TO TRIAL,
THE PROFESSION AND THE PUBLIC

SECTION I
CONDUCT

6. In the exercise of his profession, the bailiff must take into account the limits of his aptitudes and his knowledge and of the means of which he disposes. He must consult another bailiff or a competent person before performing any act for which he is not sufficiently prepared.

7. The bailiff must recognize at all times the right of a mandator to do business with another bailiff.

8. In addition to that which is provided for at Section 54 of the Professional Code (R.S.Q., c. C-26), the bailiff shall abstain from exercising his profession or performing certain professional acts in conditions or in a state likely to compromise the quality of his services.

SECTION II
AVAILABILITY AND DILIGENCE

9. The bailiff shall demonstrate, in all matters conferred upon him reasonable, availability and diligence.

10. The bailiff shall supply to his mandator, or to the person subject to trial when required, the necessary explanations for a good comprehension and appreciation of the professional services which he supplies.

11. The bailiff must render accounts to his mandator when so requested by his mandator.

12. The bailiff cannot, except for a just and reasonable motive, cease or refuse to act for a mandator. Constitutes notably just and reasonable motives:

1° the loss of a mandator's confidence;

2° the lack of collaboration from a mandator;

3° the fact that the bailiff is in a conflict of interest situation or in a context whereby his professional independence or his capacity as a public officer could be questioned;

4° if the mandator incites the bailiff to accomplish illegal, unjust or fraudulent act; or

5° the fact that his fees and disbursements are not paid on a timely basis.

13. Before ceasing to act on the behalf of a mandator, the bailiff shall have previously informed the mandator of this motive, delay before he ceases to supply his services and take the necessary measures to avoid serious and foreseeable prejudice to the mandator.

He must give this notice within a reasonable delay given the circumstances.

SECTION III
RESPONSIBILITY

14. The bailiff shall not, in the exercise of his profession, evade or attempt to evade his personal civil liability.

SECTION IV
INDEPENDENCE AND CONFLICT OF INTEREST

15. The bailiff must ignore all interventions from a third party which could influence the completion of his professional duties to the detriment of his mandator.

16. The bailiff must maintain at all times his professional independence and avoid all situations where he could be in a conflict of interest.

17. Without restricting the generality of the preceding, the bailiff his notably in conflict of interest:

1° when the interest before him are such that he could be held to prefer certain interests to those of his mandator, or that his judgment or is loyalty towards his mandator could be adversely affected;

2° when he must serve a legal act or a seize property of an enterprise or partnership in which he has a financial interest.

18. Whenever he realizes that he is in a conflict of interest, the bailiff shall advise his mandator.

19. The bailiff shall avoid performing or duplicating, without justification, professional acts and shall abstain from rendering inappropriate or disproportionate services to the needs of his mandator.

20. In addition to that which is mentioned at Sections 16 and 17, the bailiff cannot exercise his professional activities in matters where he has an interest nor in those concerning his kins, his parents or relatives including second cousins inclusively.

21. The bailiff must refuse to receive, in addition to any remuneration to which he has a right, any advantage, commission or return concerning the exercise of his profession.

22. The bailiff must abstain from sharing or receiving jointly the revenues of his profession regardless of its form, directly or indirectly with a physical or moral person, partnership, group or association which is not a member of the "Chambre des huissiers de justice du Québec".

The first paragraph does not apply to fees received by a bailiff for exclusive services to a municipal court at the date this code came into force and this shall continue for the full term of his employment with that court.

SECTION V PROFESSIONAL SECRECY

23. For the purposes of preserving the secrecy of confidential information brought to his knowledge in the exercise of his profession, a bailiff shall in addition to completing his own obligations in this regard, take the necessary measures to prevent his colleagues and the persons under his authority, supervision or employ, from disclosing or making use of such information that becomes known to them in the performance of their duties.

SECTION VI ACCESSIBILITY TO FILES

§1. Conditions and procedures applicable to the exercise of the right of access provided for in Section 60.5 of the Professional Code

24. In addition to the particular rules prescribed by law, a bailiff shall follow up with due diligence and no later than 45 days after reception thereof, to all requests made by a mandator whose purpose is to examine the documents concerning him in any record established in his respect or to obtain copies of such record.

Access to these documents in order that they be examined shall be free of any charge.

25. The bailiff may charge to a mandator, who exercises its right provided for at Section 24, fees which may not exceed reasonable costs or reproducing or transcribing documents or for forwarding a copy of these documents.

The bailiff requesting such fees shall, before proceeding with reproducing, transcribing or forwarding the information, inform the mandator of the approximate amount to be paid.

26. A bailiff who, pursuant to the second paragraph of Section 60.5 of the Professional Code, refuses to allow his mandator access to the information contained in a record established in his respect shall inform the mandator in writing of his refusal and the motive of such

refusal. The notice must describe the nature of the serious prejudice possible and inform the mandator of possible recourses.

§2. Conditions and procedures applicable to the correction provided for in Section 60.6 of the Professional Code

27. In addition to the particular rules prescribed by law, the bailiff shall follow-up with due diligence or nor later than 45 days after reception thereof to all requests made by a mandator whose purpose is:

1° to cause to be corrected any information that is inaccurate, incomplete or ambiguous, with regard to the purpose for which it was collected in a record established in this respect;

2° to cause to be deleted any information that is outdated or not justified by the object of the record established in his respect; or

3° to file in the records established in respect the written comment that he prepared.

28. A bailiff who grants a request provided for at Section 27 shall issue to his mandator, free of charge, a copy of the documents or the part of the document that was corrected or deleted or, as the case may be, an attestation that the written document prepared by his mandator has been filed in the record.

29. A bailiff who has information in respect to which a request for access or correction has been denied shall continue to keep such information during such a time as will permit the mandator to exhaust the recourses under the law.

30. A bailiff shall be deemed to have refused to follow-up on a Section 24 or 27 request if he fails to respond within the 45 days which follows the reception of such a request.

§3. Obligation for the Bailiff to Remit the Documents

31. The bailiff shall follow-up, with due diligence, to any written request made by his mandator, whose purpose is to take back a document entrusted to him by the mandator.

SECTION VII DETERMINATION AND PAYMENT OF FEES

32. For the acts described at Section 8 of the Court Bailiffs Act, all partners of a general partnership of bailiffs are personally and solidarily liable in their partnership concerning the application of the Tariff of Fees

and Transportation expenses provided for in the government regulation, unless it can be demonstrated that the derogation is attributable to the personal initiative of a bailiff.

In other cases, the bailiff shall only charge fees that are just and reasonable and he may not, in relation of Section 1 of this code, exercise his functions free of charge.

This article does not apply to work by a bailiff completed for another bailiff.

33. Fees are just and reasonable if they are proportional to the services rendered and justified by the circumstances. The bailiff shall notably take into account the following factors in establishing his fees:

1° the time required to complete the professional services;

2° the degree of difficulty and importance of the services;

3° the performance of unusual services or services requiring an exceptional competence or speed;

4° the amount of disbursements and costs expended;

5° if it is not an act described in Section 8 of the Court Bailiffs Act, the tariff established under paragraph 12° of Section 86.0.1 of the Professional Code.

34. The bailiff shall supply to his mandator all necessary explanations the mandator needs to understand of the statement of fees, and notably when a party to a litigation has satisfied a judgment rendered against it.

35. Except in the case of a bailiff rendering exclusive services for a municipal court at the date of the coming into force of this code and as long as the bailiff is an employee of this Court, the bailiff cannot agree that he will receive or accept from his mandator a fixed salary for acts which he accomplishes in conformity with Sections 8 and 9 of the Court Bailiffs Act.

36. The bailiff shall ensure that the mandator is informed of the approximate and foreseeable costs of the professional services rendered by him for the mandator.

37. The bailiff shall not charge interest and outstanding accounts without first notifying his mandator. The rate of interest charged shall be reasonable.

38. Before having recourse to legal proceedings, a bailiff shall have exhausted all other meanings at his disposal to obtain payment of his fees.

SECTION VIII DUTIES AND OBLIGATIONS TOWARDS THE PROFESSION

§1. Incompatible Charges in Functions

39. Are incompatible with the exercise of the profession of court bailiffs:

1° judicial or quasi-judicial function including that of an employee of a clerk's office or of any other justice official;

2° the charges or functions of a trustee in bankruptcy, a stenographer or stenotypist with a court and a peace officer other than that of a court bailiff.

§2. Derogatory Acts to the Dignity of the Profession

40. In addition to derogatory acts contained at Sections 57, 58 and 59.1 of the Professional Code, are derogatory to the dignity of the profession the following acts:

1° the fact of collaborating or participating in the illegal exercise of the profession;

2° the fact of inciting or collaborating with someone who commits a breach of the Court Bailiffs Act, the Professional Code or a regulation adopted by virtue of said Law or Code;

3° the fact of offering, giving, accepting, receiving, or demanding money, a return, a commission in order to obtain or after having obtained, an advantage for himself or for another person;

4° the fact of inciting someone in a pressing and repeated manner, either personally or through another physical or moral person, a partnership, a group, an association, to use the bailiff's professional services;

5° the fact of practicing, tacitly or expressly in any manner whatsoever, directly or indirectly, with a physical or moral person, a partnership, a group, an association, in order to obtain mandators;

6° all act or omission the nature of which it procures to a party of a legal procedure an illegal advantage;

7° except in the case of a bailiff rendering exclusive services of a municipal court at the date of the coming into force of this code and as long as the bailiff is an employee of this court, the fact to offer his services or agreeing to render services at a price different than that established by the tariff in force;

8° the fact of supplying a receipt or other document used to falsely indicate that services were rendered or dispensed;

9° the fact of noting illegibly under his signature on the reverse side of a legal act, the date and hour of service without reproducing his signature in printed form;

10° subject to section 22, the fact of concluding a pact, an understanding or agreement with any person other than a court bailiff exercising his profession, having as an object the sharing or the distribution of fees;

11° the fact of hiding or voluntarily omitting to disclose that which the law requires the bailiff to disclose;

12° the fact for a bailiff uses himself, or through one of his employees, blackmail, intimidation, threats or assault, in the exercise of his functions;

13° the fact to incite or to attempt to incite in error one of the parties of a legal procedure;

14° the fact of completing a false declaration or inscription, of falsifying, altering, damaging or destroying, disposing or illegally using his identification as a bailiff, as issued by virtue of Section 26 of the Court Bailiffs Act;

15° in absence of a general or special agreement with his mandator:

(a) the fact of suspending a mandate without the completion of a settlement between parties of a legal procedure;

(b) the fact of executing a legal document in a delay which is prejudicial to the party which conferred upon him such document;

16° the fact that an instrumenting bailiff, his partners, his employees or usual mandatary bailiffs of his office purchase directly or indirectly movable or immovable property in all judicial sales made by virtue of the Code of Civil Procedure (R.S.Q., c. C-25);

17° the embezzlement or use for personal ends of all money, value or property which is remitted to the bailiff in the exercise of his profession;

18° the fact of claiming fees for professional acts not dispensed or falsely described;

19° the fact of unduly multiplying, for the same procedure, the number of attendances in order to obtain a greater profit from the application of the tariff;

20° the fact of acting contrarily to the provisions of the Code of Civil Procedure, or all regulations concerning a bailiff's work;

21° the fact to not immediately informing the Office of the "Chambre des huissiers de justice du Québec" when he has knowledge of any information prohibiting the admission of a candidate to the "Chambre des huissiers de justice du Québec";

22° the fact of making a false declaration concerning the admissibility of a candidate to the exercise of the profession;

23° the fact of exercising his profession in a general or undeclared partnership with other persons than members of the "Chambre des huissiers de justice du Québec";

24° the fact of having in his possession during the exercise of his functions a restricted fire-arm or any other prohibited substance, and notably pepper spray;

25° the fact of not disclosing to the secretary his intention to assign his assets;

26° the fact of communicate with a person who has requested an inquiry on his subject without a prior written permission from the syndic of the "Chambre des huissiers de justice du Québec" or an assistant or corresponding syndic;

27° the fact of not disclose to the syndic of the "Chambre des huissiers de justice du Québec" that he has reasonable motives to believe that another member is contravening the Court Bailiffs Act, the Professional Code or a regulation in application of that act or that code.

§3. *Relations with the "Chambre des huissiers de justice du Québec" and with Colleagues*

41. The bailiff shall abstain from making public declarations having an incident on the exercise of the profession without being duly authorized by the Office or an officer of the "Chambre des huissiers de justice du Québec".

42. A bailiff who is requested by the "Chambre des huissiers de justice du Québec" to participate in an

arbitration of accounts committee, the revision, the discipline or the professional inspection shall not refuse this function without exceptional motives.

43. The bailiff shall answer, in the briefest of delays, all correspondence from the syndic of the “Chambre des huissiers de justice du Québec”, an assistant or corresponding syndic, an investigator, expert or member of a professional inspection committee when one of them requires information, documents, or explanations on all matters relative to the exercise of the profession.

44. The bailiff shall not take advantage of the good faith of a colleague or render himself guilty with a colleague of an abuse of confidence or disloyal proceedings.

45. The bailiff consulted by a colleague shall supply to the colleague his opinion and his recommendations in the shortest delay possible.

46. The bailiff shall not confer usually and regularly to an articling student tasks which prohibit him from acquiring a general and complete education in view of the future exercise of his profession.

47. The bailiff must supply to an articling student for whom he is responsible certificates of attestation provided for in the Court Bailiffs Act, the Professional Code or all regulations adopted by virtue of said laws.

§4. Contribution to the Advancement of the Profession

48. The bailiff shall, whenever possible, assist in the development of his profession by exchanging his knowledge and his experience with colleagues and students and by his participation to courses and continuing education articling programs.

SECTION IX RESTRICTIONS AND OBLIGATIONS TOWARDS THE PUBLIC

49. The bailiff may not engage an advertising, in any manner whatsoever that is incomplete, false, misleading or likely to mislead or allow such an advertising to be used.

50. The bailiff shall not attribute to himself qualities or particular capacities notably concerning his level of competence or concerning the amount or efficiency of his services which he is not capable of justifying.

51. The bailiff cannot in his advertising, use or permit to be used testimonies in support or recognition which concerns him, exception of prizes of excellence or other merits underling his contribution or realization to the honour of his profession.

52. The bailiff shall, in all declarations or advertisement messages, indicate his name and his title as court bailiff.

53. All advertisements that may influence persons which may be vulnerable following the occurrence of a specific event can only be addressed to the public in general.

54. All partners of a general partnership of bailiffs are personally and solidarily liable to respect the rules concerning advertising unless the advertising mentions clearly the name of the bailiff who is liable or that it be demonstrated that the derogation is attributable to the personal initiative of a bailiff.

55. The bailiff announces his fees for acts other than those described in Section 8 of the Court Bailiffs Act must do so in a manner which the public shall understand and, notably:

1° maintain the amount of his fees in force for the period mentioned in the advertisement which period must not be less than 45 days from the last authorized broadcast or publication;

2° indicate the services included in these fees.

He may however agree with a mandator to an amount less than those broadcasted or published.

56. In the case of advertisement concerning a special price or a rebate, a bailiff must mention the duration of the validity of this price or rebate, as the case may be. The duration cannot be less than 45 days.

57. The bailiff shall conserve a complete copy of the proof in negative, positive, reduced or enlarged of all reproduction of all advertisement in its original form, for a period of three years. The copy shall be given to the syndic, the assistant-syndic or corresponding syndic, an investigator, an expert or a member of a professional inspection committee upon request.

58. The bailiff cannot use the logo of the Ministry of Justice, in any form, or for any purpose.

SECTION X NAMES OF COURT BAILIFF PARTNERSHIPS

59. Name of a partnership of court bailiffs must only include the names of the members of the “Chambre des huissiers de justice du Québec” who practice together.

60. However, when a bailiff retires from a partnership to exercise alone or to join another partnership, his name must disappear from the name of the former partnership unless their is a written agreement to a contrary effect.

61. The name of a partnership may end with “and associates” when the name or names of at least one partner is not included in the name of that partnership.

SECTION XI GRAPHIC SYMBOL OF THE “CHAMBRE DES HUISSIERS DE JUSTICE DU QUÉBEC”

62. The “Chambre des huissiers de justice du Québec” is represented by a graphic symbol in conformity with the original kept by the Secretary of the Order.

63. The bailiff who reproduces the graphic symbol of the “Chambre des huissiers de justice du Québec” for his advertisements shall ensure himself that the symbol is in conformity with the original kept by the Secretary of the Order.

64. When the graphic symbol of the “Chambre des huissiers de justice du Québec” is used for advertising and purposes, the bailiff shall include the following warning in the advertisements, except on business cards: “This advertisement does not originate from the “Chambre des huissiers de justice du Québec” and does not engage its responsibility.”

CHAPTER III FINAL PROVISIONS

65. This code replaces the Code of Ethics of the Bailiffs (R.R.Q. 1981, c. H-4, r.1) maintained in force by Section 31 of the Court Bailiffs Act (R.S.Q., c. H-4.1).

66. This code come into force the fifteenth day following its publication in the *Gazette officielle du Québec*.

3822

Draft Regulation

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

Respiratory therapists

— Code of ethics

— 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 Bureau of the Ordre professionnel des inhalothérapeutes du Québec made the Regulation to amend the Code of ethics of respiratory therapists at its meeting of 10 December 1999.

The Office des professions du Québec, pursuant to section 95 of the Professional Code, will examine the Regulation, the text of which appears below. Pursuant to the same section, it will then be submitted to the Government, with the recommendation of the Office. The Government may approve it, with or without amendment, upon the expiry of a 45-day period following the date of this publication.

The Ordre professionnel des inhalothérapeutes du Québec proposes the Regulation to make necessary amendments to the Code of ethics by inserting additional derogatory acts in the division on general duties and obligations toward the profession. The additional paragraphs provide that an individual who has received notice of a complaint against him may not communicate with or intimidate a complainant or other person for having denounced derogatory conduct or behaviour.

The draft Regulation will have no impact on businesses, including small businesses.

Further information may be obtained by contacting Ms. Andrée Lacoursière, Assistant Director, Direction générale of the Ordre professionnel des inhalothérapeutes, 1610, rue Sainte-Catherine Ouest, bureau 409, Montréal (Québec) H3H 2S2; tel. (514) 931-2900 or 1 800 561-0029; fax (514) 931-3621.

Any interested person having comments to make on the matter is asked to send them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The Office will forward these comments to the Minister responsible for the ad-