

## Draft Regulation

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

### Agrologists — Code of Ethics

Notice is hereby given, in accordance with articles 10 and 11 of the Regulations Act (L.R.Q., c. R-18.1) that the Code of Ethics of agrologists, adopted by l'Ordre des agronomes du Québec and the text of which appears below, will be submitted to the government for approval, with or without any modifications, upon the expiry of 45 days following this publication.

According to l'Ordre des agronomes du Québec, the main purpose of the regulation is to update the Code of Ethics of agrologists with the current practice of agrology, to reinforce the duties and obligations of the agrologist towards the public, to customers, the profession, l'Ordre and also simplifies the interpretation of certain provisions. The updating of the Code of Ethics of agrologists is necessary to guarantee a better protection of the public and an increased supervision of the professional practice.

The new Code of Ethics of agrologists contains notably provisions regarding the responsibility of agrologist for the professional activities done by other persons. It also provides rules for the signature of professional documents whether they be signed by the agrologist himself or by someone under his responsibility. The regulation finally provides rules for the invoice in relation to acts performed by agrologists.

This regulation will have no impact on companies.

Further information regarding this regulation may be obtained by contacting Ms. Louise Rougeau, agrologist and Secretary at the Ordre des agronomes du Québec at the following address: 1001, Sherbrooke Est, local 810, Montréal (Québec), H2L 1L3, telephone number: (514) 596-3833, poste 29, facsimile number: (514) 596-2974, e-mail: louisette.rougeau@oaq.qc.ca.

Any person who wishes to formulate comments regarding this regulation is requested to send such comments, prior to the expiry of the 45 day-period mentioned hereabove, to the Chairman of the Office des professions du Québec, Mr. Jean-K. Samson, 800, Place D'Youville, 10<sup>e</sup> étage, Québec (Québec), G1R 5Z3. These comments

shall 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 l'Ordre des agronomes du Québec, as well as to interested persons, ministries and organisations.

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

## Regulation to amend the Code of ethics of agrologists

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

### DIVISION I GENERAL PROVISIONS

1. This Code sets out, pursuant to section 87 of the Professional Code (R.S.Q., c. C-26), certain duties to be discharged by every agrologist in the exercise of his professional activities.

It sets out, in particular, certain acts derogatory to the dignity of the profession, certain provisions designed to preserve the secrecy of confidential information that becomes known to the agrologist in the practice of his profession, certain terms and conditions applicable to the exercise of the rights of access and rectification contemplated in sections 60.5 and 60.6 of the Professional Code and certain conditions, duties and prohibitions with respect to advertising, the signing of professional documents drawn up by the agrologist and those completed under his direction, supervision and responsibility and the collection of accounts or invoicing for a professional act by an employer who is not an agrologist.

2. In this Regulation, unless the context indicates otherwise:

(1) "client" means any person to whom the agrologist renders services falling within the competence of the profession of agrology;

(2) "person" means and includes any natural person or legal person (including in particular any company, corporation, cooperative, partnership, trust, succession, association, joint venture, State or public agency), their heirs or legal representatives.

## **DIVISION II**

### **DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC**

3. The agrologist must promote the improvement of the quality and availability of professional services in the field in which he practises.
4. The agrologist must avoid any attitude or method likely to harm the reputation of the profession and his ability to serve the public interest. He must refrain from employing any discriminatory, fraudulent or illegal practices and must refuse to take part in such practices.
5. In addition to what is stated in section 54 of the Professional Code, the agrologist must exercise his activities with dignity and must not practise his profession under conditions or in situations likely to impair the quality of his services.
6. The agrologist, in the practice of his profession, must take into account and abide by generally accepted standards and practices observed in the field. He must take the steps required to maintain his knowledge and skills up to date.
7. The agrologist must take into account all the foreseeable consequences which his professional activities may have on society.
8. The agrologist must promote measures of education and information in the field in which he practises. He must also do all things necessary to ensure such education and information.

## **DIVISION III**

### **DUTIES AND OBLIGATIONS TOWARDS CLIENTS**

#### *§1. General provisions*

9. The agrologist must take into consideration the extent of his knowledge and skills and the means at his disposal.
10. The agrologist must at all times acknowledge the right of the client to consult a colleague, a member of another professional order or any competent person.

Moreover, if the good of the client so requires and after receiving the latter's authorization, the agrologist must consult a colleague, a member of another professional order or any competent person, or send his client to one of these persons.

11. The agrologist must attempt to establish a relationship of mutual trust between himself and his client. To that end, he must, in particular :

- (1) refrain from practising his profession in an im-personal manner ;

- (2) conduct his interviews in such a way as to respect his client's values and personal convictions, where the latter informs him thereof.

12. The agrologist must refrain from intervening in the affairs of his client on subjects which do not fall within the competence of his profession.

#### *§2. Integrity*

13. The agrologist must carry out his professional obligations with integrity.

14. The agrologist must avoid any misrepresentation with respect to his level of competence or to the effectiveness of his services, of those performed under his direction, supervision and responsibility and of those provided by agrologists generally.

15. The agrologist must promptly inform his client of the extent and terms and conditions of the profes-sional services required by the latter and obtain his agreement in this respect.

16. The agrologist must reveal to his client in a com-plete and objective manner the nature and scope of a problem which, in his opinion, results from the aggre-gate facts brought to his attention.

17. An agrologist must not express an opinion or give advice that is contradictory or incomplete. To that end, he must try to determine all the facts before giving an opinion or counsel.

18. An agrologist must inform his client as early as possible of any potentially detrimental error made by him while rendering a professional service to that client.

19. An agrologist must take reasonable care of the property entrusted to his custody by a client and he shall not lend or use such property for purposes other than those for which it was entrusted to him.

#### *§3. Liability*

20. The agrologist shall bear full liability; conse-quently, he must not exact any limitation or waiver of his professional liability from any person.

21. In particular, the agrologist shall be liable for the professional activities which he has performed by other persons. Accordingly, he must train and supervise such persons, review their work and ensure that they abide by the provisions of the law and the regulations applicable to members of the Order.

#### §4. Availability and diligence

22. The agrologist must display reasonable availability and diligence.

23. In addition to opinions and counsel, the agrologist must furnish his client with any explanations necessary to the understanding and appreciation of the services he provides him. The agrologist must give his client an accounting when the latter requests him to do so.

24. Unless he has just and reasonable grounds for so doing, an agrologist shall not cease to act for the account of a client. The following shall, in particular, constitute just and reasonable grounds:

(1) the fact that the agrologist is placed in a situation of conflict of interest or in a circumstance whereby his professional independence could be called in question;

(2) loss of the client's confidence;

(3) inducement by the client to perform illegal or fraudulent acts;

(4) the fact that the client deceived the agrologist or failed to cooperate with him;

(5) refusal of the client to pay the agrologist's fees;

(6) a state of health that renders the agrologist incapable of practising his profession.

25. Before ceasing to act for the account of a client, the agrologist must inform the client accordingly and take the steps necessary to avoid any serious foreseeable prejudice being caused to the client.

#### §5. Independence and impartiality

26. The agrologist must subordinate his personal interest to that of his client.

27. The agrologist must be objective and impartial when persons other than his clients ask him for information.

28. An agrologist must ignore any intervention by a third party which could influence the performance of his professional duties to the detriment of his client.

29. An agrologist must safeguard his professional independence at all times and avoid any situation which would put him in conflict of interest. Without restricting the generality of the foregoing, an agrologist is:

(1) in conflict of interest when the interests concerned are such as might lead him to favour certain of them over those of his client or his judgment and loyalty toward the latter to be unfavourably affected;

(2) not independent in respect of a given act if he stands to derive a direct or indirect, real or possible, personal benefit therefrom.

30. As soon as he ascertains that he is in a situation of conflict of interest or apparent conflict of interest, the agrologist must notify his client accordingly and, if he wishes to honour his contract for professional services, he must obtain his client's written authorization to such effect.

31. An agrologist shall refrain from sharing his fees with a person who is not a member of the Order or remitting his fees to such person. However, an agrologist may share his fees with another agrologist or another professional to the extent that such sharing corresponds to a distribution of services or responsibilities.

32. Subject to his client's consent, a member shall refrain from receiving, in addition to the remuneration to which he is entitled, any benefit, rebate or commission related to the practice of his profession, nor shall he pay, offer to pay or agree to pay any such benefit, rebate or commission.

33. For a given service, the agrologist shall accept fees from a single source only, unless explicitly agreed otherwise by all the parties concerned. He shall accept payment of his fees only from his client or the latter's representative.

34. An agrologist shall generally act, in the same matter, for only one of the parties concerned. If his professional duties require that he act otherwise, the agrologist must specify the nature of his responsibilities and must keep all the interested parties informed that he will cease to act if the situation becomes irreconcilable with his duty of independence and impartiality.

#### §6. Provisions designed to preserve the secrecy of confidential information

35. An agrologist shall preserve the secrecy of all confidential information that becomes known to him in the practice of his profession. To that end, the agrologist must in particular:

(1) refrain from using such information to the detriment of his client or for purposes other than those for which it was entrusted to him, and in particular, with a view to obtaining, directly or indirectly, a benefit for himself or another person;

(2) take the necessary steps to ensure that his collaborators and persons under his direction, supervision and responsibility do not disclose or use such information that becomes known to them in the course of performing their duties;

(3) avoid holding or participating in indiscreet conversations concerning a client and the services rendered to such client;

(4) avoid disclosing a request made by a person for his services where such fact is likely to be detrimental to that person;

(5) ensure, when he asks a client to impart confidential information to him or when he allows such information to be imparted to him, that the client is fully aware of the purpose of the interview and of the various uses that may be made of such information.

**36.** The agrologist shall be released from professional secrecy only with the written authorization of his client or where so ordered by law.

*§7. Terms and conditions applicable to the exercise of the rights of access and rectification contemplated in sections 60.5 and 60.6 of the Professional Code and duty of the agrologist to release documents to his client*

**37.** In addition to the specific rules prescribed by law, an agrologist must respond, with diligence and within 30 days at the latest following receipt thereof, to any request made by his client to:

(1) examine the documents concerning him in any record established in regard to him;

(2) obtain a copy of the documents concerning him in any record established in regard to him.

**38.** An agrologist who accedes to a request contemplated in section 37 must provide his client with access to the documents free of charge. However, an agrologist may, in regard to a request contemplated in paragraph 2 of section 37, charge his client a reasonable fee.

An agrologist who charges such fee must, before reproducing or transcribing a document or forwarding a copy, inform his client of the approximate amount he will be asked to pay.

**39.** An agrologist may refuse to allow access to the information contained in his client's record where the disclosure of such information would be likely to cause serious harm to the client or a third party.

**40.** An agrologist who, pursuant to section 39, refuses to allow his client access to the information contained in his record, must notify the client in writing of the reason for his refusal.

**41.** In addition to the specific rules prescribed by law, an agrologist must respond, with diligence and within 30 days at the latest following receipt thereof, to any request made by his client to:

(1) cause to be corrected any information that is inaccurate, incomplete or ambiguous having regard for the purpose for which it was collected, contained in a document concerning him in any record established in regard to him;

(2) cause to be deleted any information that is outdated or not justified by the object of the record established in regard to him;

(3) file in the record established in regard to him the written comments prepared by him.

**42.** An agrologist who accedes to a request contemplated in section 41 must issue to his client, at no charge, within 30 days following receipt of the request, a copy of the document or portion thereof allowing the client to determine that the information has been corrected or deleted or, as the case may be, an attestation that the written comments prepared by the client have been filed in the record.

**43.** An agrologist who refuses to accede to a request made by his client pursuant to section 41 must notify the client in writing of the reasons for his refusal within 30 days following receipt of the request.

**44.** An agrologist must not destroy or appropriate, knowingly or in bad faith, or unduly keep an original record, or any document from that record, in any matter whatsoever.

*§8. Determination and payment of fees*

**45.** Before performing any professional acts, an agrologist must come to an agreement on the approximate amount of the anticipated fees, expenses and disbursements for carrying out his contract for professional services.

**46.** An agrologist must charge and accept fair and reasonable fees.

**47.** Fees are fair and reasonable if they are justified by the circumstances and are in proportion to the services rendered. The agrologist must, in particular, take into account the following factors when setting his fees:

(1) the time spent carrying out the professional service;

(2) the difficulty and magnitude of the service;

(3) the performance of an unusual service or a service requiring exceptional competence or speed.

**48.** An agrologist must agree with his client upon the terms and conditions for payment of the fees, expenses and disbursements agreed upon in accordance with section 45.

The agrologist must also provide his client with all the explanations necessary for understanding his statement of fees.

**49.** An agrologist must not demand full payment of his fees in advance; however, he may demand payment of the anticipated expenses and disbursements along with a reasonable advance against his estimated fees.

**50.** The agrologist may collect interest on outstanding accounts only after having duly notified his client thereof in writing. The interest so charged must be at a reasonable rate.

**51.** Before having recourse to legal proceedings, an agrologist must have exhausted all other means at his disposal to obtain payment of his fees, expenses or disbursements.

**52.** An agrologist must not pay himself from the funds he holds for a client, except if the latter agrees thereto.

**53.** An agrologist must not sell his accounts receivable, except to a colleague.

**54.** An agrologist who appoints another person to collect his fees, expenses or disbursements must ensure that the latter is accustomed to acting with tact and moderation.

**55.** Regarding the collection of accounts, the agrologist must ensure, when he performs an act falling within the competence of the profession of agrology or assumes the direction, supervision and responsibility of and for such an act, that collection of accounts or invoicing is clearly done for and in his own name, whether he acts for his own account or for the account of a third party. However, an agrologist hired by a third party may allow such third party to claim directly from the client

the fees, expenses or disbursements related to his professional services, upon agreement between the client, the party that hired the agrologist and the agrologist, provided that the name of the agrologist handling the matter is clearly indicated on the invoices or collection documents. In every such case, the agrologist must ensure that the conditions set out in sections 45 to 55 are complied with.

#### **DIVISION IV** **DUTIES AND OBLIGATIONS TOWARDS THE** **PROFESSION AND THE ORDER**

##### *§1. Derogatory acts*

**56.** In addition to the acts contemplated in sections 59 and 59.1 of the Professional Code, the following acts are derogatory to an agrologist's profession:

(1) pressing or repeatedly inducing someone, either personally or through another person, to make use of his professional services;

(2) using, in the practice of the profession, the name of an agrologist who has ceased practising;

(3) communicating with the complainant without the written permission of the syndic or assistant syndic, upon being informed of an inquiry into his professional conduct or competence or upon being served with a disciplinary complaint lodged against him;

(4) failing to inform the syndic or assistant syndic, within a reasonable time, of a derogatory act committed by a colleague to his knowledge or where he has reasonable grounds for believing that a colleague is incompetent or in contravention of the Agrologists Act, the Professional Code or a regulation enacted thereunder;

(5) failing to inform the authorities of the Order of any cases of unauthorized use of title or unlawful practice of which he has knowledge;

(6) inducing someone to commit, or collaborating in the commission of, a violation of the Agrologists Act, the Professional Code or a regulation enacted thereunder;

(7) misappropriating or employing for personal ends any money, security or property entrusted to him;

(8) claiming fees for professional acts not performed or erroneously described;

(9) in the case of an agrologist who calls upon the services of an agricultural technician or technologist, allowing such agricultural technician or technologist to perform one of the professional acts described in section 24 of the Agrologists Act (R.S.Q., c. A-12) where the agrologist concerned fails to exercise direction and supervision over the acts so performed;

(10) signing or affixing his seal to any opinion, advice, recommendation or other written document related to the practice of his profession where such opinion, advice, recommendation or document was not prepared by him or under his direction, supervision and responsibility.

## §2. *Relations with the Order and colleagues*

57. An agrologist whose participation in a council for the arbitration of accounts, a committee on discipline or a professional inspection committee is requested by the Order must accept that duty unless he has exceptional grounds for refusing.

58. An agrologist must promptly answer all correspondence received from the Order, and in particular correspondence originating from the syndic of the Order, one of the assistant syndics, an expert appointed by the syndic, the professional inspection committee or one of its members, inspectors, investigators or experts, where any information or explanations are requested on any matter related to the practice of the profession.

59. An agrologist must not abuse a colleague's good faith or be guilty of breach of trust or disloyal practices towards such colleague.

In particular, he must not:

(1) take credit for the work of a colleague;

(2) profit from his capacity as an employer or hierarchical superior so as to limit, in any manner, the professional independence of another agrologist who is in his employ or for whom he is responsible.

60. An agrologist consulted by a colleague must promptly provide the latter with his opinion and recommendations.

61. An agrologist called upon to collaborate with a colleague must maintain his professional independence. If he is given a task that is contrary to his conscience or principles, he may ask to be excused from performing it.

62. An agrologist must respect his colleagues as professionals. If he criticizes them, he must do so objectively and with moderation.

63. Where an agrologist is to perform a contract for professional services which had previously been given to another member of the Order or to a member of another professional order, he must, before agreeing to perform such contract, ask the latter if his contract has really terminated, insofar as he is aware of the existence of such contract.

## §3. *Contribution to the advancement of the profession*

64. An agrologist must, to the maximum possible extent, contribute to the development of his profession by sharing his knowledge and experience with his colleagues and students and by participating and collaborating in any training programs for the profession of agrology, continuing education activities, scientific publications, work being carried on at universities and work of scientific or professional organizations.

65. An agrologist must use his professional title in the practice of his profession. He must not prevent a subordinate, who is entitled thereto, from using his title.

66. An agrologist must sign, indicating his agrologist's title, the original and copies of all opinions, advice, studies, research, recommendations or other written documents prepared in connection with the practice of his profession, including in particular any processes, methods, standards, plans, technical descriptions, analyses, publications, specifications and supervisory instructions prepared by him or prepared under his direction, supervision and responsibility.

67. An agrologist may not sign or affix his seal to any opinions, advice, recommendations or other documents for which he did not assume direction, supervision and responsibility.

## **DIVISION V** **CONDITIONS, OBLIGATIONS AND** **PROHIBITIONS RESPECTING ADVERTISING**

68. An agrologist may not, in any way whatsoever, engage in advertising that is false, misleading or incomplete, that plays upon the public's emotions or that is likely to mislead, nor may he allow any person to do so.

69. An agrologist may not use advertising aimed at persons who are vulnerable owing to the occurrence of a specific event.

70. An agrologist may not claim to possess specific qualities or skills relating, in particular, to his level of competence or to the extent or effectiveness of his services, unless he can substantiate such claim upon request.

71. An agrologist may not use advertising that, directly or indirectly, denigrates or depreciates another agrologist or a firm of agrologists.

72. An agrologist who advertises fees must:

- (1) establish fixed fees;
- (2) specify the nature and extent of the services offered;
- (3) indicate whether or not expenses or other disbursements are included in such fees; and
- (4) indicate, if appropriate, that an additional amount could be charged in the event that additional services are required.

These explanations and indications must be given in such manner as to reasonably inform persons who have no particular knowledge of agrology.

Such fees must remain in force for a minimum period of 90 days after they were last broadcast or published. Notwithstanding the foregoing, nothing prevents an agrologist from agreeing with a client on fees that are lower than those broadcast or published.

73. An agrologist must avoid methods and attitudes likely to impart a profit-seeking or mercantile character to the profession.

74. Any advertisement must indicate the name and title of the agrologist.

75. An agrologist must keep a complete copy of any advertisement in its original form for a period of 3 years following the date of the last broadcast or publication. Such copy must be remitted to the syndic or assistant syndic upon request.

76. In his advertising, an agrologist may not use an endorsement or a statement of gratitude concerning him, except for awards for excellence and other awards underlining a contribution or an achievement for which the entire profession shared the honour.

77. All agrologists who are partners in the practice of their profession are jointly and severally responsible for compliance with the rules respecting advertising, unless one of the agrologists demonstrates that the advertising was done without his knowledge and consent and despite the measures taken to ensure compliance with those rules.

78. The name of a firm of agrologists must include only the names of agrologists who practise together. However, the name of a deceased or retired agrologist may be retained in the firm name.

79. Whenever an advertisement is broadcast, the agrologist must ensure that the public clearly understands that it is an advertisement.

#### **DIVISION VI** COAT OF ARMS AND GRAPHIC SYMBOL OF THE ORDER

80. The Order is represented by a coat of arms or a graphic symbol that complies with the originals kept by the secretary of the Order.

81. An agrologist who reproduces the graphic symbol of the Order in his advertising must ensure that such reproduction conforms to the original kept by the secretary of the Order and is in compliance with the general policy respecting use of the Order's graphic symbol.

Where an agrologist uses the said graphic symbol elsewhere than on a business card, he must include the following statement in the advertisement:

“This is not an advertisement of the Ordre des agronomes du Québec and the liability of the Order cannot be incurred in connection with it.”

#### **DIVISION VII** FINAL PROVISIONS

82. This Code replaces the Code of ethics of agrologists (R.R.Q., 1981, c. A-12, r. 4).

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