

Draft Regulations

Draft Regulation

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

Physicians

— Code of ethics

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

According to the Collège des médecins du Québec, the regulations' principal objective is to modernize the physicians' Code of ethics according to up-to-date Québec medical practice, to reinforce the general duties of the physician, his duties and obligations towards the patient, the public and the profession, while facilitating the interpretation of certain provisions. The updating of the Code of ethics is necessary to better ensure the protection of the public.

The physicians' new Code of ethics contains specific obligations a physician may have in different situations: concerted action, consent to care in clinical research, medical management and follow-up of the patient, recourse to insufficiently tested treatments, revealing mishaps, dealings with a commercial enterprise or other situations raising potential conflict of interest issues.

This regulation takes into account the regulations presently in force in the field of health care and social services.

Further information regarding this regulation may be obtained by contacting doctor André Garon, Assistant Secretary General of the Collège des médecins du Québec at the following address: 2170, boulevard René-Lévesque Ouest, Montréal (Québec) H3H 2T8, telephone number: (514) 933-4441, extension 232, facsimile number: (514) 933-3112, e-mail: agaron@cmq.org.

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^e étage, Québec (Québec) G1R 5Z3. These comments shall be forwarded by the Office to the Minister responsible for the application of laws governing professionals; they may also be forwarded to the professional order that adopted the regulation, namely the Collège des médecins du Québec, as well as to interested persons, ministries and organizations.

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

Code of ethics of physicians

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

CHAPTER I GENERAL PROVISIONS

1. This Code determines, pursuant to section 87 of the Professional Code (R.S.Q., c. C-26), the duties and obligations to be discharged by every member of the Collège des médecins du Québec.

2. A physician may not exempt himself, even indirectly, from a duty or obligation contained in this Code.

CHAPTER II GENERAL OBLIGATIONS OF THE PHYSICIAN

3. A physician's paramount duty is to protect and promote the health and well-being of the persons he attends to, both individually and collectively.

4. A physician must practise his profession in a manner which respects the life, dignity and liberty of each individual.

5. A physician must discharge his professional obligations with competence, integrity and loyalty.

6. A physician must practise his profession in accordance with scientific principles.

7. A physician must disregard any interference which does not respect his professional independence.

8. A physician must ensure that the persons he employs or with whom he is associated in the practice of his profession comply with this Code.

9. A physician, in the practice of his profession, must not consult a charlatan, nor collaborate in any way whatsoever with him.

10. A physician must, in the practice of his profession, assume full civil liability at all times. He may not elude or attempt to elude, nor request that a patient or person exempt him from liability resulting from professional negligence on his part or from medical examinations, treatments or surgical procedures he orders.

11. A physician must be judicious in his use of the resources dedicated to health care.

12. A physician must refrain from taking part in a concerted action of a nature that would endanger the health or safety of a clientele or population.

13. A physician must promote measures of education and information for the benefit of patients in the field in which he practises.

14. A physician must, as far as he is able, contribute to the development of the profession by sharing his knowledge and experience, notably with his colleagues, with residents and medical students, and by his participation in activities, courses, and periods of continuing training and evaluation.

15. A physician must refrain from the immoderate use of psychotropic substances or any other substance, including alcohol, producing analogous effects.

CHAPTER III THE PHYSICIAN'S DUTIES AND OBLIGATIONS TOWARD THE PATIENT, THE PUBLIC AND THE PROFESSION

DIVISION I QUALITY OF THE PROFESSIONAL RELATIONSHIP

16. A physician's physical, mental and emotional behaviour toward all persons with whom he comes into contact in the practice of his profession, particularly toward all patients, must be beyond reproach.

17. A physician must seek to establish and maintain with his patient a relationship of mutual trust and refrain from practising his profession in an impersonal manner.

18. A physician must put an end to a therapeutic relationship when there is reasonable and just cause to do so, particularly when the normal conditions required to establish and maintain mutual trust are absent, or if such trust no longer exists.

Inducement on the part of the patient to perform illegal, unjust or fraudulent acts constitutes a reasonable and just cause.

19. A physician, in order to maintain professional secrecy,

a) must keep confidential the information obtained in the practice of his profession ;

b) must refrain from holding or participating in indiscreet conversations concerning his patient or services rendered him ;

c) must take reasonable means with respect to his employees and the personnel with whom he works to maintain professional secrecy ;

d) must not use information of a confidential nature to the prejudice of a patient ;

e) may not divulge facts or confidences which have come to his personal attention, except when the patient or the law authorizes him to do so, or when there are compelling and just grounds related to the health and safety of the patient or of others ;

f) unless there is good reason for doing so, may not reveal a serious or fatal prognosis to a patient's family if the patient forbids him from so doing.

20. A physician must refrain from taking advantage of the professional relationship established with the person to whom he is providing services.

More specifically, the physician must, for the duration of the professional relationship established with the person to whom he is providing services, refrain from having sexual relations with that person or making improper gestures or remarks of a sexual nature.

21. A physician may not refuse to examine or treat a patient solely for reasons related to the nature of the patient's deficiency or illness, or because of the race, colour, sex, age, religion, national extraction or social origin of the patient, or for reasons of sexual orientation, morality, political convictions, or language; he may, however, refer the patient to another physician if he deems it to be in the patient's medical interest.

22. A physician must, where his personal convictions prevent him from prescribing or dispensing care that may be appropriate, acquaint his patient with such convictions; he must also advise him of the possible consequences of not receiving such care.

The physician must then offer to help the patient find another physician.

23. A patient must not interfere in the personal affairs of his patient in matters unrelated to the field of health.

DIVISION II FREEDOM OF CHOICE

24. A physician must acknowledge the patient's right to consult a colleague, another professional or any other competent person. He must not, by any means, interfere with the patient's freedom to choose a physician.

25. A physician must, when issuing a prescription, respect the patient's right to have it filled at the place and by the person of his choice.

DIVISION III CONSENT

26. Except in an emergency, a physician must, before undertaking an examination, investigation, treatment or research, obtain free and enlightened consent from the patient or his legal representative.

27. A physician must facilitate the patient's decision-making and respect it. He must ensure that the patient or his legal representative receives pertinent explanations on the nature, purpose and possible consequences of the examination, investigation, treatment or research which he plans to carry out.

28. A physician must, with respect to research subjects or their legal representative, ensure :

1° that each subject is informed of the research project's objectives, its advantages, risks or disadvantages for the subject, the advantages provided by the usual care, if applicable, as well as the material gain which the physician will derive, if applicable, from enrolling and keeping the subject in the research project ;

2° that a free and enlightened written consent, which is revocable at all times without prejudice of any kind, is obtained from each subject before he begins his participation in the research project or when there is any significant change in the research protocol.

29. A physician must, before undertaking his research, obtain approval of the project by a research ethics committee that respects existing standards, notably in its composition and procedures. He must also ensure that all those collaborating with him in the research project are informed of his ethical obligations.

DIVISION IV MEDICAL MANAGEMENT AND FOLLOW-UP

30. A physician who has undertaken an examination, investigation or treatment of a patient must provide the medical follow-up required by the patient's condition, following his intervention, unless he has ensured that a colleague or other competent professional can do so in his place.

31. A physician who wishes to refer a patient to another physician must assume responsibility for that patient until the new physician takes responsibility for the latter.

32. A physician who treats a patient requiring emergency care must ensure the medical management required by the patient's condition until the transfer is accepted by another physician.

33. A physician who can no longer provide the required medical follow-up of a patient, must, before ceasing to do so, ensure that the patient can continue to receive the required care and contribute thereto to the extent necessary.

34. A physician must, in the event of a complete or partial cessation of practice, inform his patients of such by giving them advance notice within a reasonable period of time.

35. A physician must be diligent and display reasonable availability with respect to his patient and the patients for whom he accepts responsibility when he is on call.

36. A physician must come to the assistance of a patient and provide the best possible care when he has reason to believe that the patient presents with a condition that could entail serious consequences if immediate medical attention is not given.

37. A physician must report to the director of youth protection any situation where there is reasonable cause to believe that the security or development of a child is or may be considered to be in danger; he must then transmit to the director any information he deems pertinent to protecting the child.

The physician himself may also report to the police authorities the situation of a child or adolescent whose physical integrity or life appears to him to be in danger.

38. A physician who has reason to believe that the health of the population or of a group of individuals is threatened must notify the appropriate public health authorities.

39. A physician must collaborate with his colleagues in maintaining and improving the availability and quality of the medical services to which a clientele or population must have access.

DIVISION V **QUALITY OF PRACTICE**

40. A physician must, in the practice of his profession, take into account his capacities, limitations and the means at his disposal. He must, if the interest of his patient requires it, consult a colleague, another professional or any competent person, or direct him to one of these persons.

41. A physician must refrain from practising his profession under circumstances or in any state that could compromise the quality of his practice or his acts or the dignity of the profession.

42. A physician must practise his profession in accordance with current medical standards; to this end, he must, in particular, develop, perfect and keep his knowledge and skills up to date.

43. A physician who undertakes or participates in research on human beings must conform to the scientific principles and ethical standards generally recognized and justified by the nature and purpose of his research.

44. A physician must make his diagnosis with the greatest care, using the most appropriate scientific methods and, if necessary, consulting knowledgeable sources.

45. A physician must avoid omissions, procedures or acts which are unsuitable or contrary to the current information in medical science.

46. A physician must not resort to insufficiently tested examinations, investigations or treatments, unless they are part of a recognized research project and carried out in a recognized scientific milieu.

47. A physician must, with regard to a patient who wishes to resort to insufficiently tested treatments, inform him of the lack of scientific evidence relative to such treatments, of the risks or disadvantages that could result from them, as well as the advantages he may derive from the usual care, if any.

48. A physician must only provide care or issue a prescription when these are medically necessary.

49. A physician must refrain from providing, prescribing, selling or permitting the obtainment of, without sufficient medical reason, psychotropic substances

including alcohol or any other substance producing analogous effects, as well as any substance used to improve performance in the absence of pathology.

50. A physician must refrain from using or stating that he uses secret substances or treatments or from promoting the dissemination thereof.

51. A physician must have qualified personnel available to help him when he performs an act requiring assistance.

52. A physician must not remain alone with a patient when he uses a method of examination or treatment that entails a significantly altered state of consciousness.

53. A physician must not decrease the physical, mental or affective capacities of a patient except where such is required for preventive, diagnostic or therapeutic reasons.

54. A physician must, as soon as possible, inform his patient or the latter's legal representative of any incident, accident or complication which is likely to have or which has had a significant impact on his state of health or personal integrity.

55. A physician must inform the patient or, if the latter is unable to act, his legal representative, of a fatal or grave prognosis, unless there is just cause not to do so.

56. A physician must, when the death of a patient appears to him to be inevitable, act so that the death occurs with dignity. He must also ensure that the patient obtains the appropriate support and relief.

57. A physician must collaborate with the patient's relatives or any other person who shows a particular interest in the patient.

58. A physician must refuse to collaborate or participate in any medical act not in the patient's interest as it pertains to his health.

59. A physician must refuse to collaborate in any research activity where the risks to the health of subjects, healthy or ill, appear disproportionate to the potential advantages they may derive from such or the advantages they may derive from the usual care, if any.

60. A physician may not, subject to an Act or a regulation to the contrary,

1° take or keep as associate, employee or assistant for the purpose of practising medicine, a person who is not a physician;

2° confer upon a person who is not a physician the responsibility of performing acts belonging to the practice of medicine;

3° collaborate with a person who illegally practises medicine.

61. A physician must not allow other persons to perform, in his name, acts which, if performed by himself, would place him in contravention of this Code, the Medical Act, the Professional Code and the regulations ensuing therefrom.

DIVISION VI **INDEPENDENCE AND IMPARTIALITY**

62. A physician must safeguard his professional independence at all times and avoid any situation in which he would be in conflict of interest, in particular when the interests in question are such that he might tend to favour certain of them over those of his patient or where his integrity and loyalty toward the latter might be affected.

63. A physician must disregard any intervention by a third party which could influence the performance of his professional duties to the detriment of his patient, a group of individuals or a population.

64. A physician acting on behalf of a third party must communicate directly to the physician of the patient, with the latter's authorization, any information he deems important with respect to his state of health.

65. A physician must, subject to existing laws, refrain from acting as physician on behalf of a third party in a lawsuit against his patient.

66. A physician acting on behalf of a third party as expert, assessor or controller, or on behalf of a patient as expert, must:

1° during an assessment, objectively acquaint the patient with the purpose of his work, what is being assessed and the means he intends to use to carry it out; he must also tell him to whom the assessment report is being sent and how he may request a copy of such;

2° avoid obtaining any information from that person or making any interpretations or comments not pertinent to what is being assessed;

3° refrain from communicating to the third party any information, interpretations or comments not pertinent to what is being assessed;

4° refrain from any word or gesture that could undermine that person's confidence in his physician;

5° promptly communicate his report to the third party or person who requested the assessment.

67. A physician must, in judging the aptitude of a person to perform work, confine himself to seeking information pertinent to this purpose.

68. A physician acting on behalf of a third party as expert, assessor or controller may not become the attending physician of the patient unless the latter requests it or expressly authorizes it, and not until his mandate from the third party is completed.

69. A physician must, except in an emergency or in cases which are manifestly not serious, refrain from treating himself, or from treating any person with whom there is a relationship that could prejudice the quality of his practice, notably his spouse and his children.

70. A physician must, either alone or with the physicians with whom he practises, assume responsibility for the practice of his profession and the organization of his office; he may not accept any arrangement limiting that responsibility, unless permitted by law.

71. A physician may not be party to an agreement in which the nature and extent of professional expenses can influence the quality of his practice.

Likewise, a physician may not be party to an agreement with another health professional in which the nature and extent of the professional expenses of the latter can influence the quality of his practice.

72. A physician must refrain:

1° from attempting to seek or obtain undue profit from the prescription of apparatus, examinations, medications or treatments;

2° from granting, in the practice of his profession, any benefit, commission or rebate to any person whatsoever;

3° from accepting, in his capacity as physician or by using his title of physician, any commission, rebate or material benefit that would jeopardize his professional independence;

4° from obtaining from a patient or helping him to obtain an unwarranted material benefit.

73. A physician must not solicit clientele.

74. A physician may not allow his name to be used for the commercial purposes of others.

75. A physician must refrain from selling, either on his own or through an intermediary, any drug or product presented as having a benefit to health, except those he administers directly.

76. A physician must inform the patient of the fact that he has interests in the enterprise providing the diagnostic or therapeutic services he prescribes for him.

A physician must respect the patient's freedom of choice by indicating to him, on request, the other places where he may receive such services, when he issues him a prescription or a referral form to that effect.

77. A physician who undertakes or participates in a research project must state his interests and disclose any real, apparent or potential conflicts of interest to the research ethics committee.

In research-related activities, a physician must not be party to any agreement nor accept or grant any compensation that would call his professional independence into question.

Remuneration or compensation of a physician for the time and professional expertise he devotes to research must be reasonable and known to the ethics committee.

78. A physician who obtains royalties or is part of an enterprise which is within his power to control and which manufactures or markets products having a benefit to health must inform the persons to whom he prescribes them and the circles in which he promotes them of such.

79. A physician may not be party to any agreement or accept any benefit that could jeopardize his professional independence, particularly in the context of continuing medical education activities.

80. A physician who organizes a continuing medical education activity or acts as a resource person in the context of such an activity must inform the participants of his affiliations or financial interests in a commercial enterprise in the performance of this activity.

81. A physician who is to perform a graft or organ transplant must not participate in the determination or confirmation of death of the patient from whom the organ is to be removed.

DIVISION VII INTEGRITY

82. A physician must refrain from guaranteeing, explicitly or implicitly, the effectiveness of an examination, investigation or treatment, or the cure of a disease.

83. A physician must refrain from entering, producing or using data that he knows to be erroneous in any document, particularly in any report, medical record or research record.

84. A physician must refrain from issuing to any person and for any reason whatsoever a false certificate or any information, either verbal or written, which he knows to be erroneous.

85. A physician must respect his patient's right to examine documents concerning him in any record established in his respect and to obtain a copy of such documents, subject to the exceptions provided by law.

However, a physician may refuse to allow access to information contained in such records in cases where its disclosure would be likely to cause serious harm to the patient or to a third party. In such case, he must, at the written request of the patient, inform him in writing of the reasons for his refusal and enter such reasons in the record.

86. A physician must, at the patient's written request, promptly give him access to his record or hand over to him or to a third person designated by him pertinent information from the patient's medical record which is in his possession and safekeeping.

87. A physician must provide a patient who requests it, or any person designated by the latter, with any information allowing him to obtain a benefit to which he might be entitled.

88. A physician must respect the right of a patient to request the correction or deletion of inexact, incomplete, ambiguous, outdated or unjustified information in any document concerning him. He must also respect the right of the patient to make written comments in his record. Unless there is manifest error, the medical opinion and the diagnosis may not be the subject of correction or deletion of information.

89. A physician who refuses to assent to a request for correction or deletion of information must notify the patient in writing of the reasons for such refusal and inform him of any recourse available to him.

90. A physician who assents to a patient's request for correction or deletion of information must file the duly identified and dated amended document in the record and furnish the patient with a copy of such.

91. A physician may not, by whatever means, make false, misleading or incomplete representations to the public or to a person having recourse to his services, particularly as to his level of competence or the scope or effectiveness of his services or of those generally provided by members of his profession.

92. A physician must not knowingly conceal the negative findings of a research project in which he has taken part.

93. A physician who uses a public information medium must communicate factual, exact and verifiable information. This information must not contain :

— any comparative or superlative statement regarding the quality of the products, professionals or services referred to in the information ;

— any expression of support or gratitude concerning him or his professional practice.

94. A physician, in expressing medical opinions through any public information medium, must inform the public of opinions in keeping with current information in medical science on the subject and avoid any uncalled for publicity favouring a medication, product, or method of investigation or treatment.

95. A physician must express the appropriate caution when informing the public of a new diagnostic, investigative or treatment procedure which has not been sufficiently tested.

96. A physician may not engage in, or allow the use of, by any means whatsoever, advertising in his name, about him or for his benefit that is false, incomplete, unsuitable, misleading or liable to mislead.

97. A physician must clearly indicate in his advertising, on his stationery and all other items of identification, his name, his status as general practitioner or, where he holds a specialist's certificate issued by the Collège, his status as specialist. He may also mention the services he offers.

98. A physician must keep a complete copy of every advertisement in its original form, as well as a copy of any relevant contracts, for a period of not less than three (3) years following the date on which the advertisement was last published or broadcast. The copy must be submitted to the syndic or to an assistant syndic of the Collège upon request.

DIVISION VIII FEES

99. A physician must refrain from claiming fees for professional activities for which he has already been reimbursed or paid.

100. A physician may not claim fees other than those justified by the nature and circumstances of the professional services rendered.

The physician must, without delay, advise the patient of any change in the estimated cost of services.

101. A physician who does not participate or who has withdrawn from the Québec Health Insurance Plan, as well as a physician who claims fees for services not covered by this Plan, must give the patient sufficient prior information on the nature and scope of the services included in the fee claimed and specify the period for which the fee is in effect. A physician must provide the patient with all the necessary explanations for understanding his account and the terms and conditions of payment.

102. A physician must refrain from claiming fees for professional services not rendered.

The physician contemplated in section 101 may, however, demand a reasonable advance to cover the costs and fees related to the performance of his professional services.

103. A physician must refrain from unduly sharing his fees.

104. A physician must not sell or transfer his accounts for professional fees, except to another physician or unless the patient agrees thereto.

105. A physician who appoints another person or agency to collect his fees must ensure that the latter proceeds with tact, moderation and a respect for the confidentiality and practices related to the collection of accounts authorized by law.

DIVISION IX RELATIONS WITH COLLEAGUES AND OTHER PROFESSIONALS

106. A physician must not, in his relations with whomever in the practice of his profession, notably a colleague or member of another professional order, denigrate him, abuse his confidence, willingly mislead him, betray his good faith or use disloyal tactics.

107. A physician must, when of his own initiative he refers a patient to another professional, provide the latter with any information he possesses which is pertinent to the examination, investigation and treatment of that patient.

108. A physician who accepts a request for consultation from a physician must promptly provide the latter with the written results of his consultation and the recommendations he considers appropriate. He may also, if he deems it necessary, provide another health professional who refers a patient to him or to whom he refers a patient with any information useful to the care and services to be given to that patient.

109. A physician has a duty, in an emergency, to assist a colleague or another health professional in the practice of his profession when the latter requests it.

110. A physician must not take credit for work performed by a colleague or any other person.

DIVISION X RELATIONS WITH THE COLLÈGE

111. A physician must collaborate with the Collège in the execution of the latter's mandate to protect the public.

112. A physician must refrain from exerting any undue pressure, accepting or offering money or any other consideration, in order to influence a decision of the Bureau of the Collège, one of its committees or officers or any person working on behalf of the Collège.

113. A physician may not intimidate, hinder or denigrate in any way whatsoever a member of a committee of the Collège, an inspector, an investigator, a person acting as syndic or an expert in the performance of the duties conferred upon him by the Professional Code, or any person who has requested the holding of an inquiry, or any other person identified as a witness who could be summoned before a disciplinary body.

114. A physician must report to the secretary of the Collège any physician, medical student, resident, medical fellow or any other person authorized to practise medicine whom he believes to be unfit to practise, incompetent or dishonest, or who has performed acts in contravention of the Professional Code, Medical Act or regulations ensuing therefrom.

115. A physician must, as promptly as possible, reply in writing to any correspondence from the secretary of the Collège or any person acting as syndic, as well as from a member of the Professional Inspection Committee, investigator, expert or inspector of this Committee, and make himself available for any meeting deemed pertinent.

116. A physician must, as promptly as possible, following a request from the secretary of the Collège, communicate to the latter the information required for preparing the roll.

117. A physician upon whom a complaint has been served or who is informed that an inquiry is being held by a person acting as syndic may not communicate with the person who requested that the inquiry be held, unless the physician has the prior, written permission of the person acting as syndic.

118. A physician must respect any agreement he has concluded with the Bureau, the Administrative Committee, the secretary of the Collège, a syndic, an assistant syndic or the Professional Inspection Committee.

119. A physician may not use the graphic symbol of the Collège in his advertising.

CHAPTER IV FINAL PROVISIONS

120. This regulation replaces the Code of ethics of physicians (R.R.Q., 1981, M-9, r. 4).

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

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Draft Rules

An Act respecting racing
(R.S.Q., c. C-72.1)

Standardbred horse racing

— Rules

— 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 Rules to amend the Rules respecting Standardbred horse racing, the text of which appears below, may be made by the Régie des alcools, des courses et des jeux upon the expiry of 45 days following this publication.