

Gouvernement du Québec

**O.C. 921-2002, 21 August 2002**

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

**Notaries**

— **Code of ethics**

CONCERNING Code of ethics of notaries

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26; 2001, c. 78, s. 6), the Bureau of the Chambre des notaires du Québec must make, by regulation, a code of ethics governing the general and special duties of the members of the Order towards the public, their clients and their profession;

WHEREAS the Bureau of the Chambre des notaires du Québec made a Code of ethics of notaries to replace the Code of ethics of notaries (R.R.Q., 1981, c. N-2, r.3);

WHEREAS, under section 95.3 of the Professional Code, amended by section 8 of chapter 34 of the Statuts of 2001, a draft of the Regulation was sent to every member of the Order at least 30 days before its adoption by the Bureau;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 16 January 2002, with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office des professions du Québec made its recommendations;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for the administration of legislation respecting the professions;

THAT the Code of ethics of notaries, attached to this Order in Council, be approved.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

**Code of ethics of notaries**

Professional Code  
(R.S.Q., c. C-26, s. 87, 2001, c. 78, s. 6)

**CHAPTER I**

**DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC**

**1.** Every notary shall act with dignity and shall refrain from using methods or adopting attitudes likely to detract from the good repute of the profession or from the notary's ability to serve the public interest.

**2.** A notary must seek to improve the quality and availability of professional services in areas in which he practises.

**3.** A notary must promote measures of education and information relevant to the areas in which he practises.

In alternate dispute resolution, the notary must also promote all measures likely to encourage settlement by agreement and must inform the public of mechanisms available.

**4.** A notary must promptly report to the syndic of the Ordre professionnel des notaires du Québec where he has reason to believe that a notary has used funds, securities, or other property for purposes other than those for which they were entrusted to him in the practice of his profession.

**5.** Every notary shall consistently strive to maintain up-to-date knowledge of his profession. The notary shall always remain informed of developments in the areas in which he practises, and shall maintain his skills in these areas.

**CHAPTER II**

**DUTIES AND OBLIGATIONS TOWARDS THE CLIENT**

**DIVISION I**

**GENERAL**

**6.** No notary shall practise under conditions or in situations likely to impair the quality of his services.

**7.** The advice given by a notary to clients or to parties to an act must be disinterested, frank, and honest.

**8.** Before concluding a contract for services, the notary must consider the extent of his proficiency and knowledge, the standards of the area in which he practices his profession, and the means at his disposal.

**9.** Every notary shall seek to establish a relationship of mutual trust between himself and his client. To that end, he shall, in particular,

(1) refrain from practising his profession in a perfunctory manner;

(2) conduct interviews with respect for his client's values and personal convictions.

**10.** No notary shall intervene in a client's personal affairs in matters not generally acknowledged to be within the scope of the profession.

**11.** Every notary shall at all times respect a client's right to consult another notary, a member of another professional order, or another competent person.

**12.** Every notary shall exercise appropriate supervision over any student, employee, or other person for whom he is responsible.

## DIVISION II INTEGRITY

**13.** A notary shall observe the strictest rules of probity, objectivity, and integrity.

**14.** No notary shall falsely represent his level of competence or the efficacy of his services or those generally provided by members of his profession.

If a client's welfare so requires, the notary shall, with the client's authorization, consult a colleague, a member of another professional order, or another competent person, or refer him to one of these persons.

**15.** Every notary shall inform his client, as soon as possible, of the extent, terms, and conditions of the contract for services, and obtain the client's agreement thereto.

**16.** A notary shall, according to the contract for services agreed upon, inform the parties to an act or agreement of the nature and reasonably foreseeable legal consequences of the act or agreement.

**17.** A notary shall inform his client of the formalities required for the validity and efficacy of each act or agreement and shall determine the facts that are essential thereto.

**18.** No notary shall use for his own purposes the monies, securities, or other property entrusted to him in the practice of his profession. In particular, he shall not use them as a personal loan or security, or invest them to

his own advantage, whether in his name, through an intermediary, or on behalf of a legal person in which he owns an interest.

**19.** Every loan obtained by a notary from a client other than a legal person must be evidenced by notarial act executed before a notary who is not his partner.

**20.** A notary who exercises his profession chiefly as a financial planner must, where an agreement has been entered into between the Order and the Bureau des services financiers pursuant to the first paragraph of section 59 of the Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2), be authorized by the Order to hold the title of financial planner.

In the absence of such an agreement, the notary must hold a certificate issued pursuant to section 56 of the Act to use the title of financial planner.

**21.** Every notary shall take reasonable care of the corporeal property entrusted to his care.

**22.** A notary who undertakes or participates in matters not connected with the practice of his profession shall exercise care to protect his personal solvency, professional independence, and professional obligations.

## DIVISION III AVAILABILITY AND DILIGENCE

**23.** A notary shall demonstrate reasonable availability and diligence. He shall inform his client if he cannot respond to a request within a reasonable time.

**24.** In addition to opinion and advice, the notary shall provide his client with all explanations necessary to understand and assess the services rendered.

**25.** A notary shall render account to his client when so requested.

**26.** No notary shall cease to act on behalf of a client without serious cause. The following, in particular, constitute serious cause:

(1) loss of confidence between the notary and the client;

(2) the fact that the notary is in a conflict of interest or in a situation where his professional independence could be called into question;

(3) inducement by the client to perform illegal, unfair, or fraudulent acts.

**27.** Before ceasing to perform his duties on behalf of a client, the notary shall give advance notice of withdrawal to all parties within a reasonable time. He must minimize the prejudice caused to the parties by the withdrawal of services.

Where the notary acts as legal adviser to one party only, he shall give notice to that party only.

#### **DIVISION IV LIABILITY**

**28.** Every notary shall fully assume civil liability in the practice of his profession. No notary shall include in a contract for professional services any clause directly or indirectly excluding this liability in whole or in part. However, the client and the notary may agree to limit the terms of the contract for services within the parameters of the law.

#### **DIVISION V INDEPENDENCE AND IMPARTIALITY**

**29.** Every notary shall subordinate his personal interests to those of his client and safeguard his professional independence at all times.

**30.** No notary may be in a situation of conflict of interest.

A notary is in a situation of conflict of interest where the interests are such that he may be inclined to give preference to some of them, or his judgment or loyalty may be unfavourably affected.

As soon as the notary finds himself in a conflict of interest, he shall cease to perform his duties.

**31.** A notary shall ignore any intervention by a third party that might influence the performance of his professional duties to the detriment of his client.

**32.** No notary shall share his fees with, or remit them to, a person who is not a notary, except as allowed by regulation adopted pursuant to paragraph 94 (*p*) of the Professional Code, enacted pursuant to section 6 of chapter 34 of the Statutes of Quebec 2001.

Nevertheless, a notary may pay commissions to persons entitled thereto pursuant to an act or a regulation.

**33.** Save for the remuneration to which he is entitled, no notary shall pay or receive any benefit or rebate in connection with the practice of his profession.

**34.** Every notary shall inform his client in writing of the fees, commissions, and disbursements paid by him to a third person or paid to him by a third person on behalf of the client.

#### **DIVISION VI PROFESSIONAL SECRECY AND CONFIDENTIALITY**

**35.** Every notary is bound by professional secrecy.

**36.** A notary may be released from professional secrecy only with the written authorization of the person concerned, or if required by law.

**37.** No notary shall disclose that a person has retained his services, unless required to do so by the nature of the case.

**38.** Every notary shall avoid indiscreet conversations concerning a client and the services rendered to him.

**39.** No notary shall make use of confidential information in a manner that is prejudicial to a client, or with a view to obtaining a direct or indirect benefit for himself or another person.

**40.** Every notary must ensure that no person for whom he is responsible in his practice discloses any confidential information to a third person.

**41.** No notary shall disclose any personal code or mark enabling the use of his digital signature or any other, similar means of identifying him or acting in his name.

#### **DIVISION VII ACCESSIBILITY AND RECTIFICATION OF RECORDS**

**42.** Subject to conflicting legislation, every notary shall allow a client to take cognizance, and obtain copies, of documents that concern the client in any record. However, the notary shall deny access to information contained in such documents where disclosure would probably result in serious prejudice to the client or to a third person.

**43.** Subject to conflicting legislation, every notary shall allow a client to require the correction of any information that is inaccurate, incomplete, or ambiguous given the purpose for which it was collected, contained in a document concerning the client in any record established in his respect. The notary shall also allow a client to require the deletion of any information that is

outdated or unjustified given the object of the record, and to prepare written comments and file them in the record.

**44.** A notary who has in his possession a record in respect of which a request for access or correction has been made by the person concerned must accede to this request with due diligence, and in any event, not later than twenty days after the request.

**45.** Access to information contained in a record is free. Nevertheless, fees for copies or extracts of acts and fees not exceeding the costs of transcription, reproduction, or transmission may be charged to a person requesting the information. Before transcribing, reproducing, or transmitting the information, the notary who intends to charge fees pursuant to this section must inform such person of the approximate amount that will be charged.

**46.** A notary who refuses to grant a request for access or correction shall notify the person concerned in writing, giving reasons and informing him of his recourses.

**47.** A notary who grants a request for correction shall, without charge, give the person concerned a copy of all information that has been changed or added, or, as the case may be, written confirmation that information has been deleted.

The person concerned may require the notary to transmit a copy of the information or the confirmation, as the case may be, to the person from whom such information was obtained or to any person to whom such information was given.

**48.** A notary who has information in respect of which a request for access or correction has been denied shall conserve such information until such time as the person concerned has exhausted his recourses under the law.

### DIVISION VIII

#### DETERMINATION AND PAYMENT OF FEES

**49.** The fees charged by a notary must be fair and reasonable, warranted under the circumstances, and proportional to the services rendered, and in this regard the notary shall abstain from unfair competition with his colleagues.

In determining his fees, the notary shall take the following factors into account:

- (1) his experience or expertise;
- (2) the time required to execute the professional service;

(3) the degree of difficulty and importance of the service;

(4) the performance of services that are unusual or require exceptional competence or speed;

(5) the degree of responsibility assumed;

(6) the result obtained, where the matter may have involved special difficulties or where the outcome has been uncertain.

**50.** A notary shall explain his detailed statement of fees to his client as required.

**51.** Every notary shall inform his client of the approximate cost of his services. He shall not determine the amount of his fees without knowing all the elements required to establish the amount. He must promptly inform his client where he anticipates that the approximate cost will be exceeded.

**52.** No notary shall demand advance payment of his fees; he may, however, require advances on his fees and disbursements.

**53.** No notary shall charge interest on outstanding accounts unless the client has been duly notified. The interest so charged must be reasonable.

**54.** No notary shall deduct his fees and disbursements from a client's funds without the client's written authorization, regardless of the reason for which the funds are held.

### CHAPTER III

#### DUTIES AND OBLIGATIONS TOWARDS THE PROFESSION

##### DIVISION I

##### INCOMPATIBLE RESPONSIBILITIES AND DUTIES

**55.** No notary may be a member of the Ordre professionnel des avocats du Québec, as such membership is incompatible with the notarial profession.

##### DIVISION II

##### DEROGATORY ACTS

**56.** In addition to the acts referred to in sections 57, 58, 59.1, and 59.2 of the Professional Code, the following acts performed by a notary constitute acts derogatory to the dignity of the profession:

(1) urging a person repeatedly or insistently to retain his professional services;

(2) communicating with a complainant without the prior written permission of the syndic or assistant syndic, where he is informed that he is the subject of an inquiry into his conduct or professional competence or where he has been served notice of a complaint against him;

(3) billing a client for meeting, communicating, or corresponding with the syndic, the assistant syndic, the Secretary of the Order, the conciliator of accounts, the Council of arbitration, the Secretary of the Comité du Fonds d'indemnisation, or an inspector, in response to a request for explanations or information concerning a claim by the client or by any other person in respect of the notary;

(4) furnishing a receipt or other document that falsely indicates that services have been rendered;

(5) failing to promptly inform the Order where a candidate fails to respect the conditions for admission to the Order;

(6) failing to promptly report to the Order any person illegally practising the notarial profession or appropriating the title of notary;

(7) misappropriating, or using for purposes other than those authorized by the client, the monies, securities, or other property remitted to the notary in trust;

(8) giving the character of authenticity to illegal or fraudulent acts;

(9) participating in, agreeing to render services enabling the commission of, or committing an illegal or fraudulent act;

(10) asking a client to withdraw him from, or refusing to submit to, the conciliation or arbitration of his account, or refusing to comply with decisions rendered pursuant to the Regulation respecting the procedure for conciliation and arbitration of accounts of notaries;

(11) taking legal action against a colleague in connection with a matter related to the practice of the profession without having first referred the dispute to the president of the Order for mediation;

(12) failing to promptly notify the Secretary of the Order where, pursuant to the Bankruptcy and Insolvency Act (S.C. 1997, c. 12), he 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.

**57.** No notary shall, for any reason whatsoever, directly or indirectly assist or collaborate with a notary who has been struck off the roll by allowing him to use his name to prepare proceedings or practise the profession. He shall not hire or keep in his employ a notary who has been struck off the roll, or tolerate, without valid reason, the latter's presence in his office.

### **DIVISION III**

#### **RELATIONS WITH THE ORDER AND WITH COLLEAGUES**

**58.** A notary whose participation on a board of arbitration of accounts, a review committee, a committee on discipline, or a committee on professional inspection is requested by the Order must accept that duty unless he has reasonable cause for refusing it.

**59.** Every notary shall promptly reply to all correspondence addressed to him by the Order or by any person appointed to assist it.

**60.** No notary shall unduly retain a file or document belonging to a client. Thus the notary shall, upon request and upon payment of the fees and disbursements due, transmit a client's files and documents to the client or to a colleague with the client's authorization.

**61.** No notary shall betray the good faith or breach the trust of a colleague, or display disloyal practices towards him.

**62.** A notary who requests a colleague to execute an act that he himself has drawn up must, in relation to the colleague, assume in writing all liability in respect of the contents of the act.

**63.** A notary who is consulted by a colleague must give his opinion and recommendations within a reasonable time.

**64.** A notary who is called upon to collaborate with another notary or with any other person must maintain professional independence. He shall not perform a task contrary to his professional conscience or to the principles governing the practice of his profession.

**65.** No notary shall compromise the good repute of the profession or a colleague by discrediting or denigrating the competence, knowledge, or services of another notary. A notary shall not use a decision of the committee on discipline for the purpose of compromising the reputation of a colleague or harming relations between a colleague and the colleague's client or employer.

#### DIVISION IV CONTRIBUTION TO THE ADVANCEMENT OF THE PROFESSION

**66.** Every notary shall, as far as he is able, contribute to the development of his profession by exchanging his knowledge and experience with his colleagues or students, collaborating in vocational training programmes and the work of universities and legal associations, and contributing to scientific and professional publications.

#### DIVISION V PUBLIC DECLARATIONS

**67.** As a professional within the framework of public discourse by means of conferences, writings, or messages conveyed by the media or through the mail, the notary shall emphasize the general nature of or limits to the information or advice given.

#### CHAPTER IV RESTRICTIONS AND OBLIGATIONS RELATING TO ADVERTISING

**68.** No notary shall, by any means whatsoever, engage in or allow advertising that is false, deceitful, incomplete, or likely to be misleading.

**69.** No notary shall claim to possess specific qualities or skills, particularly in respect of his level of competence or the range or efficacy of his services, unless he can substantiate such claims.

**70.** No notary shall, in his advertising, use or allow to be used any endorsement or statement of gratitude in his regard other than awards for excellence and other prizes received in recognition of a contribution or achievement the honour of which is reflected on the profession as a whole.

**71.** A notary who advertises professional fees or prices must do so in a manner easily comprehensible by a public having no particular knowledge of the law, and must

(1) maintain such fees for the period of time indicated in the advertisement, which period must not be less than 60 days following the last authorized broadcast or publication;

(2) indicate the services covered by the fees;

(3) indicate whether or not disbursements or taxes are included.

**72.** No notary shall, in any way whatsoever in a declaration or advertisement, give more importance to fees and prices than to the professional service offered.

**73.** All the partners in a partnership are responsible for complying with the rules respecting advertising, unless the advertisement clearly indicates the names of one or more persons who are responsible.

#### CHAPTER V PARTNERSHIP NAME AND GRAPHIC SYMBOL

**74.** Except as provided in section 75, only the names of partners who practise together may be included in the name of a partnership of which a notary is a member.

The partnership name may end with the words “and Associates” where the names of at least two partners do not appear in the partnership name.

**75.** Where a notary retires from a partnership or dies, his name must no longer appear in the partnership name or partnership advertising after one year following retirement or death unless an agreement to the contrary has been entered into with him or with his successors and assigns.

**76.** Where a notary uses the graphic symbol or the coat of arms of the Order for advertising purposes, he must ensure that they are associated with his name or the name of his partnership and that they are identical to the original held by the Secretary of the Order.

**77.** Where a notary uses the graphic symbol or the coat of arms of the Order in an advertisement, he must ensure that it is clear that the advertisement does not originate from, and is not binding on, the Order.

#### CHAPTER VI FINAL PROVISIONS

**78.** This code replaces the Code of ethics of notaries (R.R.Q., c. N-2, r.3).

**79.** This code comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.