

An advocate who engages in his professional activities within a partnership or company all of whose services offered to clients are not offered by advocates shall take reasonable measures to ensure that the graphic symbol of the Bar is not used in connection with the name of the partnership or company or in its advertising.

Nonetheless, this section shall not prevent the use of the graphic symbol of the Bar in connection with the name of an advocate.”.

55. Section 7.01. of the Code is replaced by the following:

“**7.01.** An advocate must not practice his profession within a partnership or company under a name or designation which is misleading, deceptive or contrary to the honour or dignity of the profession or which is a number name.

7.02. An advocate who engages in his professional activities within a partnership or company shall take reasonable measures to ensure that every document which is produced within the practice of the profession of advocate and originates from the partnership or company is identified with the name of an advocate.”.

56. This Regulation shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

5902

Draft Regulation

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

Physicians — Practice of the profession within a partnership or a joint stock company

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 Collège des médecins du Québec adopted the Regulation respecting the practice of the medical profession within a partnership or a joint stock company.

The Regulation, the text of which is attached below, will be examined by the Office des professions du Québec pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment, upon the expiry of 45 days following this publication.

The main purpose of this regulation is to set out the terms, conditions and restrictions under which members of the Collège may practise their profession within a joint stock company or limited liability partnership.

This new regulation contains specific provisions respecting the management of the partnership or company and the holding of partnership or company shares.

According to Chapter VI.3 of the Professional Code, the conditions also include the obligation to take out insurance to cover the partnership’s or company’s liability arising from fault or negligence on the part of members in the practice of the profession within such partnership or company. Furthermore, members will be required to provide the Collège, and to keep up to date, information concerning the partnership or company as well as the partners, directors and shareholders as the case may be.

This Regulation will have no impact on enterprises.

Further information may be obtained by contacting M^e Christian Gauvin, Director of the Judicial Services Division, Collège des médecins du Québec, 2170, boulevard René-Lévesque Ouest, Montréal (Québec) H3H 2T8; tel.: 1 888 633-3246 or (514) 933-4441; fax: (514) 933-3112.

Any interested person having comments to make is requested 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) GIR 5Z3. These comments will be forwarded by the Office to the minister responsible for the administration of legislation respecting the professions. They may also be forwarded to the professional order that has adopted the regulation, as well as to the persons, departments and agencies concerned.

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

Regulation respecting the practice of the medical profession within a company

Professional Code
(R.S.Q., c. C-26, s. 93, subpar. g and h, s. 94, subpar. p)

1. A physician is authorized to practise his profession within a limited liability partnership or a joint-stock company for the purposes of carrying out his professional activities if the following conditions are met:

1° more than 50% of the voting rights, attached to the shares or to the partnership shares of the company, are exercised by:

- a) physicians;
- b) a legal person, a trust or any other undertaking whose voting rights attached to the shares or to the partnership shares of the company are entirely exercised by a physician;
- c) both categories of persons as contemplated under subparagraphs *a* and *b*;

2° the board of directors of the joint-stock company, as well as the partners and the directors appointed by the partners to manage the business of the limited liability partnership, as well as the quorum on such board of directors, must include a majority of physicians.

The physician shall ensure that the conditions stated in the first paragraph are entered in the articles of association of the joint-stock company or stipulated in the limited liability partnership agreement and that it is also provided that this company is established for the purposes of carrying out professional activities.

2. At all times, the physician shall ensure that the company allows him to comply with the Professional Code (R.S.Q., c. C-26), the Medical Act (R.S.Q., c. M-9) and all regulations enacted thereunder.

DIVISION I

OTHER TERMS AND CONDITIONS

3. The physician who practices his profession within a limited liability partnership or a joint-stock company must declare it to the Collège des médecins du Québec and must pay the \$100 fee for the statement.

The physician remits to the Collège a statement containing the following information:

- 1° the name or the corporate name as well as any other names used by the company in Québec or the companies within which he practices his profession and the designating number that the competent authority has issued to them;
- 2° the legal form of the company;
- 3° his status within the company;
- 4° the nature of the company's business;

5° a copy of the irrevocable written authorization of the company within which he practices his profession allowing a person, a committee, a disciplinary body or a tribunal under section 192 of the Professional Code to demand from any person having the custody thereof to communicate and to obtain the document mentioned in section 15 or a copy thereof.

4. In the event that the conditions stipulated in section 3 are not met, the physician is not authorized to practice his profession within the company.

5. Upon the Collège request, the physician must provide:

1° a written confirmation of a competent authority certifying that the company holds a security pursuant to Division II;

2° in the case where he practices his profession within a joint-stock company, a written confirmation given by a competent authority certifying the existence of the company;

3° a certified copy of the statement given by the competent authority, indicating that the general partnership has been continued into a limited liability partnership;

4° a written confirmation certifying that the company is duly registered in Québec.

6. The physician must also follow up on the requests made, pursuant to this Regulation, by the syndic, an assistant syndic, an inspector, an investigator, a member of a Professional inspection Committee or another representative of the Collège and provide them, as the case may be, with the requested documents.

7. Every year, when he pays his annual assessment, the physician must update the information contained in the statement contemplated under section 3.

8. The physician ceases immediately to be authorized to practice his profession within a company if he no longer meets the conditions stipulated in this Regulation or in Chapter VI.3 of the Professional Code.

9. The physician must notify the secretary in writing of any change in the information transmitted in his statement that contravenes this Regulation. This notice must be received by the secretary of the Collège within 30 days after the change is made.

He must in particular notify the Collège of the cancellation of the security contemplated under Division II, and of the dissolution, the assignment of assets, the bankruptcy, the voluntary or forced liquidation, of the company or of any event that is likely to prevent the company from pursuing its activities.

DIVISION II **SECURITY FOR PROFESSIONAL LIABILITY**

10. The physician practising his profession within a company must, in order to be authorized to practice his profession pursuant to this Regulation, provide and maintain for that company, either by means of an insurance contract or a surety bond, or by joining a group insurance contracted by the Collège, or by contributing to a professional liability insurance fund established for such purposes in accordance with section 86.1 of the Professional Code, a security for any professional liability eventually incurred by that company as a result of the fault or negligence of the physicians in the course of the practice of their profession within that company.

11. The security must provide for the following minimum conditions by means of a specific contract or rider:

1° the agreement from the insurer or the security to pay in lieu of the company, in excess of the amount of coverage that the member must provide under the Regulation respecting professional liability insurance of the Collège des médecins du Québec, taken by a decision of June 16, 1982 or of any other amount subscribed by the member if it is higher, up to the security amount, any sum that the company may legally be liable to pay to an injured third party regarding a claim submitted during the period of coverage as a result of the fault or negligence of the physician in the course of the practice of his profession. The insurer's obligation must be extended to any claim to which the coverage of the physician may not apply and resulting from a deliberate act committed by that physician in the course of the practice of his profession;

2° the agreement from the insurer or the security to hold the company harmless and to defend the company in any action taken against it and to pay, apart from the amounts covered, all the costs and expenses of the actions taken against the company, including those for the hearing and the defence as well as the interests on the amount of the coverage;

3° the agreement according to which this coverage shall extend to any claim submitted during the 5 years following the period of coverage during which a physician practising within a company dies, leaves the company or ceases to be entered on the roll of the Order, in

order to maintain a coverage in favour of the company against the faults or negligence of a physician in the practice of his profession while he was practising within the company;

4° the amount of the coverage must be of at least \$1 000 000 per claim, and at least \$2 000 000 for the aggregate of the claims submitted against the company during a period of coverage of 12 months;

5° the agreement from the insurer or the security to give the secretary of the Collège a 30-day prior notice when he intends to terminate the coverage, to modify it in respect to one of the conditions stipulated in this section or not to renew it.

12. The surety bond is obtained from a bank, a savings and credit union, a trust company or an insurance company, which must be domiciled in Canada and must have and maintain, in Québec, sufficient assets to provide the coverage required under this Division.

The institution referred to in the first paragraph shall undertake to provide the coverage under the conditions stipulated in this Division and must waive the benefit of division and discussion.

13. The physician is exempt from complying with the obligations under this Division provided he remits to the secretary a proof that the company is eligible to receive assistance from the Canadian Medical Protective Association and if he maintains its eligibility regarding any liability that it may incur owing to fault or negligence committed by the physicians in the course of the practice of their profession within that company.

DIVISION III **ADDITIONAL INFORMATION**

14. When a general partnership is established into a limited liability partnership or when a joint-stock company is established and a percentage of issued and paid-up shares or of partnership shares is held by any individual other than a physician or a member of his immediate family, the physician must publish, within 30 days of the date of the continuation or incorporation of the company, a notice in the newspaper for the territory where he practices his profession. Such notice must indicate the name of any person who holds company or partnership shares.

15. The documents for which the physician shall request permission of the company to disclose them or to obtain a copy thereof under subparagraph 5 of the second paragraph of section 3 are the following:

1° if the physician practices his profession within a joint-stock company:

- a) the complete and updated register of the constitution and by-laws of the company within which he practices his profession;
- b) the complete and updated register of the shares of the company;
- c) the complete and updated register of the directors of the company;
- d) any shareholders agreement and voting agreement, as amended;
- e) the updated company's statement of registration;
- f) the name of the executive officers of that company and their residential address;

2° if the physician practices his profession within a limited liability partnership:

- a) the updated company's statement of registration;
- b) the partnership agreement as amended;
- c) the complete and updated register of the partners of the company;
- d) as the case may be, the complete and updated register of the directors of that company;
- e) the name of the executive officers of that company and their residential address.

16. A physician who practices his profession within a limited liability partnership or a joint-stock company within which only physicians or members of other professional orders, shall be authorized to enter, in the name of the company or after such name, the terms "partnership of professionals governed by the Professional Code" or the acronym "PPGPC".

17. The respondent may, on behalf of physicians practicing within a company, meet the requirements under section 3, when a company within which they practise their profession has more than one physician. The respondent is then directed by these physicians to answer to inquiries made under this Regulation, by the syndic, an assistant syndic, an inspector, an investigator, a member of a Professional inspection Committee or another representative of the Collège and to provide

them, as the case may be, with the documents that the physicians are required to remit. The respondent must ensure that the information provided by the Collège is accurate.

The respondent must be a physician in accordance with section 1 of this Regulation.

18. This Regulation comes into force on the fifteenth day after its publication in the *Gazette officielle du Québec*.

5901

Draft Regulation

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

Physicians

— Professional activities that may be engaged in electrophysiology

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Collège des médecins du Québec, at its meeting held on June 6, 2003, adopted the Regulation respecting professional activities that may be engaged in electrophysiology.

The Regulation was sent to the Office des professions du Québec which will examine it pursuant to section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the Government which, pursuant to that section, may approve it with or without amendment after the expiry of 45 days following this publication.

The purpose of the Regulation is to take into account the new sharing of professional activities in the health sector arising from the coming into force of the Act to amend the Professional Code and other legislative provisions as regards the health sector (2002, c. 33), while ensuring the continuity of care and services for the public.

According to the Collège des médecins du Québec:

(1) this Regulation authorizes an electrophysiology technologist or a student duly registered in a training program leading to the diploma contemplated in this Regulation to perform a stress electrocardiogram;

(2) this Regulation also authorizes any person who, on January 30, 2003, performed the diagnostic tests contemplated in this Regulation to continue doing so;