

Draft Regulations

Draft Regulation

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

Professional technologists — Code of ethics

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Code of ethics for professional technologists, adopted by the Bureau of the Ordre des technologues professionnels du Québec, the text of which appears below, may be submitted to the Government for approval, with or without amendment, on the expiry of 45 days following this publication.

According to the Ordre des technologues professionnels du Québec, the purpose of the Regulation is to update the Code of ethics for professional technologists and to render more stringent the duties and obligations of professional technologists towards clients, the public and the profession, so that the public may benefit from greater protection.

In particular, the Regulation contains new measures for professional technologists who practise in the field of orthopedic orthoses and prostheses and foot orthoses. The measures follow up on the recommendations made by the Office des professions du Québec in its April 1994 opinion entitled "Avis au ministre responsable de l'application des lois professionnelles sur l'opportunité de constituer une corporation professionnelle dans le domaine de l'orthèse et de la prothèse".

In addition to the Code of ethics, the inclusion of professional technologists who practise in the field of orthopedic orthoses and prostheses and foot orthoses will require amendments be made to the Regulation respecting the keeping of records and consulting-rooms of professional technologists, approved by Order in Council 1318-87 dated 26 August 1987. The Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders, made by Order in Council 1139-83 dated 1 June 1983, will also have to be amended by adding, in section 2.09, the diploma "Techniques d'orthèses et de prothèses orthopédiques" issued by Collège Montmorency.

All the amendments will later come into force at the same time, assuming they are approved by the authorities concerned.

The Order expects the proposed amendments to have no impact on businesses, including small and medium-sized businesses.

Further information may be obtained by contacting Marie-Josée Crête, Director of Legal and Professional Affairs, Ordre des technologues professionnels du Québec, 1265, rue Berri, bureau 720, Montréal (Québec) H2L 4X4; telephone: (514) 845-3247 or 1 800 561-3459; fax: (514) 845-3643.

Any person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be communicated to the professional order that adopted the Regulation as well as to any interested persons, departments, bodies or agencies.

GAÉTAN LEMOYNE,
*Chairman of the Office des
professions du Québec*

Code of ethics of professional technologists

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

CHAPTER I DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC

1. Professional technologists shall show respect for all living organisms and their environment and shall consider the consequences that their work and research may have on the life, health and property of others.

2. Professional technologists shall promote all measures that may improve the quality and availability of the work and professional services in their field of practice.

3. Professional technologists shall promote education and information measures in their field of practice and do what is appropriate to maintain and improve their knowledge.

CHAPTER II DUTIES AND OBLIGATIONS TOWARDS THE CLIENT AND THE PROFESSION

4. In this Code, “client” means a person, including an employer, to whom a professional technologist provides professional services.

DIVISION I COMPETENCE, INTEGRITY AND OBJECTIVITY

5. Professional technologists shall perform their professional duties with competence, integrity and objectivity.

6. Professional technologists shall observe the recognized standards of practice and use science in their practice. In particular, a professional technologist who is the director of a laboratory must ensure that the laboratory under his or her direction, or whose services he or she retains, complies with the laws and regulations in force.

7. Before accepting a mandate, professional technologists shall ensure that they have the necessary qualifications and the means to adequately carry out the mandate.

8. Professional technologists shall promptly inform any person who intends to retain their services of the scope and terms and conditions of the mandate with which the person intends to entrust them and of the ownership of the goods and services to be provided, and shall provide the person with all explanations necessary as regards the composition, properties, quality and cost of the goods and services, as well as their benefits and drawbacks.

9. Professional technologists shall inform a client of their knowledge of the unavailability of a good, product or material they are to provide or have been requested to provide. They shall also inform the client of the availability of a substitute good, product or material.

10. Professional technologists shall not undertake work or provide professional services for which they are insufficiently prepared or for which they do not have the necessary facilities or equipment.

11. Professional technologists shall refrain from formulating opinions, giving advice or producing documents that are not based on sufficient scientific knowledge or full knowledge of the relevant facts with respect to the nature and scope of the mandate.

12. Professional technologists who consider that work could put the public’s safety at risk shall first inform the persons in charge of the work and, if the situation is not corrected within a reasonable time, taking into consideration the circumstances, inform the competent public authorities.

13. Professional technologists shall recognize at all times a client’s right to consult another professional technologist, a member of another professional order or any other qualified person and a client’s right to obtain material, equipment or an accessory needed for the client’s condition or treatment from another professional or any other qualified person.

14. Professional technologists shall refrain from practising under conditions or in situations that may impair the quality of their services or the dignity of the profession.

15. Professional technologists shall seek to establish a relationship of mutual trust with their clients. To that end, a professional technologist shall

(1) refrain from practising in a perfunctory manner; and

(2) respect a client’s system of values and personal convictions when the client so informs the professional technologist and when they are not illegal.

16. Professional technologists engaging in professional activities in connection with orthoses and prostheses shall, where applicable, respect a prescription signed by an authorized professional. A professional technologist must identify any condition that indicates the need for a medical examination and refer the client to a physician. If necessary, the professional technologist shall refer the client to another professional.

17. If the client’s condition and treatment so requires, the professional technologist shall seek the cooperation of the client’s family or relatives, with the consent of the client or the client’s representative or any other person from whom consent may be obtained under the law.

18. Professional technologists shall refrain from intervening in a client’s personal affairs on matters not within the scope of their professional competence.

19. If a client’s interest so requires it, professional technologists shall consult another professional technologist, a member of another professional order or any other qualified person or refer the case to one of those persons.

20. Professional technologists shall promptly inform their client of any incident that has occurred while they carry out the mandate and, as required, take the necessary measures to rectify the situation.

For the purposes of the present section and unless the context indicates otherwise, the term “incident” means an action or situation that does not have consequences for the performance of the mandate but the outcome of which is unusual and could have had consequences under other circumstances.

21. Professional technologists shall take reasonable care of the property placed in their care by a client and shall refrain from using the property for purposes other than those for which it was placed in their care.

22. Professional technologists shall refrain from receiving, directly or indirectly, with the exception of the remuneration or fees to which they are entitled, any benefit, rebate or commission in connection with the professional services or goods they provide.

23. If the opinion of the professional technologist in charge of the quality of the work being performed or of the professional services being provided is not taken into consideration, the professional technologist in charge shall, in writing, indicate the consequences that may result.

24. Professional technologists must avoid performing or multiplying professional acts without sufficient cause and refrain from performing acts that are inappropriate or disproportionate to a client’s needs.

DIVISION II INDEPENDENCE AND IMPARTIALITY

25. Professional technologists shall subordinate their personal interests to those of their clients.

26. Professional technologists shall disregard any intervention by a third person that could have a damaging influence on the performance of their professional duties. They shall be impartial in their relationship with a client, contractors, suppliers and other persons doing business with the client.

27. Professional technologists shall safeguard their professional independence at all times and avoid any situation in which they would be or appear to be in conflict of interest. Professional technologists are in a situation of conflict of interest where, in particular,

(1) they are granted a line of credit by a person selling or manufacturing material, equipment or acces-

sories, to the extent that the line of credit may impair their professional independence; and

(2) the interests are such that the professional technologists may be at risk of giving preference to interests other than those of the client, or the professional technologists’ judgment or loyalty towards the client may be unfavourably affected.

28. Professional technologists shall, as soon as they become aware that they are or may soon be in a situation of conflict of interest, notify the client and request the client’s authorization to continue the mandate. Where the client agrees, the professional technologists must record the acceptance in the client’s file.

29. Professional technologists shall, in carrying out a mandate, generally act for only one of the parties concerned. If their professional duties require that they act otherwise, professional technologists must specify the nature of their responsibilities and keep all the interested parties informed that they will cease to act if the situation becomes irreconcilable with their duty of impartiality.

DIVISION III AVAILABILITY AND DILIGENCE

30. Professional technologists shall show reasonable availability, attention and diligence in the performance of their professional activities.

31. Professional technologists shall provide their clients with all explanations necessary to an understanding and appreciation of the professional services being provided in addition to the opinions and advice they normally provide.

32. Professional technologists shall report to their client on the performance of the mandate or the provision of professional services.

33. Professional technologists shall not cease to provide services to a client without just and reasonable cause. Just and reasonable cause includes

(1) loss of the client’s trust in the professional technologist;

(2) lack of cooperation from the client;

(3) the fact that the professional technologist is in a situation of conflict of interest or in a situation in which his or her professional independence could be called into question; and

(4) inducement by the client to perform illegal or unfair acts.

34. Before ceasing to provide professional services to a client, professional technologists must give the client reasonable notice and ensure that there is no prejudice caused to the client by the withdrawal of services.

DIVISION IV LIABILITY

35. Professional technologists shall assume full civil liability in their practice. Professional technologists shall not insert in a contract for professional services any clause directly or indirectly excluding their liability in whole or in part.

DIVISION V AUTHENTICATION OF DOCUMENTS

36. Professional technologists who do not engage in professional activities in connection with orthoses and prostheses shall authenticate documents by affixing their seal or signature on the original and all copies of any plan, technical report, study, specifications, monitoring report, evaluation report, intervention plan or other technical document they have personally prepared or that has been prepared under their immediate direction or supervision.

37. Any change in a document must be authenticated in the same way the original document is authenticated.

38. Professional technologists shall ensure the integrity of all documents and any copy of a document.

39. Professional technologists must maintain control over the use and reproduction of their seal and signature.

DIVISION VI REMUNERATION AND OTHER FEES

40. Professional technologists shall not accept payment of their fees or remuneration from any person other than their client or the client's representative for the same professional service.

Where the cost of services or goods provided is being assumed by a third person, professional technologists must accept payment of their fees or remuneration from one source only, unless an explicit, prior written agreement to the contrary has been reached between the interested persons.

41. Professional technologists shall share remuneration or professional fees with another person only to the

extent that the sharing corresponds to a distribution of services and responsibilities.

42. Professional technologists shall charge and accept fees that are fair and reasonable as determined by a competent authority or, in any other case, as warranted in the circumstances and in proportion to the professional services provided.

Professional technologists shall, in particular, consider the following factors in determining their fees :

(1) their experience ;

(2) the time required to carry out the mandate or provide the professional service ;

(3) the degree of difficulty and extent of the mandate or professional service ;

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

(5) where applicable, the cost of any products or material needed to carry out the mandate or provide the professional service.

43. Professional technologists shall inform their client of the approximate and foreseeable cost of the professional services before they are provided.

44. Professional technologists shall indicate to the client, in writing, the professional services that will be provided, unless the context indicates otherwise.

45. Professional technologists shall refrain from requiring payment of their professional fees in advance. They may, however, by written agreement with the client, require an advance to cover disbursements necessary to carry out the mandate or provide the professional services.

46. Professional technologists shall provide the client with a clear statement of their professional fees including the cost of any goods provided, where applicable, and the terms and conditions of payment applicable. At the client's request, professional technologists shall provide the client with all explanations necessary to an understanding of the statement.

47. Professional technologists shall not charge interest on outstanding accounts without first informing the client. The interest thus charged must be reasonable.

48. Professional technologists shall exhaust all other means at their disposal before resorting to legal proceedings for the payment of professional fees.

49. Professional technologists who entrust another person with the collection of their professional fees shall ensure that the person acts with tact and moderation.

DIVISION VII PROFESSIONAL SECRECY

50. Professional technologists shall respect the secrecy of all confidential information of which they become aware in their practice. They shall, where applicable, take all reasonable measures to ensure that the employees or personnel around them maintain professional secrecy.

51. Professional technologists shall not make use of confidential information to the detriment of a client or with a view to obtaining, directly or indirectly, a benefit for themselves or another person.

52. Clinical data collected by professional technologists in their practice or in doing research may be used for publication or teaching purposes only if the identity of the persons concerned is kept confidential.

53. Professional technologists who request confidential information from a client or who allow confidential information to be made known to them shall ensure that the client is aware of the reasons and the uses that may be made of such information.

54. Professional technologists must not disclose the fact that a person has called on their professional services unless the nature of the case requires it.

55. Professional technologists shall avoid any indiscreet conversation concerning a client or the professional services provided to the client.

56. Professional technologists shall not accept a mandate that involves or that may involve the disclosure or use of confidential information or documents obtained from another client, without the consent of that other client.

DIVISION VIII CONDITIONS AND PROCEDURES APPLICABLE TO THE EXERCISE OF THE RIGHT OF ACCESS AND CORRECTION PROVIDED FOR IN SECTIONS 60.5 AND 60.6 OF THE PROFESSIONAL CODE AND PROFESSIONAL TECHNOLOGISTS' OBLIGATION TO RETURN DOCUMENTS

§1. Provisions applicable to professional technologists practising in an institution

57. Professional technologists practising in a public body referred to in the Act respecting Access to documents held by public bodies and the Protection of per-

sonal information (R.S.Q., c. A-2.1) or in a centre operated by an institution within the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5) must respect the rules of accessibility and correction of records provided for in those statutes.

§2. Provisions applicable to professional technologists not practising in an institution and concerning the conditions and procedures applicable to the exercise by a client of the right to access information contained in any record established in his or her respect

58. Professional technologists may require that a request under section 59, 62 or 65 be made in writing and that the right be exercised at their professional domicile or at another workplace during regular working hours.

59. Professional technologists must respond with diligence, and no later than 20 days after its receipt, to any request from a client to examine or obtain a copy of the documents concerning the client in any record established in respect of the client.

60. Access to the information contained in a record shall be free of charge. Professional technologists may, however, charge to a client a reasonable fee that may not exceed the cost for reproducing or transcribing documents or for transmitting a copy of the documents.

A professional technologist who intends to charge such fees shall, before transcribing, reproducing or transmitting the documents or copies, notify the client of the approximate amount to be paid.

61. Professional technologists may refuse to allow a client to have access to the information contained in a record established in his or her respect where their disclosure would be likely to cause serious harm to the client or to a third person. A professional technologist must inform the client in writing of the reasons for the refusal and enter them in the record.

§3. Provisions applicable to professional technologists not practising in an institution and concerning the conditions and procedures applicable to a client's right of correction of information contained in any record established in his or her respect

62. Professional technologists must respond with diligence, and no later than 20 days after its receipt, to any request from a client to

(1) cause to be corrected information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected, contained in a document

concerning the client that is included in any record established in respect of the client;

(2) cause to be deleted any information that is outdated or unjustified having regard to the object of the record established in respect of the client; or

(3) have the client's written comments filed in the record established in respect of the client.

63. Professional technologists who grant a request referred to in section 62 shall issue to the client, free of charge,

(1) a copy of the document or the part of the document that was corrected or deleted; or

(2) an attestation that the client's written comments have been filed in the record.

64. At the written request of a client, professional technologists shall transmit, free of charge, to any person who transmitted the information referred to in section 62 to the professional technologist, and to any person to whom the information has been communicated, as the case may be,

(1) a copy of the corrected information;

(2) an attestation that the information has been deleted; or

(3) an attestation that the written comments have been filed in the record.

§4. Obligation of professional technologists not practising in an institution to return documents to a client

65. Professional technologists shall, with diligence, return to a client who has requested it, any document that was entrusted to them and indicate in the client's record, where applicable, the reasons for the request.

DIVISION IX RELATIONS WITH THE ORDER AND OTHER PROFESSIONAL TECHNOLOGISTS

66. Professional technologists shall, insofar as they are able, contribute to the development of the profession by exchanging knowledge and experience with other professional technologists and students.

67. Insofar as possible, a professional technologist whose participation on a committee is requested by the Order must accept that duty.

68. Professional technologists shall, as quickly as possible, answer all correspondence from a syndic, the secretary of the Order or a member of the review committee or professional inspection committee or an investigator, an expert or an inspector of that committee, and shall make themselves available for any meeting that is considered relevant.

69. Professional technologists shall not betray the good faith or trust of another professional technologist, act unfairly towards him or her or maliciously attack his or her reputation.

Without restricting the generality of the foregoing, professional technologists shall not

(1) take credit for another professional technologist's work; or

(2) take advantage of their position as employer or executive to limit in any way the professional independence of another professional technologist in their employ or under their supervision, in particular as regards the use of the title of professional technologist or the obligation of every professional technologist to assume full professional liability.

70. Professional technologists consulted by another professional technologist shall give their opinion and recommendations as quickly as possible.

71. Professional technologists who receive a request to replace another professional technologist or examine or review the work of another professional technologist shall inform that professional technologist and, if necessary, ensure that the mandate of the professional technologist is completed.

72. Professional technologists called on to collaborate with another professional technologist must maintain their professional independence. If entrusted with a task that is contrary to their conscience or against their principles, they may request to be excused from performing it.

DIVISION X DEROGATORY ACTS

73. In addition to the derogatory acts referred to in sections 59 and 59.1 of the Professional Code (R.S.Q., c. C-26) or that may be determined pursuant to section 59.2 and subparagraph 1 of the second paragraph of section 152 of that Code, the following acts of professional technologists are derogatory to the dignity of the profession:

(1) affixing their seal and signature on plans, technical reports, evaluation reports or intervention plans, studies, specifications, monitoring reports or any other technical documents that have not been prepared or studied by them or under their immediate direction and supervision;

(2) carrying out or participating in the carrying out of technical work, or selling, offering for sale, leasing, offering for lease or otherwise marketing any material, equipment or accessory in disregard of generally accepted professional methods, standards and procedures;

(3) taking advantage of a permanent salaried position to offer their professional services to persons with whom their employer does business;

(4) deliberately delaying the performance of a professional service;

(5) inducing a person through urgent insistence or repetition to use their professional services or recommending to a person to buy or lease directly or indirectly from them any material, equipment or accessory not required for the condition, treatment or needs of the client;

(6) taking advantage of the inexperience, ignorance, naivety or state of health of a client;

(7) guaranteeing, directly or indirectly, a physiological capacity or the restoration of a specific function by using services or goods provided;

(8) practising their profession while under the influence of psychotropic substances or any other substance producing similar effects, including alcohol;

(9) providing or issuing a report, a certificate, a declaration or any other document known to be false relating to a client's health, or to services or goods provided to the client;

(10) altering notes previously entered in the client's record or replacing any part thereof with the intention of falsifying them;

(11) disregarding or modifying a prescription signed by a professional authorized by law and preventing a client from examining the prescription or obtaining a copy thereof;

(12) failing to recommend a client consult a physician when a condition requiring a medical examination has been identified;

(13) making, modifying or allowing the making or modification of an orthosis or a prosthesis without a written prescription from a professional authorized by law;

(14) being verbally or physically violent or using disrespectful oral or written comments towards a client;

(15) voluntarily leaving a client without sufficient reason during an intervention likely to involve a risk to the client or leaving a client without supervision when supervision is required;

(16) allowing their name to be used by a person to recommend or promote the sale, distribution or use of material, equipment or accessories used in the practice of the profession;

(17) failing to ensure that the person consulted or assisting them is qualified;

(18) claiming fees for professional acts not performed, falsely described or not supervised by them;

(19) claiming a sum of money from a client for payment in whole or in part of a professional service the cost of which is assumed by a third person;

(20) failing to inform the Order that they have reason to believe that a professional technologist is incompetent, dishonest or in breach of the Professional Code or a regulation under the Code;

(21) communicating with the plaintiff without prior written permission from the syndic of the Order when informed of an inquiry into their conduct or professional competence or after being served with a notice of a disciplinary complaint against them;

(22) refusing or neglecting to appear at the office of the syndic of the Order or to hand over any documentation, when the syndic so requests;

(23) failing to notify the Order at once if they believe a person is illegally using a title reserved to the members of the Order.

DIVISION XI **CONDITIONS, OBLIGATIONS AND** **RESTRICTIONS RESPECTING ADVERTISING**

74. Professional technologists shall indicate their name and professional title in their advertising.

75. Professional technologists may not, in any manner whatsoever, engage in or allow advertising that is false, misleading, incomplete, or likely to be misleading.

76. Professional technologists may not, in any manner whatsoever, engage in or allow advertising that is likely to unduly influence persons who may be emotionally or physically vulnerable because of their age, their state of health or the occurrence of a particular event.

77. Professional technologists may not, in their advertising, use or allow to be used an endorsement or testimonial concerning them.

The first paragraph does not prevent professional technologists from mentioning in their advertising an award for excellence or any other award for their contribution or a specific achievement relating to their profession.

78. Professional technologists may not claim to have special qualifications or skills unless such claims can be substantiated.

79. Professional technologists may not use advertising practices likely to denigrate or discredit another person with whom they have dealings in the practice of the profession or to discredit goods or services provided by that person.

80. Professional technologists who advertise fees, rebates or prices shall

(1) specify the nature and extent of the services covered by the fees, rebates or prices and the characteristics of the goods offered, except if all the goods are included;

(2) indicate whether disbursements are included in the fees, rebates or prices;

(3) indicate whether additional services or goods not included in the fees or prices might be required, where applicable; and

(4) mention the total cost of the goods or services when the advertisement refers to the possibility of instalments.

Unless indicated otherwise in the advertisement, the fees, rebates or prices must remain in effect for a minimum of 90 days after the last broadcast or publication. In the case of a rebate, professional technologists shall specify the validity period in the advertisement.

Professional technologists may agree with the client on a price that is lower than the price broadcast or published.

81. Professional technologists may not, in any manner whatsoever, give more importance to a rebate than the professional services or goods offered in a declaration.

82. The particulars and indications must be sufficient to reasonably inform persons who have no particular knowledge of the technology or the goods or professional services mentioned in the advertisement.

83. Professional technologists may advertise goods provided that they have a sufficient quantity of the goods or that they may obtain a sufficient quantity to meet the client's demand, unless they mention in their advertisement that the goods are in limited quantity.

84. Professional technologists shall keep an integral copy of every advertisement for five years after the date of the last broadcast or publication. The copy must be given to a syndic of the Order, an inspector, investigator or member of the professional inspection committee on request.

85. Professional technologists who practise in a partnership are solidarily responsible with the other professional technologists for compliance with the rules respecting advertising, unless the advertisement clearly indicates the name of the professional technologists responsible for the advertising or the professional technologists demonstrate that the advertisement was broadcast or published without their knowledge or consent, or despite measures taken to ensure compliance with the rules.

DIVISION XII GRAPHIC SYMBOL OF THE ORDER

86. Where professional technologists reproduce the graphic symbol of the Order for advertising purposes, they shall ensure that the symbol is identical to the original kept by the secretary of the Order.

The advertisement, other than on a business card, must include the following disclaimer: "This is not an advertisement of the Ordre des technologues professionnels du Québec and engages the liability of its author only."

87. This Code replaces the Code of ethics of professional technologists, approved by Order in Council 2442-85 dated 27 November 1985.

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

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