

Draft Regulations

Draft Regulation

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

Certified general accountants — Code of ethics — Amendments

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Code of Ethics of certified general accountants, made by the Bureau of the Ordre professionnel des comptables généraux licenciés du Québec, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

The purpose of the Regulation is to amend the Code of Ethics of certified general accountants to introduce provisions stating the terms and conditions according to which a member of the Ordre professionnel des comptables généraux licenciés du Québec may communicate information that is protected by professional secrecy so as to prevent an act of violence.

These provisions are required by the Act to amend various legislative provisions as regards the disclosure of confidential information to protect individuals (2001, c. 78). That Act permits the lifting of professional secrecy to prevent an act of violence, including a suicide, when the professional has grounds to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons. However, the communication must be limited to such information as is necessary to achieve the purposes for which the information is communicated, and the information may only be communicated to a person exposed to the danger, to that person's representative, or to the persons who can come to that person's aid.

Amendments were also made to address a number of recommendations from the report of the Commission des droits de la personne et des droits de la jeunesse on the exploitation of the elderly to include an express provision precluding reprisals against a person who requested the holding of an inquiry into the professional conduct or competence of a member.

This Regulation contains in accordance with subparagraph 4 of the first paragraph of section 87 (R.S.Q., c. C-26) provisions setting out the conditions and procedure applicable to the exercise of the rights of access and correction provided for in sections 60.5 et 60.6 of the Professional Code and provisions concerning a professional's obligation to release documents to his client.

The Regulation introduces in accordance with subparagraph 5 of the first paragraph of section 87 provisions setting out conditions, obligations and prohibitions in respect of advertising by the members of the order.

The Bureau foresees no other impact on businesses, in particular small and medium-sized businesses.

Further information concerning the Regulation may be obtained by contacting Gilles Nolet, Executive Vice President, Ordre des comptables généraux licenciés du Québec, 445, boulevard Saint-Laurent, Montréal (Québec) H2Y 2Y7, phone number: (514) 861-1823 or 1 800 463-0163; fax number: (514) 861-7661.

Any person having comments to make on the Regulation is asked to send them, before the expiry of the 45 days period, to the Chairman of the Office des professions du Québec, 800 place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. Those 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 made the Regulation, that is the Ordre des comptables généraux licenciés du Québec, and to the interested persons, departments and agencies.

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

Regulation amending the Code of ethics of certified general accountants*

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

1. The Code of ethics of certified general accountants of Québec is amended by adding, after section 3.01.06, the following section:

“**3.01.07.** A member who is notified that an investigation is being conducted or who has been served with a complaint regarding his conduct or his professional qualifications shall not harass, intimidate or threaten the person who requested that such investigation be conducted nor any other person involved in the events related to the investigation or to the complaint.”.

2. This code is amended by substituting for subdivision 6 of Division III the following:

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

3.06.01. A member shall preserve the secrecy of confidential information that becomes known to him in the practice of his profession.

A member may be released from his duty to preserve professional secrecy only upon the authorization of his client or where so ordered by law. He shall also be released from his duty to preserve professional secrecy only pursuant to the third paragraph of section 60.4 of the Professional Code if the terms and conditions provided for in sections 3.06.03 and 3.06.04 are met.

3.06.02. To preserve secrecy with respect to confidential information that becomes known to him in the practice of his profession, a member shall:

(1) refrain from using such information to the detriment of a client or with a view to obtaining, directly or indirectly, a benefit for himself or for another person;

(2) take all necessary steps to ensure that his coworkers and his staff shall not disclose or use such information that becomes known to them in the course of performing their duties;

(3) avoid engaging in or participating in indiscreet conversations with respect to a client and to the services provided to such client.

§6.1. *Lifting professional secrecy in order to ensure the protection of persons*

3.06.03. A member who, pursuant to the third paragraph of section 60.4 of the Professional Code, shall reveal, orally or in writing, information that is protected by professional secrecy in order to prevent an act of violence shall, in respect of each disclosure:

(1) include as soon as possible in the client’s record, in a sealed envelope, the following information:

(a) the identity of the person or group of persons who are in danger;

(b) the identity of the person who prompted the member to disclose the information;

(c) the grounds supporting the decision to disclose the information;

(d) the identity of the person to whom the information was disclosed;

(e) the date and time of the disclosure;

(f) the means of communication used;

(g) the contents of the disclosure;

(2) forward to the Syndic, within five (5) days following the disclosure, notice of disclosure indicating the grounds supporting the decision to disclose the information as well as the date and time of such disclosure.

3.06.04. If the well-being of the person or persons in imminent danger of death or serious bodily injury requires it, a member who is about to disclose information protected by professional secrecy may consult a colleague, a member of another professional corporation or any other competent person, provided such consultation shall not result in a detrimental delay in the disclosure of the information.”.

3. This Code is amended by substituting for subdivision 7 of Division III the following:

* The only amendments to the Code of ethics of certified general accountants of Québec (R.R.Q. 1981, c. C-26, r.30) were made by the Regulation made by Order in Council 441-90 dated April 4, 1990 (1990, G.O. 2, 1161).

“§7. Terms and conditions applicable to the exercise of the rights of access and correction provided for in sections 60.5 and 60.6 of the Professional Code and duty incumbent upon a member to release documents to his client

3.07.01. A member may require that a request contemplated in sections 3.07.03, 3.07.06 or 3.07.08 be made and that the right be exercised at his professional place of business, during regular work hours.

3.07.02. Failing a reply within 20 days following receipt of a request made under sections 3.07.03 or 3.07.06, a member shall be deemed to have refused to accede thereto.

3.07.03. In addition to the specific rules prescribed by law, a member shall, diligently or no later than 20 days following receipt thereof, follow up on any request made by a client with a view to:

(1) examining documents concerning him in any record established in his respect;

(2) obtaining a copy of documents concerning him in any record established in his respect.

3.07.04. A member may, with respect to a request made pursuant to paragraph (2) of section 3.07.03, charge his client reasonable fees not in excess of the cost of reproducing or transcribing documents or the costs of transmitting a copy.

A member charging such fees shall, prior to proceeding with the reproduction, transcription or transmission, notify the client of the approximate amount which he shall be required to pay.

3.07.05. A member who, pursuant to the second paragraph of section 60.5 of the Professional Code, refuses to allow his client access to information contained in a record established in his respect, shall indicate to the client, in writing, that the disclosure would be likely to cause serious harm to the client or to a third person.

3.07.06. In addition to the specific rules prescribed by law, a member shall, diligently and no later than 20 days following receipt thereof, follow up on any request made by a client with a view to:

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

(2) causing to be deleted any information that is outdated or not justified by the object of the record established in his respect;

(3) filing in the record established in his respect the written comments made by the client.

3.07.07. A member who accedes to a request made pursuant to section 3.07.06 shall deliver to the client a copy of the document or the portion thereof enabling the client to determine that the information has been corrected or deleted or, as the case may be, a certificate stating that the written comments made by the client have been filed in the record.

Upon written request by the client, a member shall forward a copy of such information or, as the case may be, of such certificate to any person from whom the client has received such information as well as to any person to whom the information has been communicated.

3.07.08. A member shall diligently follow up on any request made by a client with a view to retrieving possession of a document which the client has entrusted to him.”

4. This Code is amended by adding the following Divisions V and VI after section 4.03.01 :

“DIVISION V CONDITIONS, OBLIGATIONS AND PROHIBITIONS RESPECTING ADVERTISING

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

5.01.02. A member may not, in any manner whatsoever, engage in advertising that is false, incomplete, misleading or likely to mislead, nor may he allow any person to do so.

5.01.03. A member may not use means of advertising that are likely to denigrate or depreciate another member or firm.

5.01.04. A member who advertises fees must do so in a manner which is understandable to the public and, in particular :

(1) maintain the amount of such fees in force for the duration of the period specified in the advertising, which period shall not be less than 90 days following the last authorized broadcast or publication thereof;

(2) specify the services included in the fees.

A member may, however, agree with the client on an lesser amount than that broadcast or published.

5.01.05. A member may not, in any manner whatsoever, in his advertising, place greater importance on fees than on the professional services rendered.

5.01.06. In any advertising with respect to fees, a member shall specify the period during which such fees shall be in force, as the case may be. Such duration shall not be less than 90 days.

5.01.07. A member shall not resort to a method of soliciting clients which is of such nature as to be injurious to the dignity of the profession. He shall not induce any person in a pressing or repeated manner to resort to his professional services.

5.01.08. A member shall not, in his advertising, imply that certain results may be achieved.

5.01.09. A member may not, in his advertising, use or cause to be used an endorsement or testimonial concerning him.

5.01.10. A member shall keep a complete copy of any advertising in its original form, for a period of 12 months following the date of its last broadcast or publication. Upon request, such copy shall be delivered to the Syndic or to the Assistant Syndic.

DIVISION VI GRAPHIC SYMBOL

6.01.01. The Order is represented by a graphic symbol that is in compliance with the original held by the secretary of the Order.

6.01.02. Where the member or the accounting firm reproduces the graphic symbol of the Order for advertising purposes and on his or its stationary, he or it shall ensure that this symbol shall comply with the original held by the secretary of the Order.

6.01.03. A member who publishes an article, an opinion, a commentary or participates in the drafting thereof, and who uses the graphic symbol of the Order, shall include the following warning: "This is not a docu-

ment issued by the Ordre des comptables généraux licenciés du Québec and the liability of the Order cannot be incurred in connection therewith."

5. This regulation replaces the Regulation respecting advertising by certified general accountants (R.R.Q., c. C-26, r.37) which shall cease to be in force upon the date of the coming into force of this Regulation, in accordance with Section 10 of the Act to amend the Professional Code and various Acts constituting professional corporations with respect to professional advertising and certain registers (1990, c. 76).

6. 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 Regulation

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

Notaries

— Terms and conditions for the issuance of permits

Notice is hereby given in accordance with sections 10 and 11 of the *Regulations Act* (R.S.Q., c. R-18.1) that the *Regulation respecting terms and conditions for the issuance of permits by the Chambre des notaires du Québec*, adopted by the Bureau of the Chambre des notaires du Québec, may be submitted to the government, which may approve it with or without amendment upon the expiry of 45 days following this publication.

The purpose of the draft regulation is to collect all the rules for admission to the Chambre des notaires du Québec, with the exception of the list of diplomas giving access to the Chambre permit and determined by government regulation, into one corpus, to create a coherent whole informing all candidates about the steps that must be taken to become a member of the Order. The draft regulation combines, with some amendments, two regulations containing the present rules respecting training equivalence standards and supplementary conditions for access to the Order, and adds new rules respecting diploma equivalence and training period equivalence.

Further information may be obtained by contacting Mre. Nathalie Provost, notary, at Direction des services juridiques, Chambre des notaires du Québec, tour de la Bourse, 800 Place-Victoria, P.O. Box 162, Montréal, QC, H4Z 1L8. Telephone no.: (514) 879-1793 or 1 800 668-2473. Fax no.: (514) 879-1923.