

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

6466

Gouvernement du Québec

O.C. 779-2004, 10 August 2004

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

Chartered accountants
— Code of ethics
— Amendments

Regulation to amend the Code of ethics of chartered accountants

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), the Bureau of the Ordre des comptables agréés 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, the clients and the profession;

WHEREAS the Bureau of the Ordre des comptables agréés du Québec made the Regulation to amend the Code of ethics of chartered accountants;

WHEREAS, under section 95.3 of the Professional Code, 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 31 March 2004 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

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

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation to amend the Code of ethics of chartered accountants, attached to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation amending the Code of ethics of chartered accountants*

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

1. Section 1 of the Code of ethics of chartered accountants is amended:

(1) by replacing the first paragraph by the following:

“1. Each member shall comply with the Chartered Accountants Act (R.S.Q., c. C-48), the Professional Code (R.S.Q., c. C-26) and the regulations thereunder. The member shall, in particular, take reasonable measures to ensure that each person involved with him in the practice of his profession and any partnership or joint-stock company within which he practices his profession complies with the Chartered Accountants Act, the Professional Code and the regulations thereunder.”;

(2) and by the addition of the following at the end of the second paragraph:

“(11) internal auditing.”

2. Section 16 of the Code is amended by the addition of the phrase “or for which he does not have the proficiency or knowledge required” after the word “prepared.”

3. Section 19 of the Code is replaced by the following:

“**19.** A member shall act with due care, in keeping with current professional accounting and assurance standards, with the other standards, rules, and guidance and guidelines set out in the Canadian Institute of Chartered Accountants Handbook and with current scientific knowledge.

A member who is responsible, in whole or in part, for preparing or approving financial statements or for overseeing the accounting and financial reporting processes

* The most recent amendments to the Code of ethics of chartered accountants approved by decree No. 58-2003 dated January 22, 2003 (2003, *G.O.* 2, 861) were made under the regulation approved by decree No. 22-2004 dated January 14, 2004 (2004, *G.O.* 2, 809).

shall also ensure that such statements and processes result in a fair presentation in accordance with generally accepted accounting principles.

For purposes of this Code, “generally accepted accounting principles” are those set out in the Canadian Institute of Chartered Accountants Handbook or any other accounting principles that should be applied in accordance with the law or current scientific knowledge.

19.1. A member who participates in an assurance engagement or a specified auditing procedures engagement shall notify the person responsible for the engagement if the financial statements are not presented fairly in accordance with generally accepted accounting principles.

If, after notification, the financial statements are still not presented fairly, the member shall notify in writing one of the partners or shareholders with voting rights of the partnership or joint-stock company within which he practices his profession. Such partner or shareholder shall hold the most senior position within the partnership or joint-stock company.

The member shall send the notifications provided for in the first and second paragraphs prior to the issuance of the financial statements or, failing which, as soon as possible. He shall also record and retain in the file the purpose of the notifications and the date on which the notifications were sent.

The information and the notifications referred to in the second paragraph shall be retained for a minimum of 24 months from the date they were sent or for any other period provided for under the standards, rules, and guidance and guidelines set out in the Canadian Institute of Chartered Accountants Handbook.

19.2. A member who is responsible for applying generally accepted accounting principles or for overseeing their application within an enterprise that is the subject of an engagement contemplated in section 19.1 shall notify his immediate superior if the financial statements are not presented fairly in accordance with these principles.

If, after such notification, the financial statements are still not presented fairly, the member shall also notify in writing the enterprise’s audit committee or similar body or, where there is no audit committee or similar body, the board of directors and the professional responsible for the engagement.

A member shall satisfy the obligations provided for in the third and fourth paragraphs of section 19.1.

19.3. A member who prepares or approves, in whole or in part, financial statements prepared solely for internal use within an enterprise or for a specified user within the meaning of Section 5600 of the Canadian Institute of Chartered Accountants Handbook is dispensed from satisfying the obligations set out in sections 19, 19.1 and 19.2.”.

4. Section 20 of the Code is revoked.

5. The Code is amended by the addition of the following after section 22 :

“**22.1.** A member who signs an assurance report shall indicate in the report whether it was prepared by him alone or by several chartered accountants.”.

6. Division II, Chapter II of the Code is amended by replacing its heading by the following : “INTEGRITY.”

7. Section 23 of the Code is replaced by the following :

“**23.** A member shall perform his professional duties with integrity and objectivity.”.

8. Section 24 of the Code is amended by the replacement of the words “services or” by the following phrase : “services, the professional services generally performed by the other persons who carry out their professional activities within the partnership or joint-stock company within which the member practices his profession, or”.

9. The Code is amended by the addition of the following after section 25 :

“**25.1** A member shall not perform an assurance engagement or a specified auditing procedures engagement for a fee that is lower than that charged by the member or partnership or joint-stock company he is replacing, or contained in other proposals for the engagement, except in the following circumstances :

(1) the persons assigned to the engagement are qualified and are devoting the appropriate time to it ; and

(2) there is compliance with professional assurance standards, other standards, rules and guidance and guidelines set out in the Canadian Institute of Chartered Accountants Handbook.

25.2. A member who provides professional services other than those provided in engagements referred to in section 36.4 shall disclose in any report or other document, including that accompanying the financial statements or the financial information, which is addressed to a person other than his employer, the nature and

extent of any influence, interest or relationship which, in respect of the engagement, may be perceived as impairing his professional judgment or objectivity.”.

10. Sections 26 to 33 of the Code are revoked.

11. Section 34 of the Code is amended by the removal of the phrase “even when subject to a disclaimer of responsibility;” before subsection (1).

12. Section 35 of the Code is revoked.

13. Section 36 of the Code is amended by the addition of the phrase “or who participates in such an engagement” after the words “procedures engagement” before subsection (1).

14. The Code is amended by the addition of the following after section 36:

“**36.1.** A member shall handle with reasonable care any property entrusted to him by a client or employer.

36.2. A member who receives, handles or holds money or securities as a trustee, guardian, administrator, agent or liquidator shall maintain such records as are necessary to account for his management, custody, mandate or contract.

The money or securities thus received, handled or held shall be kept in a separate trust account or accounts in a financial institution.

Except when specifically authorized in writing by a client, a member shall not use, transfer, withdraw or otherwise employ such money or securities as payment for his fees or for purposes other than those for which they were entrusted.

DIVISION II.1 INDEPENDENCE

§1. Definitions

36.3. For purposes of this Subdivision, the following terms mean:

“affiliate”: a company that has control over the client, or over which the client has control, or which is under common control with the client, including the client’s parent company or one of its subsidiaries;

“engagement period”: period that starts on the date when the member or the partnership or joint-stock company commits to perform the engagement and ends on the date when the resulting report is issued. For an engagement of a recurring nature, the period ends:

(1) in the case of an audit or review engagement referred to in section 36.8, on the date of notification by the client, the member or the partnership or joint-stock company within which the member practices his profession that the professional relationship has terminated or on the date the final assurance report is issued, whichever is later;

(2) in the case of an audit engagement referred to in section 36.9, on the date when the listed enterprise, the member or the partnership or joint-stock company within which the member practices his profession notifies the securities regulator that the listed enterprise is no longer an audit client of the partnership or joint-stock company within which the member practices his profession;

“engagement team”: all persons within the partnership or joint-stock company participating in the engagement, who provide quality control for the engagement and all other persons within the partnership or joint-stock company who are in a position to directly influence the outcome of the engagement;

“financial interest”: a security within the meaning of the Securities Act (R.S.Q., c.V-1.1), a share, including the option to purchase such security or such share and their derivatives or any other debt instruments;

“listed enterprise”: an enterprise whose shares, debt or other securities are quoted or listed on a stock exchange recognized by a Canadian or foreign securities regulator or that is subject to the standards established by such stock exchange, and that has market capitalization or total assets of \$10 million or more;

“network partnership or joint-stock company”: a partnership or joint-stock company that is, or can be perceived as being, under common control, ownership or management with the partnership or joint-stock company within which the member practices his profession.

“related entity”: an enterprise that exercises control over another enterprise within the meaning of Section 3840 of the Canadian Institute of Chartered Accountants Handbook.

§2. General provisions

36.4. A member who performs or participates in an assurance engagement or a specified auditing procedures engagement shall remain free of any influence, interest or relationship which, in respect of the engagement, may impair or be perceived as impairing his professional judgment or objectivity.

36.5. A member who is a partner or shareholder with voting rights of the partnership or joint-stock company within which he practices his profession or who is in a management position within the partnership or joint-stock company shall not provide a professional service, other than an assurance service, to a client or an affiliate when a person within his partnership or joint-stock company or network partnership or joint-stock company performs an audit or review engagement for such client or affiliate, if the member, or a dependent or spouse, holds and controls a financial interest in the client or affiliate, or holds a financial interest therein that allows him to exercise significant influence over the client's directors or officers within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook.

However, a member may provide a professional service, other than an assurance service, if the service is clearly insignificant considering the fees invoiced or the nature of the service provided.

36.6 In an engagement to provide professional services in insolvency as a trustee in bankruptcy, a liquidator, a receiver-manager or an administrator within the meaning of the Bankruptcy and Insolvency Act, a member shall remain free of any influence, interest or relationship which, in respect of the engagement, may impair or be perceived as impairing his professional judgment or objectivity.

§3. Breaches of the independence rule

§§3.1. Assurance engagement or specified auditing procedures engagement

36.7 A member commits a breach of the independence rule contemplated in section 36.4 if, in the context of an assurance engagement or a specified auditing procedures engagement:

(1) the member participates on an engagement team when he, or a dependent or spouse, holds and controls a financial interest in the client or holds a financial interest in the client that allows him to exercise significant influence over the client's directors or officers within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(2) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when the member or partnership or joint-stock company holds and controls a financial interest in the client or holds a financial interest in the client that allows him to exercise significant influence over the

client's directors or officers within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(3) the member or partnership or joint-stock company within which he practices his profession performs such an engagement for a client:

(a) when the partnership or joint-stock company has a loan from or has a loan guaranteed by the client, except when the client is a bank or other financial institution and the loan or guarantee is immaterial to the partnership or joint-stock company and the client, the loan or guarantee is made under terms and conditions that would have been imposed on any other person in similar circumstances, and the partnership or joint-stock company is complying with the terms of the loan;

(b) that is not a bank or other financial institution when the partnership or joint-stock company has a loan to the client;

(c) when the partnership or joint-stock company guarantees a loan of the client;

(4) the member or partnership or joint-stock company within which he practices his profession performs such an engagement for a client:

(a) when the partnership or joint-stock company has a loan from or has a loan guaranteed by an officer or director of the client or a shareholder of the client who owns more than 10% of the equity securities of the client;

(b) when the partnership or joint-stock company has a loan to or guarantees a loan of an officer or director of the client or a shareholder of the client who owns more than 10% of the equity securities of the client;

(5) the member participates on the engagement team when:

(a) he has a loan from or has a loan guaranteed by:

i. the client, unless the client is a bank or other financial institution, the loan or guarantee is made under terms and conditions that would have been imposed on any other person in similar circumstances and the member is complying with the terms of the loan;

ii. an officer or director of the client; or

iii. a shareholder of the client who owns more than 10% of the equity securities of the client;

(b) he has a loan to or guarantees a loan of the client, other than a bank or other financial institution, of an officer or director of the client, or of a shareholder of the client who owns more than 10% of the equity securities of the client;

(6) the member or partnership or joint-stock company within which he practices his profession performs an engagement when the partnership or joint-stock company has a business relationship with the client or its directors or officers unless the business relationship is clearly insignificant to the partnership or joint-stock company, the client, or its directors and officers, as the case may be;

(7) the member participates on the engagement team when he has a business relationship with the client or its directors or officers, unless the business relationship is clearly insignificant to the member, the client or its directors and officers, as the case may be;

(8) the member participates on the engagement team when a dependent or spouse of the member is a director or officer of the client or an employee of the client in a position to exercise direct and significant influence, within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook, over the subject matter of the engagement, or was in such a position during the period covered by the financial statements subject to the engagement or the engagement period;

(9) the member participates on the engagement team when he served as an officer or director for the client or performed functions for the client that put him in a position to exercise direct and significant influence, within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook, over the subject matter of the engagement during the engagement period;

(10) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when the member or any other person practicing professional activities therein serves as an officer or director for the client;

(11) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during the engagement period, the member, the partnership or joint-stock company or any other person practicing professional activities therein makes a management decision or performs management functions for the client;

(12) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during the engagement period, the member, the partnership or joint-stock company or any other person practicing professional activities therein provides any of the following services to the client:

(a) promoting, dealing in or underwriting the client's securities;

(b) making investment decisions on behalf of the client or otherwise having discretionary authority over the client's investments;

(c) executing a transaction to buy or sell the client's investments; or

(d) safeguarding assets of the client;

(13) the member participates on an engagement team and he or the partnership or joint-stock company within which he practices his profession accepts a gift or hospitality, including a product or service discount, from the client, unless the gift or hospitality is clearly insignificant to the member or partnership or joint-stock company.

§§3.2. *Audit or review engagement and audit of a listed enterprise*

§§§3.2.1. *Audit or review engagement*

36.8 A member commits a breach of the independence rule contemplated in section 36.4 if, in the context of an audit or review engagement:

(1) the member, partnership or joint-stock company within which he practices his profession, or a network partnership or joint-stock company is in a situation described in subsections 36.7(1) to (5), (12) or (13). For the application of these subsections, the word "client" includes affiliates;

(2) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when the member, partnership or joint-stock company, or a network partnership or joint-stock company holds and controls a financial interest in the client or an affiliate or holds a financial interest in the client or an affiliate that allows him to exercise significant influence over the client's directors or officers within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(3) the member, as the person with primary responsibility for an engagement for a client, performs the engagement at the main office in which one of the partners or shareholders with voting rights of the partnership or joint-stock company practices when this partner, this shareholder, a dependent or spouse holds and controls a financial interest in the client or an affiliate, or holds a financial interest in the client or an affiliate that allows him to exercise significant influence over the client's directors or officers within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(4) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when the pension or retirement plan of the partnership or joint-stock company, or of a network partnership or joint-stock company, holds and controls a financial interest in the client or an affiliate, or holds a financial interest in the client or an affiliate that allows him to exercise significant influence over the client's directors or officers within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(5) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when the partnership or joint-stock company, or a network partnership or joint-stock company, holds a financial interest in an enterprise, and the member or the partnership or joint-stock company knows that the client or an affiliate, or a director, officer or controlling person of the client or affiliate, within the meaning of subsection 2 (3) of the Canada Business Corporations Act (R.S.C. 1985, c. C-44), also holds a financial interest in the enterprise, unless the client or affiliate is not in position to exercise significant influence over the enterprise within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(6) the member participates on the engagement team or any other team within a network partnership or joint-stock company that is in a position to influence the engagement when the member holds a financial interest in an enterprise and knows that the client or a director, officer or controlling person of the client or an affiliate holds a financial interest in the enterprise, unless the client is not in a position to exercise significant influence over the enterprise within the meaning of Sections 3050 and 3840 of the Canadian Institute of Chartered Accountants Handbook;

(7) the member or partnership or joint-stock company within which he practices his profession performs such an engagement for a client or an affiliate when a partner

or shareholder with voting rights of the partnership or joint-stock company within which he practices his profession, any person contemplated in paragraph (2)(1a) of the Regulation respecting the practice of the chartered accountancy profession within a partnership or a joint-stock company, approved by Order in Council 57-2003 dated January 22, 2003, or any candidate for the practice of one of the accounting professions employed by the partnership or joint-stock company, or a dependent or spouse, owns more than 0.1% of the securities of the client or affiliate within the meaning of section 1 of the Securities Act, or controls the client or affiliate by means other than the ownership of the majority of the common shares of the client or affiliate;

(8) the member participates on the engagement team or any other team within a network partnership or joint-stock company within which he practices his profession that is in a position to influence the engagement when the member knows that a parent, non-dependent child or sibling owns more than 0.1% of the securities of the client or an affiliate within the meaning of section 1 of the Securities Act, or controls the client or affiliate by means other than the ownership of the majority of the common shares of the client or affiliate;

(9) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when the partnership or joint-stock company or a network partnership or joint-stock company has a business relationship with the client or its directors or officers, unless such business relationship is clearly insignificant to the partnership or joint-stock company or network partnership or joint-stock company and the client or its directors or officers, as the case may be;

(10) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when a person within a network partnership or joint-stock company serves as an officer or a director of the client other than serving as secretary and the practice is permitted under the law or standards of practice, and the duties undertaken are exclusively administrative in nature;

(11) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or review or the engagement period, a person within a network partnership or joint-stock company makes a management decision or performs management functions for the client;

(12) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or review or the engagement period, the member or another person within the partnership or joint-stock company or within a network partnership or joint-stock company :

(a) prepares or changes a journal entry, determines or changes an account code or a classification for a transaction, or prepares or changes another accounting record without obtaining the approval of the client's management ; or

(b) prepares a source document or originating data, or makes a change to such a document or data ;

(13) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or review or the engagement period, the member, the partnership or joint-stock company, a network partnership or joint-stock company or a person within the partnership or joint-stock company or network partnership or joint-stock company provides legal services to the client other than those referred to in section 141 of the Act respecting the Barreau du Québec (R.S.Q., c. B-1) in the resolution of a dispute or litigation in circumstances where the matters in dispute or subject to litigation are material in relation to such financial statements.

§§§3.2.2. *Audit of a listed enterprise*

36.9 A member commits a breach of the independence rule contemplated in section 36.4 if, in the context of an audit of a listed enterprise :

(1) the member participates on the engagement team, or a team within a network partnership or joint-stock company that is in a position to influence the engagement when a parent, non-dependent child or sibling is in an accounting role or a financial reporting oversight role at the client that puts the parent, non-dependent child or sibling in a position to exercise influence over either the contents of the financial statements or anyone who prepares them, or was in such a position during any period covered by the engagement ;

(2) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when a person who participated in an audit of the financial statements of the listed enterprise has accepted employment in a financial reporting oversight role with respect to the enterprise before a period

of one year has elapsed from the date on which the financial statements were filed with a stock exchange recognized by a Canadian or foreign securities regulator ;

(3) the member performs such an engagement for a listed enterprise, or a related entity, when a person practicing professional activities within the partnership or joint-stock company within which the member practices his profession, or within a network partnership or joint-stock company, serves as an officer or a director of the related entity or as secretary for the related entity ;

(4) the member continues as the person with primary responsibility for the engagement or as the engagement quality control reviewer on such an engagement for a listed enterprise for more than five years, and thereafter resumes or assumes such functions before a further five years have elapsed from the date on which he ceased to perform these functions ;

(5) the member, who has responsibility for decision-making on auditing, accounting and reporting matters that affect the performance of the engagement, or who maintains regular contact with the audit committee or management of the listed enterprise and provides more than ten hours of assurance services during the engagement period in connection with the annual financial statements or the interim financial information of the listed enterprise, or who has primary responsibility for an audit engagement for a subsidiary of the listed enterprise, continues in such role or roles for more than seven years and thereafter resumes or assumes such functions before a further two years have elapsed from the date on which he ceased to perform these functions. However, this provision does not extend to members who consult with the engagement team regarding technical or industry-specific issues, transactions or events ;

(6) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or the engagement period, another person within the partnership or joint-stock company or a network partnership or joint-stock company makes a management decision or performs management functions for the listed enterprise or a related entity ;

(7) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or the engagement period, the member, the partnership or joint-stock company, a network partnership or joint-stock company or another person within the partnership or joint-stock

company or a network partnership or joint-stock company, provides professional services to the listed enterprise or a related entity, the results of which are likely to be subject to audit procedures during the financial statement audit, including one of the following services, unless the member determines that the results of these services will not be subject to such procedures:

(a) accounting or bookkeeping services related to the accounting records or financial statements to be audited;

(b) valuation services;

(c) actuarial services;

(d) internal audit services that relate to the enterprise's internal accounting controls, financial systems or financial statements;

(e) financial information systems design, implementation, operation or management services;

(8) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or the engagement period, the member, the partnership or joint-stock company, a network partnership or joint-stock company or another person within the partnership or joint-stock company or a network partnership or joint-stock company, provides one of the following professional services to a listed enterprise or a related entity:

(a) services that consist in providing an expert opinion or other expert service for the listed enterprise or a legal representative thereof, for the purpose of advocating the enterprise's interest in a civil, criminal, regulatory, administrative or legislative proceeding or investigation;

(b) legal services other than those referred to in section 141 of the Act respecting the Barreau du Québec;

(c) human resource management services that involve:

i. searching for or seeking out prospective candidates for management, executive or director positions;

ii. engaging in psychological testing, or other formal testing or evaluation programs;

iii. undertaking reference checks of prospective candidates for an executive or director position;

iv. acting as a negotiator or mediator on the listed enterprise's behalf with respect to employees or future employees concerning any condition of employment, including position, status or title, compensation or fringe benefits; or

v. recommending that the enterprise hire a specific candidate for a specific job or advising it to do so;

(9) the member or partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or the engagement period, an audit partner or shareholder with voting rights who is on the engagement team earns or receives compensation for procuring any engagement that is not an assurance engagement from the listed enterprise, unless the partnership or joint-stock company within which the member practices his profession has fewer than five audit clients that are listed enterprises and fewer than ten partners or shareholders with voting rights;

(10) the member or partnership or joint-stock company within which he practices his profession provides services to a listed enterprise or a related entity without the prior approval of the audit committee, unless the following conditions exist:

(a) the services do not represent more than 5% of total audit fees paid by the listed enterprise and a related entity to the member, the partnership or joint-stock company and network partnerships or joint-stock companies in the fiscal year in which the services are provided;

(b) the services were recognized as assurance services at the time of the engagement;

(c) the provision of these services is promptly brought to the attention of the audit committee; and

(d) the audit committee or one or more designated representatives approves the services prior to the completion of the audit for the listed enterprise or the related entity;

(11) the member or the partnership or joint-stock company within which he practices his profession performs such an engagement when, during either the period covered by the financial statements subject to audit or the engagement period, a person within the partnership or joint-stock company or a network partnership or joint-stock company provides services referred to in subsection 36.7(12) to a related entity.

§§3.3. *Measures to evaluate compliance with the independence rule and obligations imposed on members*

36.10. A member who is required to comply with the independence rule provided for in section 36.4 shall, in respect of the particular engagement, identify threats to independence, evaluate the significance of those threats and, if the threats are other than clearly insignificant, identify and apply measures to reduce or eliminate them. The member shall document the decision to accept or continue the particular engagement. The documentation shall include the following information :

- (1) a description of the nature of the engagement ;
- (2) the threats identified ;
- (3) the measures identified and applied to reduce or eliminate the threats ; and
- (4) an explanation of how the measures reduce or eliminate the threats.

Where the threats cannot be reduced, the member shall :

- (1) eliminate the activity, relationship, influence or interest creating the threats ; or
- (2) refuse to accept or continue the engagement.

36.11. A member who violates section 36.4 shall communicate this violation in writing, on a timely basis, to another member, partner or shareholder with voting rights of the partnership or joint-stock company duly appointed by the board of directors or a similar internal management board of the partnership or joint-stock company.

A member who has been assigned to an engagement team to perform assurance services or apply specified auditing procedures shall also communicate in writing to the designated member any situation or facts that would put this member in violation of section 36.4.

DIVISION II.2
CONFLICT OF INTEREST

36.12. A member shall not place himself in a situation where his loyalty to his client or employer may be compromised.

Subject to section 36.13, a member shall not place himself in a position where his self-interest or the interest of the partnership or joint-stock company within which

he practices his profession conflicts, or would be perceived as conflicting, with the interest of his client or the clients of the partnership or joint-stock company.

A member shall inform his client or employer of any interests, business connections or relationships of which the client or employer should be informed.

36.13. A member shall, before agreeing to provide professional services, determine whether there is any restriction, influence, interest or relationship which, in respect of these professional services, would place him, or would be perceived as placing him, in a conflict of interest position.

Conflict of interest situations shall be assessed in respect of all clients of the partnership or joint-stock company.

36.14. A member shall decline to perform professional services or cease to provide such services if the performance of the services creates a conflict of interest or is perceived as creating a conflict of interest, or as soon as he discovers a conflict of interest or is perceived as being in a conflict of interest position, unless the affected clients have knowledge of the conflict of interest and have consented to it or the member uses conflict management techniques and obtains the consent of all affected clients before performing the professional services.”.

15. Section 38 of the Code is amended by the following :

“**38.** A member shall not hold, receive, bargain for or acquire, directly or indirectly, any compensation, fee or benefit for personal advantage or for the advantage of the partnership or joint-stock company within which he practices his profession without the client’s knowledge and consent or without his employer’s knowledge and consent as the case may be.”.

16. The Code is amended by the addition of the following after section 39 :

“DIVISION II.3
ACCESS TO RECORDS”

17. Sections 40 to 45 of the Code are revoked.

18. The Code is amended by the addition of the following after section 46 :

“**46.1.** A member shall promptly return to a client or, if so instructed by such client, to his successor, the records and documents belonging to the client, whether or not his fees have been paid.”.

19. Section 47 of the Code is revoked.

20. The Code is amended by the addition of the following before section 48:

**“DIVISION II.4
PROFESSIONAL SECRECY”**

21. Section 52 of the Code is amended by the addition of the following after subsection (3):

“(4) refusal by the client to recognize an obligation for the professional fees and expenses or, after being given reasonable notice, to pay an amount to the member to cover such fees and expenses.”

22. Section 57 of the Code is amended by the addition of the phrase “unless he can reasonably assume that the client is already informed” after the word “services.”

23. The Code is amended by the addition of the following after section 59:

“59.1. Subject to a decision of a court or other authority, a member shall not agree on a contingent fee with a client, i.e. offer or undertake to perform professional services for a fee payable only where a specified result of the service will be obtained or determined by reference to the result of the service:

(1) for any professional service requiring the member to hold himself free of any influence, interest or relationship which, in respect to the performance of his professional services, may impair or be perceived as impairing his professional judgment or objectivity;

(2) for a compilation engagement.

59.2. Subject to a decision of a court or other authority, a member shall not agree on a contingent fee with a client for a professional service not referred to in section 59.1 when such an agreement is liable to:

(1) impair or be perceived as impairing his professional judgment or objectivity in the performance of the professional services provided for under subsection 59.1(1);

(2) influence or be perceived as influencing the results of a compilation engagement.

59.3. Notwithstanding section 59.2, a member may agree on a contingent fee with a client for the following professional services:

(1) tax refund claims;

(2) assisting in tax appeals or preparing notices of objection to tax or tax assessments and reassessments;

(3) executive search services;

(4) personal financial planning services.

59.4. A member who charges a contingent fee shall have agreed with the client in writing on the basis for determining the fee before he begins to perform the professional services.

If the nature of the professional services changes while they are being performed, the member shall reassess whether the conditions set out in sections 59.1 and 59.2 are still met.”

TRANSITIONAL AND FINAL PROVISIONS

24. A member referred to in subsection 36.9(4) with primary responsibility for the engagement may continue to perform that function until the end of the second fiscal year of the client commencing before 9 September 2004.

25. A member who has commenced to assume primary responsibility for the engagement as provided for in subsection 36.9(4) prior to the end of the client’s second fiscal year commencing before 9 September 2004, may continue in that role for five years, notwithstanding the number of years, if any, that the member was previously the engagement quality control reviewer for the client.

26. A member referred to in subsection 36.9(4) acting as engagement quality control reviewer may continue in that role until the end of the third fiscal year of the client commencing before 9 September 2004.

27. A member referred to in subsection 36.9(5) may continue to perform the functions for a maximum of seven years following 9 September 2004.

28. A member or partnership or joint-stock company within which he practices his profession may continue to perform the engagement referred to in subsection 36.9(9), notwithstanding that a partner or shareholder contemplated in that subsection receives compensation during the fiscal year of the partnership or joint-stock company that includes 9 September 2004.

29. A member or partnership or joint-stock company within which he practices his profession may continue to offer the professional services referred to in subsections 36.9(7) and (8), provided that:

(1) there exists before 9 September 2004 or on the date of the first annual meeting held by the listed enterprise after July 1, 2004 but no later than July 1, 2005, a binding contract for the member or partnership or joint-stock company within which the member practices his profession to provide the professional services;

(2) the contract is completed before December 31, 2005.

30. A member or partnership or joint-stock company within which he practices his profession may continue to offer the professional services referred to in subsection 36.9(10) of this Regulation provided that:

(1) there exists before 9 September 2004 a binding contract for the member or partnership or joint-stock company to provide the professional services; and

(2) the contract is completed before the 365th day of the coming into force of the Regulation.

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

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Gouvernement du Québec

O.C. 780-2004, 10 August 2004

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

Hyperbaric chamber operator — Professional activities that may be engaged in by a hyperbaric chamber operator

Regulation respecting the professional activities that may be engaged in by a hyperbaric chamber operator

WHEREAS, under paragraph *h* of section 94 of the Professional Code (R.S.Q., c. C-26), the Bureau of a professional order may, by regulation, determine, among the professional activities that may be engaged in by members of the order, those that may be engaged in by the persons or categories of persons indicated in the regulation, and the terms and conditions on which such persons may engage in such activities;

WHEREAS, under section 94.1 of the Code, the Bureau may, in a regulation that it is authorized to make under this Code or under an Act constituting the professional order, make compulsory a standard established by a

government or body; it may provide that reference to such a standard includes any subsequent amendment made to it;

WHEREAS section 95 of the Code provides that, subject to sections 95.1 and 95.2, every regulation made by the Bureau under this Code or an Act constituting a professional order shall be transmitted to the Office for examination; it shall be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS the Bureau of the Collège des médecins du Québec made the Regulation respecting professional activities that may be performed by a hyperbaric chamber operator;

WHEREAS, in accordance with the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 4 February 2004 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

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

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation respecting the professional activities that may be engaged in by a hyperbaric chamber operator, attached to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation respecting the professional activities that may be engaged in by a hyperbaric chamber operator

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h* and s. 94.1)

1. The purpose of this Regulation is to determine, among the professional activities that may be engaged in by physicians, those that, pursuant to the terms and conditions set out in the Regulation, may be engaged in by a hyperbaric chamber operator who engages in the