

Draft Regulations

Draft Regulation

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

Pharmacists

- Code of ethics
- Amendments

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 to amend the Code of ethics of pharmacists, adopted by the Bureau of the Ordre des pharmaciens du Québec, 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 pharmaciens du Québec, the main purpose of this draft Regulation is to adapt certain rules of ethics to the realities of the practice of pharmacy within a joint-stock company or partnership as provided for in the draft Regulation respecting the practice of pharmacy within a joint-stock company or a partnership.

The draft Regulation will have no impact on citizens or businesses.

Further information may be obtained by contacting Pierre Ducharme, Secretary General of the Ordre des pharmaciens du Québec, 266, rue Notre-Dame Ouest, bureau 301, Montréal (Québec) H2Y 1T6; telephone: (514) 284-9588 or 1 800 363-0324; fax: (514) 284-2285.

Any person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chair 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 interested persons, departments and bodies.

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

Regulation to amend the Code of ethics of pharmacists*

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

1. The Code of ethics of pharmacists is amended by inserting the following after section 1.02:

“**1.03.** A pharmacist shall take reasonable measures to ensure that the joint-stock company or partnership of pharmacists and the persons, employees, shareholders or partners who collaborate with the pharmacist in the pharmacist’s practice comply with the Pharmacy Act (R.S.Q., c. P-10), the Professional Code (R.S.Q., c. C-26) and the regulations made thereunder.

1.04. When acting in the capacity of director or officer of a joint-stock company or partnership of pharmacists, a pharmacist shall ensure that the obligations towards the joint-stock company or partnership are not exercised in a manner that is incompatible with the pharmacist’s obligations towards patients, the public or the profession.”.

2. Section 3.02.02 is amended by replacing “and of those generally provided by” by “and, where applicable, the services of the persons who carry on their activities within a joint-stock company or partnership of pharmacists and generally of”.

3. Section 3.04.01 is replaced by the following:

“**3.04.01.** No pharmacist shall, in the practice of the profession, elude or attempt to elude, in respect of his patients, his personal civil liability or the liability of the persons with whom he practises, or the liability of the joint-stock company or partnership of pharmacists within which he carries on professional activities or the liability of any other person carrying on activities therein. A pharmacist is also prohibited from inserting in a contract for professional services a clause directly or indirectly excluding, in whole or in part, that liability.”.

* The Code of ethics of pharmacists (R.R.Q., 1981, c. P-10, r.5) was last amended by the regulation approved by Order in Council 23-2004 dated 14 January 2004. For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2004, updated to 1 March 2004.

4. Section 3.05.01 is amended by inserting “and the interest of the joint-stock company or partnership of pharmacists within which he carries on professional activities or in which he has an interest” after “interest”.

5. Section 3.05.05 is amended

(1) by inserting “the” before “sharing” and “or to the extent that both practise within the same joint-stock company or partnership of pharmacists” after “responsibilities”;

(2) by adding the following paragraph at the end: “A pharmacist may allocate his income to the joint-stock company or partnership of pharmacists within which he practises.”.

6. Section 3.05.08 is amended by striking out “or a partnership of pharmacists”.

7. Section 3.05.09 is amended

(1) by striking out “or a partnership of pharmacists”;

(2) by replacing “or pharmacy” by “, joint-stock company or partnership of pharmacists or pharmacy”.

8. Section 3.05.10 is amended

(1) by striking out “or a partnership of pharmacists”;

(2) by replacing “the partnership” by “the joint-stock company or partnership”.

9. Section 4.01.01 is amended

(1) by replacing “and 58” in the part preceding paragraph *a* by “, 58 and 59.1 and those that may be determined pursuant to the second paragraph of section 152”;

(2) by inserting the following after paragraph *e*:

“(e.1) if the pharmacist has no interest in a joint-stock company or partnership of pharmacists, allowing the use of his name to give the impression that he has an interest in the joint-stock company or partnership;”;

(3) by replacing paragraph *t* by the following:

“(t) sharing his fees or the profit resulting from the sale of medicines with a person who is not a pharmacist, except with a joint-stock company or partnership of pharmacists;”;

(4) by adding the following at the end:

“(v) practising the profession within a joint-stock company or partnership of pharmacists in which persons other than pharmacists have an interest; and

(w) having an interest in a joint-stock company or partnership of pharmacists with persons other than pharmacists.”.

10. The following is added after section 4.01.01:

4.01.02. It is also derogatory to the dignity of the profession of pharmacist for a pharmacist who practises or has an interest in a joint-stock company or partnership of pharmacists to

(a) fail to take reasonable measures to put an end to an act derogatory to the dignity of the profession performed by a person carrying on professional activities within the joint-stock company or partnership and of which the pharmacist has been aware for more than 30 days, or to prevent such an act from being repeated;

(b) continue his activities within the joint-stock company or partnership when, within 10 days after the effective date of a striking from the roll or permit revocation, the representative within the meaning of the Regulation respecting the practice of pharmacy within a joint-stock company or a partnership (*insert the number and date of the Order in Council approving the Regulation*), a partner, shareholder, director, officer or employee continues to perform his duties or to directly or indirectly hold rights as a shareholder or partner.

4.01.03. It is also derogatory to the dignity of the profession of pharmacist for a pharmacist to practise within a joint-stock company or partnership that holds itself out to be or gives the impression that it is a joint-stock company or partnership of pharmacists when any of the obligations under the Professional Code or the Regulation respecting the practice of pharmacy within a joint-stock company or a partnership have not been met.

4.01.04. It is also derogatory to the dignity of the profession of pharmacist for a pharmacist to enter into an agreement or permit an agreement to be entered into within a joint-stock company or partnership of pharmacists holding itself out to be a joint-stock company or partnership, including a unanimous agreement between shareholders that operates to impair the independence, objectivity and integrity required for the practice of pharmacy or compliance by the pharmacists with the Pharmacy Act, the Professional Code and the regulations made thereunder.”.

11. Section 5.01 is amended

(1) by replacing “A pharmacist or a partnership of pharmacists may not engage in, or allow” in the first paragraph by “No pharmacist shall engage in or permit”;

(2) by replacing “on his or its behalf,” in the first paragraph by “on his behalf, or on behalf of the joint-stock company or partnership within which the pharmacist practises,”;

(3) by replacing “dans sa publicité” in the second paragraph of the French text by “dans une publicité”.

12. Section 5.02 is amended

(1) by striking out “or a partnership of pharmacists”;

(2) by replacing “dans sa publicité” in the French text by “dans une publicité”.

13. Section 5.03 is amended

(1) by striking out “or a partnership of pharmacists” and “or its”.

(2) by replacing “dans sa publicité” in the French text by “dans une publicité”.

14. Section 5.05 is amended

(1) by replacing “All members of a partnership of pharmacists” by “The shareholders, directors and officers of a joint-stock company and the partners of a partnership of pharmacists”;

(2) by replacing “jointly and severally” by “solidarily”.

15. Section 5.06 is amended

(1) by replacing “A pharmacist or a partnership of pharmacists may not, in advertising, associate or allow the association of the pharmacist’s or partnership’s” in the first paragraph by “No pharmacist shall, in advertising, associate or permit the association of the pharmacist’s”;

(2) by adding “, other than a joint-stock company or partnership of pharmacists” in the first paragraph after “Québec”;

(3) by replacing the second paragraph by the following:

“Despite the first paragraph, a pharmacist or a joint-stock company or partnership of pharmacists whose activities other than those related to the practice of pharmacy are carried on under a commercial name may mention that affiliation in advertising, provided that the name and address of the pharmacist or, as the case may be, the name and address of the head office of the joint-stock company or partnership of pharmacists are mentioned in the advertising. In printed advertising and on billboards, the name and address of the pharmacist or, as the case may be, the name and address of the head office of the joint-stock company or partnership of pharmacists must be more prominent than the commercial name. In radio and television commercials, the name and address of the head office of the joint-stock company or partnership of pharmacists must be mentioned clearly and must be more prominent than the commercial name.”;

(4) by replacing the third paragraph by the following:

“Advertising under the second paragraph may not suggest or give the impression that the professional services described are offered by a natural person or a joint-stock company or partnership other than the pharmacist whose name and address are mentioned in the advertising who has an interest in or is an employee of the joint-stock company or partnership of pharmacists mentioned in the advertising or who practices within the joint-stock company or the partnership.”;

(5) by striking out “corporate” in the fourth paragraph.

16. Section 5.07 is replaced by the following:

“**5.07.** No pharmacist shall, by any means whatsoever, engage in advertising intended for the public or permit such advertising on his behalf or on behalf of the joint-stock company or partnership of pharmacists within which he practises, if the advertising is for medicines listed in the Schedule to the Narcotic Control Act (R.S.C. 1985, c. N-1) or in Schedule G to the Food and Drugs Act (R.S.C. 1985, c. F-27).”.

17. Section 5.08 is replaced by the following:

“**5.08.** No pharmacist shall engage in advertising intended for the public, or permit such advertising, if the advertising is for a medicine requiring a prescription.

A pharmacist may, inside a pharmacy, indicate on a fixed sign the price of a medicine referred to in the first paragraph, provided that the price includes the fees charged for filling or renewing a prescription for the medicine. The sign must also indicate the professional services included in the fees.”

18. Section 5.09 is amended

(1) by replacing “allows the advertisement on his behalf of a non-prescription medicine,” in the part preceding subparagraph 1 of the first paragraph by “permits the advertising of a non-prescription medicine on his behalf or on behalf of the joint-stock company or partnership of pharmacists within which he practises,”;

(2) by replacing “advertisement” in subparagraphs 1, 2 and 3 of the first paragraph by “advertising”.

19. Section 5.10 is amended

(1) by striking out “or a partnership of pharmacists”;

(2) by replacing “de sa pharmacie” in the French text by “de la pharmacie”;

(3) by replacing “relatifs” in the French text by “concernant”.

20. Section 5.11 is amended

(1) by striking out “or a partnership of pharmacists”;

(2) by striking out “or itself”.

21. Section 5.12 is amended

(1) by striking out “or a partnership of pharmacists”;

(2) by inserting “including advertising by the joint-stock company or partnership of pharmacists in which the pharmacist has an interest,” after “in its original form,”.

22. The following is inserted after section 5.12:

“**5.13.** A pharmacist who practises within a joint-stock company or partnership of pharmacists must ensure that advertising by the joint-stock company or partnership conforms to the rules set out in this Division.”.

23. The following is added after section 6.02:

“**6.03.** A pharmacist may use or permit the use of the graphic symbol of the Order in the pharmacist’s advertising or in the advertising of the joint-stock company or partnership of pharmacists within which the pharmacist practises to the extent that the symbol is not represented in a manner that gives the impression that the advertising comes from the Order.

A pharmacist may not permit the use of the Order’s graphic symbol by a joint-stock company or partnership of pharmacists that does not meet the requirements of section 27 of the Pharmacy Act and the requirements of the Regulation respecting the practice of pharmacy within a joint-stock company or a partnership.”.

24. 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)

Pharmacists

— Practice of pharmacy within a partnership or a joint-stock company

Notice is hereby given in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) that the Regulation respecting the practice of pharmacy within a partnership or a joint-stock company, 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.

The draft Regulation contains provisions specifically intended to govern the terms and conditions on which pharmacists are authorized to practise within partnerships or joint-stock companies, in particular as concerns the administration of the partnership or joint-stock company and the holding of shares.

In accordance with Chapter VI.3 of the Professional Code, the conditions include the requirement for a pharmacist to maintain liability insurance to cover liability incurred by the partnership or joint-stock company arising from fault or negligence on the part of the pharmacist. Members will also have to provide the Order with the required information concerning the partnership or joint-stock company and maintain the information current.