

Draft By-law

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

Advocates**— Professional training**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the “By-law respecting the professional training of advocates”, adopted by the General Council of the Barreau du Québec at its meeting held on November 11, 2004 and the text whereof appears hereinbelow, may be submitted to the Government which may approve it, with or without amendment, upon the expiry of a period of 45 days following the present publication.

This by-law replaces the existing “By-law respecting the professional training of advocates” made by Order in Council 161-95 dated February 1, 1995. The purpose of this by-law is to apply the skills approach to the professional training of future advocates within the scope of a shorter and more intensive program designed to imbue candidates with a sense of responsibility. The by-law introduces the concept of formative evaluation and the possibility for all candidates to take professional training preparatory courses, either upon the recommendation of the Professional Training Committee or on their own initiative. The evaluation, to be carried out in a continuous way, will ensure better monitoring of a candidate’s progress and provide him with the necessary support for his success.

The by-law has no impact upon citizens or businesses.

Additional information may be obtained by contacting M^e Marc Sauvé, Director, Service de recherche et de législation, Barreau du Québec, 445, boulevard Saint-Laurent, Montréal (Québec) H2Y 3T8, telephone: (514) 954-3400, extension 3144, e-mail: msauve@barreau.qc.ca.

All interested persons wishing to provide comments are requested to send such comments, prior to the expiry of the 45-day deadline, to the chairman of the Office des professions du Québec, 800, place D’Youville, 10^e étage, Québec (Québec) G1R 5Z3. These comments will be forwarded by the Office to the minister responsible for the administration of legislation respecting the professions; they may also be forwarded to the professional order having adopted the by-law as well as to interested persons, departments or bodies.

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

By-law respecting the professional training of advocates

An Act respecting the Barreau du Québec
(R.S.Q., c. B-1, s. 15, subsec. 2, par. b, and s. 44)

Professional Code
(R.S.Q., c. C-26, s. 94, par. i)

**DIVISION I
THE BAR SCHOOL**

1. The Barreau du Québec hereby establishes the Bar School, which shall be responsible for all professional training activities.

2. The School shall have its head office in Montréal.

Following approval by the General Council, the Professional Training Committee may establish professional training centres in locations it considers appropriate. The Committee determines the total number of students that may attend such centres.

**DIVISION II
PROFESSIONAL TRAINING COMMITTEE**

3. The Committee shall comprise at least 7 members of the Bar. The members of the Committee, including its chairman, shall be appointed yearly by the General Council and shall remain in office until they are replaced.

4. The quorum of the Committee shall be a majority of its members. Notwithstanding the preceding sentence, the Committee may sit as divisions of 3 members appointed by the chairman, who shall designate a division chairman from among them.

The members of a division may continue to sit until a decision has been rendered, even if one of them has been replaced.

If a member of a division is absent or unable to act, the other two members may validly render a decision, provided one of them is the chairman of the division.

5. Where an office is vacant or where, before the expiry of his term of office, a member is unable to act, the office shall be filled by the General Council for the time remaining in the term.

6. The Committee shall be responsible to the Executive Committee for the administration of the Bar School.

7. The Executive Committee shall hire management personnel upon the recommendation of the Professional Training Committee.

The Professional Training Committee shall hire all the personnel responsible for the program who, in the performance of their duties, shall report to the director of the Bar School.

DIVISION III

ADMINISTRATION OF THE BAR SCHOOL

8. The director of the Bar School, acting under the authority of the Professional Training Committee, shall be responsible for the management and operation of the Bar School and its various centres, and shall report to the Committee.

9. Each centre shall be managed by a director acting under the authority of the director of the Bar School.

DIVISION IV

PROFESSIONAL TRAINING PROGRAM

10. The professional training program is comprised of:

(1) the development of the skills required for the practice of law; and

(2) a training period.

11. The Committee may, based on its teaching methods and the available resources, determine the professional training centre and session in which an applicant who has been admitted is registered.

DIVISION V

CONDITIONS FOR ADMISSION

12. To be admitted to the Bar School, an applicant shall, within the time prescribed by the Committee,

(1) file an application for admission in the form prescribed by the Committee and include all the required documents;

(2) hold a diploma recognized by the Government, under subparagraph *a* of the first paragraph of section 184 of the Professional Code (R.S.Q., c. C-26), as giving access to the permit issued by the Barreau, or hold a diploma judged equivalent by the General Council in accordance with subparagraph *g* of the first paragraph of section 86 of the Professional Code;

(3) have been declared eligible by the Examining Committee; and;

(4) pay the admission fee.

13. The applicant shall pay the fees determined by the Committee on the dates fixed by it.

14. Where an applicant fails to meet any of the conditions provided for in sections 12 and 13, the Committee may take any of the following measures:

(1) allow the applicant to remedy the default within the time prescribed by the Committee;

(2) consider the application null and void;

(3) refuse to issue a student card or revoke it;

(4) withhold course materials and the results of training activities and evaluations;

(5) refuse to issue an articulated student card or revoke it;

(6) cancel the admission.

15. A candidate may file only one application per school year and may not defer his admission to another school year.

A candidate may withdraw from the Bar School at any time upon written notice.

DIVISION VI

REGISTRATION PROCEDURE

16. Any candidate who has been admitted shall complete the formative evaluation, at the moment prescribed by the Committee, before registering for professional training.

17. A candidate who has been admitted may receive from the Committee, upon examination of his record, a recommendation to register for preparatory courses before registering for professional training.

18. Any other candidate who has been admitted may register for preparatory courses before registering for professional training.

19. Upon completion of the preparatory courses, every candidate who has been admitted is registered for professional training after having completed a formative evaluation.

20. A candidate who is registered for preparatory courses may be registered for professional training only as of the session following the session for which he was registered for the preparatory courses.

DIVISION VII EVALUATION

21. The Committee may, for the purposes of eligibility for an evaluation, require candidates to attend or participate in specific instructional or training activities, including the submission of papers.

22. The professional training comprises oral or written evaluations designed to assess the skills required for the practice of law. It also comprises a final evaluation.

23. A candidate who has not obtained 60% or the notation « pass » at the end of all professional training evaluations shall sit the next following supplemental final evaluation. If he fails this supplemental final evaluation, his admission shall be cancelled.

A candidate whose admission has been cancelled may re-apply. If he is admitted, he shall register for preparatory courses before registering for professional training.

24. A candidate who demonstrates to the Committee that he was unable to sit the final evaluation or the supplemental final evaluation because of illness, accident, pregnancy, the death of a member of his immediate family or an act of God shall be authorized to sit the next following final evaluation or supplemental final evaluation, as the case may be.

The candidate's admission shall be cancelled if he does not sit that evaluation.

25. Any candidate who, during an evaluation, assists another candidate, attempts to assist another candidate or commits fraud and any candidate who breaches the rules of proper conduct during an evaluation or during a training activity may be expelled from the evaluation or may have his evaluation or admission to the Bar School cancelled by the Committee.

26. The performance of every candidate on an evaluation shall be assessed by one or more persons.

27. A person who is a relative of a candidate or who may be in a situation of conflict of interest by reason of his participation in the preparation, holding or marking of a candidate's evaluation may not participate therein.

For purposes of this section, each of the following persons shall be considered to be a relative of a candidate:

- (a) an ascendant of the candidate;
- (b) a descendant of the candidate;

(c) a collateral of the candidate;

(d) a half-brother or half-sister of the candidate;

(e) the legal or *de facto* spouse of the candidate; and

(f) the legal or *de facto* spouse of an ascendant, descendant, collateral, half-brother or half-sister of the candidate.

28. Every marker shall solemnly affirm when hired that he is not related to any candidate in the manner described in section 27 and that he will respect the confidentiality of the deliberations and evaluations.

DIVISION VIII TRAINING PERIOD

29. A candidate who has obtained a passing grade at the end of all professional training evaluations shall complete a training period pursuant to this Division within 3 years following the date on which he becomes eligible therefor.

Notwithstanding the foregoing, a candidate who demonstrates to the Committee that he was unable to complete such training period within the prescribed time because of illness, accident, pregnancy or an act of God shall have additional time equivalent to the period during which he was unable to complete his training period but not exceeding 2 years. The same applies to a candidate who is doing graduate studies in law.

30. The training period shall contribute adequately to preparing the candidate for the practice of law and shall be completed under the close supervision and responsibility of a training supervisor.

The training period may include compulsory participation in training activities determined by the Professional Training Committee.

31. The training period shall allow the articulated student to put into practice the skills acquired in the program.

32. The training period may not begin before the date fixed by the Committee. It shall last for 6 consecutive months and be completed on a full-time basis.

An articulated student who is absent for more than 10 working days during that 6-month period shall, pursuant to section 40, file with the Committee a written application for a suspension of his training period and shall provide the reasons for his application.

33. The training period may be completed outside Québec, for a period not exceeding 3 months, on condition that the requirements of sections 30 and 31 are met.

A training period with a department or agency of the federal government or with a judicial or quasi-judicial tribunal appointed by the federal government and having jurisdiction over litigation originating in Québec is deemed to have been completed entirely in Québec.

In all cases, the training supervisor shall meet the conditions provided for in section 35.

34. In order to act as a training supervisor for a candidate, an advocate or a member of the judiciary shall apply in writing to the Committee.

35. To be a training supervisor, an advocate or member of the judiciary must have met the following conditions during the five years preceding the training period in question:

(1) he has been entered on the Roll of the Ordre des avocats without interruption and is still entered thereon or, in respect of a portion of a training period completed outside Québec, he has been a member of a bar association without interruption and is still a member thereof;

(1.1) he has been or is a member of the judiciary;

(2) he has not been the subject of disciplinary action by a disciplinary committee of a bar association, by a disciplinary tribunal or by a judicial council; and

(3) he has not been required to take a refresher training period pursuant to the Regulation respecting refresher training for the Barreau du Québec (O.C. 727-86 [c. B.-1, r.12.1]) or for another bar association.

Notwithstanding the foregoing, the Committee may refuse the application of an advocate or a member of the judiciary to act as a training supervisor if the advocate or member of the judiciary has not complied with the requirements of this Division.

36. A training supervisor shall contribute to the training of every articted student for whom he is responsible. He shall be responsible for overseeing the articted student in the work place. In particular, the training supervisor shall:

(1) file with the Professional Training Committee, on the dates indicated by the Committee, a report on the evaluation of the articted student;

(2) provide the Professional Training Committee with all the information required by the Committee pursuant to section 38;

(3) facilitate the integration of the articted student in the work place;

(4) inform the articted student about the functioning of the work place and the available resources;

(5) determine the articted student's tasks, specifying the working conditions and the deadlines to be met;

(6) help the articted student organize his work and introduce to him the concept of office management;

(7) allow the articted student to gradually and eventually take complete responsibility for certain professional acts;

(8) promptly assess the tasks performed by the articted student;

(9) contribute to evaluating the articted student's achievement of the objectives of the training period; and

(10) provide the articted student with a work place conducive to learning and developing skills.

37. The Committee may, at any time, revoke the authorization to act as a training supervisor if the training supervisor or the training period does not comply with any given provision of this Division.

In such a case, the training supervisor may not file a new application during the period fixed by the Committee.

38. At any time during a training period, the Committee may decide whether the training period constitutes valid preparation for the practice of law.

To that effect, the Committee may require that the training supervisor or the articted student supply information for the purpose of enabling the Committee to determine the validity of a training period, or may request such information from any other person.

If the Committee is of the opinion that a training period does not constitute valid preparation for the practice of law or does not comply with the requirements of this Division, it shall take all appropriate measures, including refusing to issue or cancelling an articted student card or cancelling, suspending or extending the training period in order to allow the articted student to validly complete it. In all cases, the Professional Training Committee shall give the parties concerned the opportunity to be heard.

If the Committee is of the opinion that a training period constitutes valid preparation for the practice of law, it shall, where expedient, issue an attestation to that effect.

39. The articulated student card attests to the candidate's status as an articulated student.

Such card shall be issued at the request of the training supervisor and shall be valid for 7 months.

40. Upon receipt of a written request submitted by an articulated student and providing the reasons therefor, the Committee may authorize a change of training supervisor, a suspension of the training period or the cancellation of a portion of the training period.

41. An articulated student may, under the close supervision and responsibility of his training supervisor, perform any of the professional acts of an advocate.

An articulated student must comply at all times with the rules applicable to the practice of law, in particular the rules of ethics and the rules of professional conduct.

42. Where the training supervisor refuses or is unable to file his report, the articulated student may take the matter to the Committee, which shall take the appropriate action.

DIVISION IX **TRANSITIONAL AND FINAL PROVISIONS**

43. As of the 2005-2006 professional training year, a candidate who is contemplated in section 21 or in the first paragraph of section 27 of the By-law respecting the professional training of advocates made by Order in Council 161-95 dated February 1, 1995 and who registers for the professional training program established by this By-law shall file an application for admission in accordance with section 12.

If he is admitted, the candidate shall register for the professional training preparatory courses and, upon completion thereof, he shall complete the formative evaluation in accordance with section 19, failing which he may not register for professional training.

44. As of the 2005-2006 professional training year, a candidate who is contemplated in section 23 or 26 of the By-law respecting the professional training of advocates made by Order in Council 161-95 dated February 1, 1995, shall, at his option:

(a) file an application for admission in accordance with section 12;

or

(b) sit for one more examination in the sector failed, to be held no later than August, 10, 2005. If the candidate fails the said examination, his admission shall be cancelled. He may then file an application for admission in accordance with section 12.

Every candidate who files an application for admission in accordance with this section and is admitted shall register for the professional training preparatory courses and, upon completion thereof, shall complete the formative evaluation in accordance with section 19, failing which he may not register for professional training.

A candidate admitted under the By-law respecting the professional training of advocates made by Order in Council 161-95 dated February 1, 1995 who does not avail himself of either option *a* or *b* shall have his admission cancelled.

45. As of the 2005-2006 professional training year, a candidate who is contemplated in section 25 or in the second paragraph of section 27 of the By-law respecting the professional training of advocates made by Order in Council 161-95 dated February 1, 1995, shall, at his option:

(a) file an application for admission in accordance with section 12;

or

(b) sit for one more examination in the sector in question, to be held no later than August, 10, 2005. If the candidate fails the said examination, his admission shall be cancelled. He may then file an application for admission in accordance with section 12.

Every candidate who files an application for admission in accordance with this section and is admitted shall register for the professional training preparatory courses and, upon completion thereof, shall complete the formative evaluation in accordance with section 19, failing which he may not register for professional training.

A candidate admitted under the By-law respecting the professional training of advocates made by Order in Council 161-95 dated February 1, 1995 who does not avail himself of either option *a* or *b* shall have his admission cancelled.

46. This By-law replaces the By-law respecting the professional training of advocates made by Order in Council 161-95 dated February 1, 1995.

47. This By-law comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

6607

Draft Regulation

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

Court bailiffs

— **Terms and conditions for the issue of permits**
— **Amendment**

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 Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec, made by the Bureau of the Chambre des huissiers de justice 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 Chambre des huissiers de justice du Québec, the purpose of the draft Regulation is to extend the date of application of the Regulation currently in force to 30 June 2006, which should allow for the coming into force of a provision determining the diploma giving access to the permit of the Chambre des huissiers in the Regulation respecting the diplomas issued by designated teaching establishments which give access to permits and specialist's certificates of professional orders, made under section 184 of the Professional Code (R.S.Q., c. C-26), and for the advisability of maintaining all or any of the terms and conditions for the issue of permits by the Chambre to be assessed.

The regulation has no impact on the public or enterprises including small and medium-sized businesses.

Further information may be obtained by contacting Ronald Dubé, Director General and Secretary of the Chambre des huissiers de justice du Québec, 1100, boulevard Crémazie Est, bureau 215, Montréal (Québec) H2P 2X2, telephone: (514) 721-1100; fax: (514) 721-7878; e-mail: rdube@huissiersquebec.qc.ca

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 sent by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order that made the Regulation and to interested persons, departments and bodies.

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

Regulation to amend the Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec*

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

1. Section 23 of the Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec is amended by substituting “2006” for “2005”.

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

6605

Draft Regulation

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

Physicians

— **Terms and conditions for the issuance of permit and specialist's certificates**

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 the permit and specialist's certificates by the Collège des médecins du Québec, adopted by the Bureau

* The Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec, approved by Order in Council 449-99 dated 21 April 1999 (1999, *G.O.* 2, 1101), was amended by Order in Council 437-2002 dated 10 April 2002 (2002, *G.O.* 2, 2234). This regulation has not been amended since.