

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

6787

Draft Regulation

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

Chartered accountants

— 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 Bureau of the Ordre des comptables agréés du Québec has adopted the “Regulation amending the Regulation amending the Code of ethics of chartered accountants” approved by Order in Council 779-2004 of August 10, 2004.

This Regulation, the text of which appears below, will be examined by the Office des professions du Québec pursuant to Section 95 of the Professional Code (R.S.Q., c. C-26). It will then be submitted, with the recommendation of the Office, to the government which may approve it with or without amendment upon the expiry of 45 days following this publication.

The main purpose of this Regulation is to amend the Regulation amending the Code of ethics of members of the Ordre des comptables agréés du Québec to correct an error made in the transitional provisions respecting the application of certain independence rules to members of the Ordre who audit listed enterprises.

More specifically, these transitional provisions should have been harmonized with those applying to chartered accountants in the other provinces, and thus provide for the same implementation period. The proposed amendments therefore add one year to the implementation period provided for under the transitional provisions.

This Regulation will have no impact on enterprises.

Further information may be obtained by contacting M^e Christiane Brizard, lawyer, Director of Legal Affairs, Ordre des comptables agréés du Québec, 680, rue Sherbrooke Ouest, 18^e étage, Montréal (Québec) H3A 2S3.

Any interested person having comments to make on this Regulation is requested to send them, before the expiry of the 45 days period mentioned above, 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 that has adopted the regulation, i.e. the Ordre des comptables agréés du Québec, as well as to the persons, departments and agencies concerned.

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

Regulation amending the Regulation amending the Code of ethics of chartered accountants*

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

1. Section 24 of the Regulation amending the Code of ethics of chartered accountants, is amended by the replacement of the word “second” by the word “third.”

2. Section 25 of the Regulation is amended by the replacement of the word “second” by the word “third”.

3. Section 26 of the Regulation is amended by the replacement of the word “third” by the word “fourth”.

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

6790

Draft Regulation

An Act respecting the Barreau du Québec
(R.S.Q., c. B-1)

Stenographers

— Training, skill and knowledge evaluation,
accreditation and discipline

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 training, skill and knowledge evaluation, accreditation and discipline of stenographers, the text of which appears below, which was

* The Regulation amending the Code of ethics of chartered accountants, has been approved by Order in Council 779-2004 of August 10, 2004 (2004, *G.O.*, 2, 3867)

made by the members of the Comité sur la sténographie on 18 December 2003 and subsequently amended by the members on 14 December 2004, may be approved by the Government on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to establish rules for the training, skill and knowledge evaluation, accreditation and discipline of stenographers.

Further information may be obtained by contacting Aldé Frenette, Direction de la recherche et de la législation ministérielle, ministère de la Justice, 1200, route de l'Église, 4^e étage, Sainte-Foy (Québec) G1V 4M1; telephone: (418) 646-8237, extension 20804; fax: (418) 643-9749; or e-mail: afrenette@justice.gouv.qc.ca

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Justice, 1200, route de l'Église, 9^e étage, Sainte-Foy (Québec) G1V 4M1.

YVON MARCOUX,
Minister of Justice

Regulation respecting the training, skill and knowledge evaluation, accreditation and discipline of stenographers

An Act respecting the Barreau du Québec
(R.S.Q., c. B-1, s. 140.4, 1st par., subpars. 1 and 2)

DIVISION I STENOGRAPHER CERTIFICATE

1. A stenographer certificate is issued by the Comité sur la sténographie to a candidate who

- (1) has passed the examination referred to in Division II;
- (2) has successfully completed the internship referred to in Division III;
- (3) has not been convicted by a Canadian or foreign court of a criminal offence which, in the opinion of the committee, is related to the practice of stenography, unless the candidate has been granted a pardon;
- (4) has paid the assessment prescribed by section 17; and
- (5) has taken the oath of office before a judge of the Superior Court.

The certificate must state, *inter alia*, whether the examination was in French or in English, as well as whether the method used in the stenography examination was stenography, stenotypy or stenomask. The certificate is valid only for the method indicated thereon.

DIVISION II EXAMINATION

§1. Conditions of eligibility

2. To be eligible to take the examination, a candidate must

(1) hold a diploma of college studies or have equivalent training recognized by the competent authority or have relevant work experience of at least one year in stenography; and

(2) have attended the theory courses offered by the Association professionnelle des sténographes officiels du Québec or by an organization recognized by the committee.

§2. Conditions of registration

3. At least 30 days before the date set for the examination, a candidate must

(1) have sent to the committee the duly completed registration form in Schedule I; and

(2) have paid the registration fee of \$50 plus taxes. The fee is not refundable.

A candidate seeking to be admitted on the basis of work experience must submit the registration form with proof of relevant work experience to the committee at least three months before the date set for the examination.

§3. Conditions and procedure for the examination

4. There are 16 examiners consisting of four advocates from the Montréal section, two advocates from the Québec section, two advocates representing the other regions and eight stenographers.

The advocates from the Montréal and Québec sections are designated by the committee after consultation with the Bar of Montréal and the Bar of Québec respectively. The advocates representing the other regions are designated by the committee after consultation with the Association des avocats de province.

The stenographers are designated by the committee after consultation with the Association professionnelle des sténographes officiels du Québec.

For each examination, the number of examiners is based on the number of candidates admitted. There may not be fewer than two examiners, namely one advocate and one stenographer.

5. The stenography examination is held twice each year concurrently in Montréal, Québec and any other region determined by the committee. The committee also sets the date and time for each examination.

If the number of candidates admitted during a given period is insufficient to warrant holding an examination in more than one region, the committee may decide to hold the examination in only one region.

The committee must ensure that candidates are informed of the dates, places and times set by the committee or that they have access to the information.

6. The committee must give the examiners a 30-day notice of the date on which the examination is to be held.

7. The examination includes a spelling and grammar test and a stenography test.

It also includes a theory component designed to evaluate the mastery of the skills imparted during the training given by the Association professionnelle des sténographes officiels du Québec or the organization recognized by the committee.

8. To pass the examination, a candidate must obtain a mark of at least 90% on the spelling and grammar test, a mark of at least 85% on the stenography test and a mark of at least 60% on the theory component. If the candidate fails a test or the theory component, the candidate must take the entire examination again.

9. The examiners must report the results of the examination to the committee within three days following the examination and the committee must inform candidates of the results as soon as possible.

10. A candidate who fails the examination may take a supplemental examination at any of the subsequent examination sessions. The candidate is entitled to a maximum of two supplemental examinations.

DIVISION III INTERNSHIP

11. A candidate who has passed the examination must successfully complete an internship.

12. The purpose of the internship is to allow a candidate to acquire the knowledge and skills required to practise as a stenographer. It must be completed under the supervision of an internship supervisor who is a stenographer with at least 10 years of experience. The supervisor is designated by the committee from a list provided by the Association professionnelle des sténographes officiels du Québec.

13. Before beginning the internship, the candidate must obtain an intern card issued by the committee.

14. An intern may, under the supervision of the internship supervisor, perform all the functions of a stenographer.

15. The total duration of the internship is four weeks and a minimum of 80 hours.

16. At the end of the internship, the internship supervisor reports on the internship to the committee.

If the committee judges the internship to be unsatisfactory, the candidate is asked by the committee to repeat the internship for the same duration, to be served with an internship supervisor designated by the committee.

DIVISION IV ASSESSMENT

17. To be entered on the roll of stenographers, stenographers must pay an annual assessment to the Barreau du Québec. For the first year, the assessment is \$300. Thereafter, the annual assessment is \$700 and it must be paid not later than 1 May of each year.

Stenographers with 45 years of service are exempt from payment of the assessment.

18. Stenographers who fail to pay the assessment within the prescribed period are struck off the roll. They may be re-entered on the roll on payment of an assessment of \$750.

Stenographers who have not been on the roll for two years or more must retake and pass the examination prescribed by Division II.

19. On the expiry of a 15-day period following the assessment due date, the executive director of the Barreau du Québec sends the secretary of the committee the list of members who have paid their assessment.

20. On 1 June of each year, the executive director of the Barreau du Québec must remit 90% of the assessments collected to the committee.

21. The committee must use the sums in accordance with its mandate. At least 50% of the sums must be allocated to the training of stenographers.

DIVISION V ROLL OF STENOGRAPHERS

22. The committee must publish the roll of stenographers within 30 days following the date of issuance of the certificates. Only a stenographer whose name appears on the roll may be designated as a “stenographer”. The roll must be sent for posting to every courthouse and every local section of the Barreau du Québec.

The roll is updated to take into account the issuance of new certificates and any striking off the roll for failure to pay the assessment or following a disciplinary sanction.

DIVISION VI PROFESSIONAL CONDUCT OF STENOGRAPHERS

§1. *Competence and integrity*

23. Stenographers must discharge their obligations with competence and integrity and provide quality services.

24. Stenographers must practise in accordance with generally recognized standards of practice in stenography and good practices.

25. Stenographers must consider the extent of their skills and knowledge and the means at their disposal, which includes refraining from accepting a mandate for which they do not have the required competence or skills.

26. Stenographers must act with dignity and respect towards the courts.

27. Stenographers must serve the courts and uphold their authority in the cause of justice. They may not act in a manner that is detrimental to the administration of justice.

§2. *Diligence and availability*

28. Stenographers must demonstrate diligence in the performance of their duties, respect their commitments and the time limits for the transcription of testimony.

29. If a stenographer is unable to act by reason of a fortuitous event or superior force, the stenographer must as soon as possible inform the parties and, as the case may be, the court.

30. Stenographers must answer in writing and with diligence all correspondence or requests from the committee or one of its representatives.

§3. *Independence*

31. If, for any reason whatsoever, a stenographer has reason to believe that he or she may not be able to perform the work in full independence, the stenographer must notify the parties and refuse to act.

32. Stenographers must avoid any situation likely to place them in a conflict of interest.

As soon as they become aware that they are in a conflict of interest, stenographers must either cease acting or notify the parties and request authorization to continue to act.

§4. *Derogatory acts*

33. It is derogatory to the honour and dignity of the practice of stenography for stenographers to

(1) delete or falsify portions of testimony or reproduce words other than the exact words spoken;

(2) mislead or attempt to mislead the court or the parties, or attempt to influence the court in favour of or against any person;

(3) participate in an unlawful activity;

(4) act directly or indirectly so as to abuse the good faith of a person with whom they interact as stenographers;

(5) directly or indirectly unduly retain, steal, conceal, falsify, mutilate or destroy an exhibit from a court record;

(6) pay, offer to pay or undertake to pay money or other benefits with a view to obtaining a benefit for themselves or another person;

(7) request or receive, in addition to the remuneration to which they are entitled, any benefit, rebate or commission for themselves or another person;

(8) perform or omit to perform an act so as to secure an illegitimate benefit for a party;

(9) perform their duties while under the influence of psychotropic substances or any other substance, including alcohol, that has similar effects;

(10) harass any person while performing their duties;

(11) intimidate or threaten reprisal against a person who

(a) has reported derogatory behaviour or conduct or intends to do so; or

(b) has taken part or cooperated in an inquiry into derogatory behaviour or conduct or intends to do so;

(12) denigrate another stenographer to cause the stenographer to lose the trust of an existing or potential client;

(13) use disloyal practices to obtain a mandate;

(14) fail to notify the committee when they have knowledge that another stenographer has committed a derogatory act;

(15) fail to submit to a professional inspection determined by the committee; or

(16) fail to comply with a decision of the committee requiring them to serve an internship or take a refresher course, or both.

§5. Additional duties

34. Stenographers must be polite and courteous and dress appropriately.

35. Stenographers may not refuse to provide services to a person by reason of race, colour, sex, age, pregnancy, civil status, religion, ethnic or national origin, social condition, sexual orientation, political convictions, handicap or language.

36. Stenographers must keep their stenographic notebooks, stenotypy tapes or tape recordings, depending on the method of stenography indicated on their certificate, for a minimum period of 10 years. Transcriptions onto a data retrieval system may not serve as a substitute for the original notes.

37. Stenographers must protect the confidentiality of the testimony and evidence given by a party.

38. Stenographers must take down the testimony given at an examination, and not omit any part thereof, except with the consent of the parties or in accordance with a court order. Testimony is to be taken down by means of a method prescribed in the Regulation respecting the taking of witnesses' depositions in civil matters made by Order in Council 962-2001 dated 23 August 2001 and the Regulation respecting the taking of witnesses' depositions in penal matters made by Order 2010-2001 of the Minister of Justice dated 20 August 2001.

39. Unless there is a court order to the contrary, stenographers must, on request and in consideration of the payment of the amount prescribed in the Regulation respecting the tariff of fees for the taking down and transcription of depositions of witnesses made by Order in Council 2253-83 dated 1 November 1983,

(1) give to the witness who has been examined a copy of the witness' transcript of the testimony; and

(2) give to any party to the proceedings a copy of the transcript of the testimony of any witness who has been examined.

DIVISION VII FEES

40. Where the Regulation respecting the tariff of fees for the taking down and transcription of depositions of witnesses does not apply, stenographers may request and accept fees that are warranted by the circumstances and that are in proportion to the services rendered.

Stenographers may also make an agreement for accommodation and travelling expenses with the party retaining their services.

41. In determining their fees, stenographers must take into account, among other things,

(1) the time required to perform the services; and

(2) the performance of unusual services or services requiring exceptional competence or celerity, given the time limits prescribed by law.

42. Stenographers must provide their client with any explanations needed to understand the statement of fees and the terms and conditions of payment.

DIVISION VIII KEEPING OF RECORDS AND OFFICES

43. Stenographers must provide the committee with their full name, the address of their principal establishment and any other offices, as well as their telephone number and, if applicable, fax number and e-mail address. Stenographers must immediately notify the committee of any change in the information.

44. Stenographers who leave the province for more than two months must inform the committee, indicating the expected date of return and providing a telephone number or other means enabling them to be reached.

45. A stenographer who wishes to cease practising must immediately inform the committee which then strikes the stenographer's name off the roll.

The committee also strikes the name of a stenographer off the roll on being informed of a judgment placing the stenographer under protective supervision, homologating a mandate given by the stenographer in anticipation of his or her incapacity or ordering, pursuant to article 30 of the Civil Code, the stenographer's confinement in a health and social services institution.

Stenographers must file each year with the committee a declaration designating a representative who may act in the event that the stenographer is unable to act, so as to enable a person to request notes that have or have not been transcribed.

The representative must be a practising stenographer.

The heirs of a deceased stenographer must transfer the stenographer's notes to the designated representative.

46. Stenographers must use an agenda to record their appointments.

47. Stenographers must keep their stenographic and personal notes in a secure location.

48. The stenographic and personal notes must be filed by year and the boxes containing the notes numbered to respect the retention period. For that purpose, stenographers must record the information in writing in a manner similar to that set out in Schedule II.

49. Stenographers must prepare invoices setting out the details of the services rendered, including vouchers, if any.

50. Stenographers must retain all correspondence pertaining to a legal dispute, including electronic mail and personal notes.

51. All correspondence sent by a stenographer must indicate the stenographer's full name, address of principal establishment, telephone number and, where applicable, fax number or those of the stenographer's employer and the stenographer's e-mail address.

DIVISION IX DISCIPLINARY PROCESS

§1. Examination of complaints

52. Every complaint against a stenographer or a former stenographer for an offence against this Regulation, the Stenographers' Act (R.S.Q., c. S-33) or any other Act or regulation imposing a duty on the stenographer must be made in writing and sent to the chair of the Comité sur la sténographie.

53. The complainant must provide full details regarding the complaint and state, in particular, the nature and circumstances of the offence, and attach any testimony, information or document that may support the complaint.

54. A register of complaints must be kept and an acknowledgement of receipt for each complaint must be sent in writing by the secretary of the committee to the complainant as soon as possible.

55. Within 10 days of receipt of a complaint, the chair of the committee designates two members of the committee, namely one advocate and one stenographer, who summarily examine the content and decide how to dispose of the complaint.

56. The members of the committee seized of the complaint have 30 days following their designation to summarily examine the complaint and determine whether the complaint should be heard before the committee or dismissed.

57. If the complaint is considered to be unfounded, the members of the committee must provide a written decision setting out their reasons for dismissing the complaint. The decision is final and without appeal.

The secretary of the committee must send a copy of the decision to the complainant.

58. If the members of the committee accept the complaint or if they disagree, they so notify the chair and the complaint must be heard.

§2. Hearing

59. Within five days after receipt by the chair of the notice provided for in section 58, a copy of the complaint must be served on the stenographer in accordance with the provisions of the Code of Civil Procedure (R.S.Q., c. C-25).

A notice must be attached stating that the complaint was summarily examined and that it was decided to hold a hearing; the notice must also indicate that the stenographer has 20 days following the date of service to appear in writing at the head office of the committee.

60. When he or she appears, the stenographer must indicate whether or not he or she acknowledges the offence, failing which the stenographer is deemed to contest the offence.

61. On the expiry of the time provided for the stenographer to appear, the stenographer has 20 days to send the committee a written contestation, including a description of the facts, the written statements of the stenographer's witnesses and the exhibits in support of the contestation.

62. On the expiry of the time provided for in section 61, the chair designates two members of the committee, namely one advocate and one stenographer, neither of whom may be a member who summarily examined the complaint, to hear the complaint with the chair, and ensures that the complete record is forwarded to the designated members.

63. The committee formed to hear the complaint may sit in Montréal, Québec or any other place that, in its opinion, best suits the circumstances.

The members of the committee set the date for the hearing and draw up minutes to that effect. Before doing so, they may request the secretary of the committee to verify the availability of the complainant and the stenographer.

64. If a member of the committee is absent or unable to act, the member may be replaced by a person designated in the same manner as the person to be replaced.

If, during the hearing or advisement, a member is unable to act for any reason, the hearing may be validly continued and a decision validly rendered by the other two members.

65. A member of the committee may be recused for one of the reasons set forth in article 234 of the Code of Civil Procedure other than the reason in paragraph 7 of that article.

66. The hearing may not be stenographed unless a request from one of the parties is received at least three days before the date of the hearing or unless the committee so decides.

67. Every hearing is public.

The committee may, of its own motion or on request, order that a hearing be held *in camera* or ban access to or the publication or release of any information or document it indicates, in the interest of good morals or public order, in particular to preserve professional secrecy or protect a person's privacy or reputation.

68. Article 294.1 of the Code of Civil Procedure applies, with the necessary modifications, before the members of the committee.

69. Only the evidence collected by the committee during the hearing or in accordance with section 68 is to be taken into consideration.

70. The committee may conduct the hearing in the absence of the stenographer who is the subject of the complaint if the stenographer fails to appear at the time and place set for the hearing.

71. The complaint may be amended at any time, on the conditions necessary to safeguard the rights of the parties.

72. No person may testify, under penalty of nullity of the deposition, unless the person swears to tell the truth.

§3. Decision

73. The committee formed to hear the complaint must render its decision as to guilt within 60 days from the time the matter is taken under advisement.

74. The decision of the committee is rendered by a majority of its members. The decision and its reasons are recorded in writing and signed, and include any dissent.

A copy of the decision must immediately be sent to the parties by certified mail or by fax to their attorneys.

75. If the stenographer has been convicted, the parties may, within 30 days following the conviction, be heard by the committee formed to hear the complaint or make written submissions on the penalty to be imposed.

76. The committee must impose the penalty within 30 days following the submissions on penalty; the decision on the penalty and its reasons are recorded in writing and signed, and include any dissent, and must immediately be sent to the parties by certified mail or by fax to their attorneys.

77. The committee may order the complainant or the stenographer to pay all or part of the costs, or it may apportion the costs between them in the proportions it indicates.

78. The costs include the costs of stenography and transcribing testimony as well as the accommodation and travelling expenses of the committee members.

79. Where a stenographer has been convicted of an offence under Divisions VI to VIII, the committee may impose one or more of the following penalties in respect of each count in the complaint:

- (1) a reprimand;
- (2) a restriction on the right to practise stenography;
- (3) temporary striking off the roll of stenographers;
- (4) revocation of the stenographer certificate;
- (5) the obligation to remit to a person entitled to it a sum of money the stenographer is holding for the person;
- (6) the obligation to transmit any document or information, or the obligation to complete, update or rectify any document or information.

80. A decision of the committee may also require the stenographer to successfully complete an internship or a refresher course, or both, and restrict the stenographer's right to practise or temporarily strike the stenographer off the roll until that requirement is met.

81. A decision of the committee may also recommend that the stenographer submit to a program designed to facilitate the stenographer's return to the practice of stenography.

82. The revocation of a stenographer certificate results in the permanent striking of the stenographer off the roll.

83. Every decision of the committee is final and without appeal.

84. Stenographers who have been struck off the roll or whose right to carry on their activities has been restricted may, before the expiry of the penalty, request to the Comité sur la sténographie, by way of a petition to the chair, that they be re-entered on the roll or, in the case of a restriction, that they be allowed to resume full right to practise.

The rules for hearings set out in this Regulation apply, with the necessary modifications, to the hearing of the petition.

85. A decision of the committee may be corrected if it contains an error in writing, a mistake in calculation or any other clerical error.

Such correction may be effected by the committee of its own initiative, as long as execution of the decision has not commenced. It may also be effected on the motion of a party served in accordance with the Code of Civil Procedure.

86. This Regulation comes into force on the date of coming into force of sections 2 and 5 to 8 of the Act to amend the Act respecting the Barreau du Québec and the Stenographers' Act (2001, c. 64).

SCHEDULE I

(s. 3)

OFFICIAL STENOGRAPHY EXAMINATION REGISTRATION FORM

Date of examination: _____

Surname: _____ Given name: _____

Address: _____

City: _____ Postal code: _____

Telephone residence: _____ office: _____

Examination: French or English

Method:

stenography stenotypy stenomask

Complete this form in block letters and attach a copy of your birth certificate, proof that you hold a diploma of college studies (D.E.C.) or have equivalent training recognized by the Ministère de l'Éducation, as well as the amount of \$50 plus taxes (GST and QST) (cheque made payable to the Barreau du Québec).

To be eligible to take the examination, a candidate must have attended the theory training given by the Association professionnelle des sténographes officiels du Québec or by an organization recognized by the Comité sur la sténographie. Proof of attendance must be attached to this form.

A candidate seeking to be admitted on the basis of work experience must submit proof of relevant work experience with this form at least three months before the date set for the examination.

Once completed, the registration form must be sent to the following address :

Comité sur la sténographie
Barreau du Québec
445, boulevard Saint-Laurent
Montréal (Québec) H2Y 3T8

SCHEDULE II

(s. 48)

FILING OF STENOGRAPHIC AND PERSONAL NOTES

NAME OF STENOGRAPHER: _____

STORAGE LOCATION: _____

PERIOD: JANUARY TO
DECEMBER 2005

January 2005	Box 1 (2005)
February 2005	
March 2005	
April 2005	
May 2005	
June 2005	
July 2005	
August 2005	
September 2005	
October 2005	
November 2005	
December 2005	

In addition, a list of the cases in which transcription was not requested must be prepared indicating the date on which the notes were taken, the number of the case and the names of the parties.