

## Draft Regulation

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

### Guidance counsellors and psychoeducators — Code of ethics

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, made by the Bureau of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation is to replace the Regulation currently in force to take into account the integration of psychoeducators into the Ordre professionnel des conseillers et conseillères d'orientation du Québec, which became effective on 29 September 2000 (Order in Council 1037-2000 dated 30 August 2000).

According to the Order, the purpose of the draft Regulation is to modernize the Code of ethics and reinforce the duties and obligations of guidance counsellors and psychoeducators towards clients, the public and the profession, to better protect the public.

The Order foresees the Regulation will have no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Renée Verville, Director General and Secretary of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, 1600, boulevard Henri-Bourassa Ouest, bureau 520, Montréal (Québec) H3M 3E2; telephone: 514 737-4717 or 1 800 363-2643; fax: 514 737-2172.

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<sup>e</sup> 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*

## Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec

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

### CHAPTER I GENERAL

**1.** This Code determines, pursuant to section 87 of the Professional Code (R.S.Q., c. C-26), the duties of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec, regardless of the context or manner in which they engage in their professional activities or the nature of their contractual relationship with clients.

**2.** Members may not perform any act or behave in any manner that is contrary to what is generally admissible in the practice of the profession, or in any manner that is likely to tarnish the image of the profession.

### CHAPTER II DUTIES AND OBLIGATIONS TOWARDS CLIENTS, THE PUBLIC AND THE PROFESSION

#### DIVISION I QUALITY OF THE PROFESSIONAL RELATIONSHIP

**3.** Members must seek to establish and maintain a relationship of mutual trust with their clients.

**4.** Members may not refuse to provide professional services to a person on the basis of race, colour, sex, pregnancy, sexual orientation, morals, civil status, age, religion, political convictions, language, ethnic or national origin, social origin or condition, a handicap or the use of any means to palliate a handicap.

Where members consider that they are unable to ensure the quality of the professional relationship because of a reason set out in the first paragraph, they must, in the interest of the client, refer the client to another member.

**5.** Members must refrain from interfering in the personal affairs of their client in matters not related to the practice of the profession.

**6.** Members must refrain from acting in any manner that may affect the physical, mental or emotional integrity of the person with whom they establish a professional relationship.

**7.** During the professional relationship, members must not establish relations of an intimate, amorous or sexual nature with a client. Members must refrain from making remarks or improper gestures of a sexual nature to a client.

For the purpose of determining the duration of the professional relationship, members must take into consideration, in particular, the nature of, the problems to be addressed by and the duration of the professional services provided, the client's vulnerability and the likelihood of the member having to provide professional services to the client again.

**8.** Members may cease to act on behalf of a client only for just and reasonable grounds, in particular when the normal conditions required to establish or maintain mutual trust are absent, or if such trust no longer exists.

Conflict of interest or inducement by the client to perform illegal, unjust or fraudulent acts constitutes just and reasonable grounds to terminate the professional relationship.

**9.** Before ceasing their professional activities with a client, members must so inform the client and take the steps necessary to avoid any prejudice to the client.

**10.** Members must inform their client as soon as possible of any action, taken in connection with a professional service, that may be prejudicial to the client.

**11.** Members must at all times acknowledge the client's right to consult another professional or any other competent person.

## DIVISION II CONSENT

**12.** Members must, except in an emergency, obtain the free and enlightened consent of the client or the client's representative before undertaking any evaluation, action or research.

To enable a client to give free and enlightened consent, members must inform the client of and ensure that the client understands

(1) the nature and scope of the problems identified from the information obtained;

(2) the objective to be pursued and how the objective is to be achieved;

(3) the nature of the professional services that may be provided, as well as the advantages and alternatives;

(4) the limits and constraints characterizing the context of the professional service;

(5) the use of information obtained;

(6) the consequences of accepting or refusing professional services;

(7) the implications of sharing information with third parties, if required; and

(8) the professional fees and terms of payment, if any.

**13.** In providing their professional services, members must ensure that the consent of the client remains free and enlightened.

**14.** At all times, members must acknowledge the client's right to withdraw his or her consent.

## DIVISION III CONFIDENTIAL INFORMATION

**15.** Members must preserve the secrecy of all confidential information obtained in the practice of their profession. Members may be released from their obligation of professional secrecy only where so ordered by law or with the authorization of their client.

In order to obtain such authorization, members must inform their client of the implications of the lifting of professional secrecy.

**16.** In addition to the cases provided for in the first paragraph of section 15, members may communicate information that is protected by professional secrecy to prevent an act of violence, including a suicide, where the members have reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

However, members may only communicate the information to a person exposed to the danger or that person's representative, or to the persons who can come to that person's aid.

Members may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

**17.** Members who, pursuant to section 16, communicate information protected by professional secrecy to prevent an act of violence must

- (1) communicate the information immediately; and
- (2) enter in the client's record as soon as possible

(a) the reasons supporting the decision to communicate the information; and

(b) the subject of the communication, the mode of communication, and the name of the person to whom the information was given.

**18.** Members must avoid any indiscreet conversation about a client and the professional services provided to a client.

**19.** Members must take reasonable means with respect to the persons with whom they work or who are under their supervision to ensure that professional secrecy is maintained.

**20.** Members must not disclose that a person has requested their professional services if that fact is liable to cause prejudice to the person.

**21.** Where members ask a client to disclose confidential information or where they allow a client to disclose such information, they must clearly inform the client of the various uses that could be made of the information.

**22.** Where members transmit confidential information, in particular within a multidisciplinary team or an institutional program, they must limit the transmission to information that is useful, necessary and relevant to the achievement of the objectives pursued, provided that there will be no ensuing prejudice to their client.

**23.** Members who transmit a report to a third party must have obtained explicit authorization from their client to do so and ensure that the client has been made aware of the information in the report.

**24.** Members may not reveal or communicate the results of an evaluation obtained with measurement and evaluation tools without the written authorization of their client, except where the object of the evaluation so requires.

**25.** Members may not give to a third party other than a competent professional any raw, unprocessed data from an evaluation.

**26.** When members cease to perform their professional duties for an employer, they must take the necessary measures to protect the confidentiality of the information contained in the records for which they were responsible. If the confidentiality of the information could be compromised, they must notify the secretary of the Order.

#### **DIVISION IV** **INDEPENDENCE AND IMPARTIALITY**

**27.** Members must act with objectivity and impartiality and subordinate their personal interests to those of their clients.

**28.** Members must safeguard their professional independence at all times.

**29.** Members must ignore any intervention by a third party that could influence their professional judgment or the performance of their professional duties to the detriment of the person with whom they have a professional relationship.

**30.** Where members practice their profession with several clients who may have divergent interests, they must inform them of their duty to be objective and of the specific actions that will be undertaken to provide professional services.

If the situation becomes irreconcilable with their duty to be objective, the members must inform their clients that they must terminate the professional relationship.

**31.** In any situation where members are called on to intervene in more than one role, they must clarify with the persons concerned the purpose of each of their roles and the implications in the situation.

Where the roles conflict, the members must take the necessary measures to avoid causing prejudice to the client.

**32.** Members must not use confidential information to obtain directly or indirectly a benefit for themselves or for third parties.

**33.** Members must avoid any situation in which they would be in conflict of interest. Members are in conflict of interest when they use the professional relationship for other purposes and when the interests concerned are such that

(1) they might tend to favour certain interests over those of their client;

(2) their judgment and loyalty towards their client might be adversely affected; or

(3) they could gain personal benefit therefrom, whether direct or indirect, real or possible, to the detriment of the client.

**34.** As soon as members become aware that they are in a real or apparent conflict of interest, they must notify their client and take the necessary measures to ensure that the situation will not cause prejudice to the client, in particular, by referring the client to another member.

**35.** Members must not urge anyone insidiously, pressingly or repeatedly to retain their professional services or to participate in research.

**36.** Members must not perform unwarranted professional acts or unnecessarily increase the number of such professional acts, and must refrain from performing acts that are inappropriate or disproportionate to the client's needs.

**37.** Members must not seek to obtain a contract for professional services knowing that a contract has already been given to another member.

**38.** Members must not provide, out of kindness or for any other reason, a false report regarding a client.

**39.** Except for the remuneration to which they are entitled, members may not receive, pay, offer to pay or agree to pay any benefit, rebate or commission relating to the practice of their profession.

**40.** Members must refrain from exerting any undue pressure or accepting or offering money or any other consideration to influence the Bureau of the Order, one of its committees or any other person acting on behalf of the Order.

#### **DIVISION V** **QUALITY OF PRACTICE, COMPETENCE AND** **PROFESSIONAL DEVELOPMENT**

**41.** Members must discharge their professional obligations with competence, integrity, diligence and availability.

**42.** Members must avoid any misleading representation as to their level of competence or the scope or effectiveness of their professional services or of those generally offered by other members of their profession.

**43.** Members must practise their profession in keeping with good practice and the generally accepted standards of practice of the profession.

**44.** Members must ensure the quality of their professional services offered to the public, in particular,

(1) by ensuring that their level of competence is kept up to date, maintained and developed;

(2) by assessing the quality of their evaluations and actions; and

(3) by promoting education and information measures in the field in which they practise.

**45.** Before providing professional services, members must evaluate their proficiency, knowledge and the means at their disposal. Where they consider that they cannot act adequately for a client, they must obtain the necessary assistance or refuse to provide services.

**46.** Members must, as soon as the interest of their client so requires, consult another member or another competent person, or refer the client to one of those persons.

**47.** Members must refrain from giving opinions, recommendations or advice that is contradictory or incomplete. To that end, members must endeavour to gain sufficient knowledge and understanding of the facts.

**48.** Members who produce a written or oral report must limit its content to the interpretations, findings and recommendations based on their professional expertise.

**49.** Members must not falsify, destroy, appropriate or unduly keep a record or part of a record.

**50.** Members must refrain from practising their profession in a condition or in a state that may compromise the quality of their professional services or the dignity of the profession.

**51.** Members must refrain from consuming, distributing or selling psychotropic substances in the practice of their profession.

**52.** Members must refrain from using methods or adopting attitudes likely to impart a mercantile character to the profession.

**53.** Members must assume full personal civil liability. They may not include in a contract of professional services any clause that, directly or indirectly, fully or partially, excludes that liability. They may not invoke the liability of the partnership or company within which they carry on their professional activities or that of another person also carrying on activities as a ground for excluding their professional liability.

#### **DIVISION VI PROFESSIONAL COMMITMENT AND COLLABORATION**

**54.** Members must support every measure conducive to improving the quality and availability of the professional services in the field in which they practise.

**55.** Members must participate in the development of their profession by sharing their knowledge and experience with other members and students and by collaborating in training activities.

**56.** Members consulted by another member must provide the other member with their opinion and recommendations within a reasonable time. If unable to do so, they must so notify the other member as quickly as possible.

**57.** Members may not, with respect to any person with whom they have a professional relationship, damage the person's reputation, denigrate or harass the person or breach the person's trust, voluntarily mislead the person, betray good faith or use unfair practices.

**58.** Members may not take credit for work performed by another member or person.

**59.** Members must collaborate with the Order in carrying out their duties, including their duty to ensure the protection of the public.

**60.** Members must notify the Order of the fact that a person who is not a member is using a title reserved for the members.

**61.** Members must inform the Order if they have reason to believe that another member is incompetent or engaging in conduct that is derogatory to the dignity of the profession.

**62.** Members whose participation on a board of arbitration of accounts or on a review, disciplinary or professional inspection committee is requested by the Order are required to accept that function unless exceptional grounds prevent such participation.

**63.** Members must reply promptly to all communications from a syndic, an investigator, an inspector, a member of the professional inspection committee or the secretary of the Order and they must collaborate with those persons.

**64.** In no circumstances may a member, on being informed of an inquiry into the member's professional conduct or competence or on being served with a complaint lodged against the member, communicate with the person who requested the inquiry or with any other person involved in relation to the inquiry or complaint, without the prior written authorization of a syndic.

#### **DIVISION VII RIGHTS OF ACCESS TO INFORMATION, CORRECTION AND RELEASE OF DOCUMENTS**

**65.** Members must respond promptly, at the latest within 20 days of its receipt, to any request made by a client to consult or obtain a copy of documents that concern the client in any record made in his or her respect.

Members may charge the client reasonable fees not exceeding the cost of reproducing or transcribing documents or the cost of transmitting a copy of the documents.

Members who intend to charge such fees must inform the client of the approximate amount to be paid before copying, transcribing or transmitting the information.

**66.** Members must respond promptly, at the latest within 20 days of its receipt, to any request made by a client to have information that is inaccurate, incomplete, ambiguous, outdated or unjustified corrected or deleted in any document concerning the client. Members must also respect the client's right to make written comments in the record.

Members must give the client, free of charge, a duly dated copy of the document or part of the document filed in the record so that the client may verify that the information has been corrected or deleted or, as applicable, give the client an attestation stating that the client's written comments have been filed in the record.

On written request from the client, members must forward a copy, free of charge, of the corrected information or an attestation stating that the information has been deleted or, as applicable, that the written comments have been filed in the record, to every person from whom the members received the information that was the subject of the correction, deletion or comments, and to every person to whom the information was communicated.

**67.** Members who deny a client access to information contained in a record established in the client's respect or who refuse to grant a request to correct or delete information in any document concerning the client must, on written request from the client, notify the client in writing of the reasons for the refusal and enter the reasons in the record.

**68.** Members must respond promptly to any written request from a client to have a document returned to the client.

#### **DIVISION VIII** **PARTICIPATION IN RESEARCH**

**69.** Members who undertake, participate or collaborate in research involving persons, must ensure that the project has been approved by a research ethics committee.

In the absence of such a committee, members must ensure that the project is in keeping with generally accepted standards of research ethics. Members must ensure, in particular,

(1) that each of the subjects or their representative has been informed of the project's objectives and the manner in which it will be conducted, and the benefits, risks or disadvantages relating to their participation;

(2) that free and enlightened consent has been obtained; and

(3) that the subject has been informed that the consent is revocable at any time.

**70.** Members who participate or collaborate in research must advise the ethics committee or another appropriate authority if the research could cause prejudice to persons, communities or society.

**71.** Members who participate in research must maintain their professional independence and avoid any situation in which they would be in conflict of interest.

**72.** Members must cease any form of participation or collaboration in a research activity if the harm to the subjects appears to outweigh the benefits.

#### **DIVISION IX** **FEEES**

**73.** Members must charge and accept fair and reasonable fees warranted under the circumstances, and proportional to the professional services provided.

To determine their fees, members must consider the following factors:

(1) their experience or expertise;

(2) the time required to perform the professional services;

(3) the complexity and extent of the professional services; and

(4) the performance of professional services that are unusual or require exceptional competence or celerity.

**74.** Members must provide their client with all the explanations required for the understanding of their statement of fees and the terms of payment.

**75.** Members may not claim fees for professional services not provided.

Members may claim cancellation fees for missed appointments if there is a written agreement to that effect with the client. Those fees must be reasonable.

**76.** Members may share their fees only insofar as the sharing corresponds to the sharing of services and responsibilities and does not affect their professional independence.

**77.** Members may not charge interest on outstanding accounts unless the client has been notified. The interest so charged must be reasonable.

**78.** Before instituting legal proceedings, members must have exhausted all other means available to recover their fees.

**79.** Members who appoint a third party to collect their fees must ensure that the latter proceeds with tact, moderation and respect for the confidentiality and practices relating to the collection of accounts authorized by law.

#### **DIVISION X** **OBLIGATIONS AND RESTRICTIONS** **RESPECTING ADVERTISING**

**80.** In their advertising, members must not impart a mercantile character likely to tarnish the image of the profession.

**81.** Members' advertising may contain only information that will help the public to make an enlightened choice.

**82.** Members may not claim, in their advertising, specific qualities or skills, in particular as to their level of competence or the scope or effectiveness of their professional services, unless they can be substantiated.

**83.** Members may not engage in or allow advertising, by any means whatsoever, that is false, deceitful, incomplete or likely to be misleading.

**84.** Members may not use or allow to be used in advertising any endorsement or statement of gratitude in the member's regard other than awards for excellence and other merits related to the practice of the profession.

**85.** Members who advertise their fees must

- (1) establish rates;
- (2) specify the nature and extent of the professional services included in the fees;
- (3) indicate whether taxes or costs are included in the fees; and
- (4) indicate whether additional services which are not included in the fees might be required.

The fees are to remain in effect for a minimum of 90 days after the date they were last broadcast or published.

Members may, however, agree with the client on rates lower than those broadcast or published.

**86.** In any advertising involving a special price, members must specify the period during which the price is valid, if applicable.

**87.** In any statement or advertisement, members may not, by any means whatsoever, give more importance to a price than to the services offered.

**88.** All advertising must indicate the name and title of the member. Where there are members of various professions included in the name of a partnership, the title of each professional must appear.

**89.** Members must keep a copy of every advertisement for a period of five years following the date on which it was last broadcast or published. The copy must be given, on request, to the syndic of the Order and to any investigator, inspector or member of the professional inspection committee.

**90.** Members who reproduce the graphic symbol of the Order for advertising purposes must ensure that the symbol conforms to the original held by the secretary of the Order.

**91.** Members who reproduce the name of the Order in their advertising must use the following wording: "member of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec".

**92.** This Regulation replaces the Code of ethics of the members of the Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec (R.R.Q., 1981, c. C-26, r.41).

**93.** 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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