

5.16. A hearing-aid acoustician must indicate on his business card, stationery and in a statement or advertisement, his name, title, the address and telephone number of his consulting-rooms and, if applicable, the name of the partnership or joint-stock company within which he carries on professional activities.

5.17. All hearing-aid acousticians who are partners or work together in carrying on their professional activities are solidarily responsible for complying with the rules respecting advertising, unless the advertising clearly indicates the name of the hearing-aid acoustician who is responsible for it or unless the other hearing-aid acousticians establish that the advertising was done without their knowledge and consent and despite the measures taken to ensure compliance with those rules.

5.18. A hearing-aid acoustician who carries on professional activities within a partnership or joint-stock company must take reasonable measures to ensure that advertising by the partnership or company or by any other person carrying on activities within the partnership or company complies with the rules set out in this Division.

DIVISION VI

GRAPHIC SYMBOL OF THE ORDER

6.01. The Order is represented by a graphic symbol that conforms to the original held by the secretary of the Order.

6.02. The use of the graphic symbol of the Order must conform to the original held by the secretary of the Order.”

19. Section 18 of this Regulation replaces the Regulation respecting advertising by hearing-aid acousticians (R.R.Q., 1981, c. A-33, r.7) that, in accordance with section 10 of the Act to amend the Professional Code and various Acts constituting professional corporations with respect to professional advertising and certain registers (1990, c. 76), ceases to have effect on the date of coming into force of section 18 of this Regulation.

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

9355

Draft regulation

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

Hearing-aid acousticians — Practice of the profession of hearing-aid acoustician 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 the profession of hearing-aid acoustician within a partnership or a joint-stock company, made by the board of directors of the Ordre professionnel des audioprothésistes 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.

According to the Ordre professionnel des audioprothésistes du Québec, the draft Regulation contains specific provisions intended to govern the terms and conditions authorizing the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company, in particular as regards the administration of the partnership or joint-stock company and the holding of partnership units or company shares.

In accordance with Chapter VI.3 of the Professional Code (R.S.Q., c. C-26), the conditions also include the requirement to take out insurance to cover liability which may arise from fault on the part of members in carrying on professional activities within the partnership or joint-stock company. The members must also provide the Order with the required information on the partnership or joint-stock company and maintain the information up to date.

The Ordre professionnel des audioprothésistes du Québec advises that the Regulation will have no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Claude Forest, Secretary General, Ordre des audioprothésistes du Québec, 11370, rue Notre-Dame Est, bureau 202-A, Montréal-Est (Québec) H1B 2W6, telephone: 514 640-5117; fax: 514 640-5291.

Any person wishing to comment on the draft Regulation may do so in writing to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3, within

the 45-day period. The comments will be forwarded by the Office to the Minister of Justice and may also be sent to the professional order that made the Regulation as well as to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,
*Chair of the Office des
professions du Québec*

Regulation respecting the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company

Professional Code
(R.S.Q., c. C-26, s. 93, pars. *g* and *h* and s. 94, par. *p*;
2008, c. 11, ss. 1 and 61)

DIVISION I GENERAL

1. Hearing-aid acousticians may, subject to the terms, conditions and restrictions established in this Regulation, carry on their professional activities within a limited liability partnership or a joint-stock company within the meaning of Chapter VI.3 of the Professional Code (R.S.Q., c. C-26).

Hearing-aid acousticians must at all times ensure that the partnership or joint-stock company allows them to comply with the Professional Code, the Hearing-aid Acousticians Act (R.S.Q., c. A-33) and the regulations made under that Code or that Act.

2. If a hearing-aid acoustician is struck off the roll for a period in excess of 3 months or has had his or her permit revoked, the hearing-aid acoustician may not, during the period of the striking off or revocation, directly or indirectly hold any unit or share in the partnership or joint-stock company.

During that period, the hearing-aid acoustician may not hold the position of director, officer or representative of the partnership or joint-stock company.

DIVISION II CONDITIONS

3. Hearing-aid acousticians may carry on their professional activities within a limited liability partnership or a joint-stock company if at all times,

(1) all of the voting rights attached to the partnership units or company shares are held

(a) by 1 or more hearing-aid acousticians;

(b) by a legal person, trust or any other enterprise whose voting rights attached to the units, shares, equity securities or other rights are held entirely by one or more hearing-aid acousticians; or

(c) in any combination by a person, a trust or another enterprise referred to in subparagraphs *a* and *b*;

(2) in the case of a joint-stock company, all of the non-voting shares are held

(a) by 1 or more hearing-aid acousticians;

(b) by a relative, either by direct or indirect line of descent, of a hearing-aid acoustician, who holds shares referred to in subparagraph 1;

(c) by the spouse of a hearing-aid acoustician who holds shares referred to in subparagraph 1;

(d) by a legal person, trust or another enterprise whose voting rights attached to the units, shares, equity securities or other rights are held entirely by a person referred to in subparagraphs *a*, *b* or *c*; or

(e) in any combination by a person, a trust or an enterprise referred to in subparagraphs *a*, *b*, *c* or *d*;

(3) the partners or, as the case may be, the directors are hearing-aid acousticians carrying on their professional activities within the partnership or joint-stock company; and

(4) no brand of hearing aids may be sold within the partnership or joint-stock company if a partner or shareholder has an interest in an undertaking for the manufacture or wholesale of such a brand of hearing aids.

Hearing-aid acousticians must ensure that the conditions are listed, as the case may be, in the partnership contract, the joint-stock company articles, the shareholders' agreement or any other document relating to the constitution and operation of the partnership or joint-stock company.

4. A hearing-aid acoustician may carry on professional activities within a partnership or joint-stock company if, before starting to carry on the activities, the hearing-aid acoustician provides the Order with the following:

(1) the declaration required by section 5 accompanied by the fees fixed by the board of directors of the Order;

(2) a written document from a competent authority certifying that the partnership or joint-stock company is covered by security in compliance with Division III;

(3) if the hearing-aid acoustician practises within a joint-stock company, a written document from the competent authority certifying the existence of the joint-stock company;

(4) where applicable, a certified true copy of the declaration from the competent authority stating that the general partnership has been continued as a limited liability partnership;

(5) written confirmation from the competent authority certifying that the partnership or joint-stock company is duly registered in Québec;

(6) a written document certifying that the partnership or joint-stock company has an establishment in Québec; and

(7) an irrevocable written authorization from the partnership or joint-stock company within which the hearing-aid acoustician practises, allowing a person, committee, council or tribunal referred to in section 192 of the Professional Code to require disclosure of and obtain any document listed in section 10, or to obtain a copy of such a document.

A hearing-aid acoustician is however exempt from satisfying the conditions set out in the first paragraph if a representative of the partnership or joint-stock company with which the representative has become associated has already provided the Order with the documents concerned.

5. A hearing-aid acoustician must fill out a declaration under oath on the form provided by the Order that contains the following information:

(1) the partnership or joint-stock company name and any other names used in Québec by the partnership or joint-stock company within which the hearing-aid acoustician carries on professional activities and the business number assigned to them by the competent authority for every partnership or joint-stock company;

(2) the legal form of the partnership or joint-stock company;

(3) the list of all hearing-aid acousticians who carry on their professional activities within the partnership or joint-stock company;

(4) the hearing-aid acoustician's name and place of residence and the place where he or she principally carries on professional activities;

(5) where the hearing-aid acoustician carries on professional activities within a limited liability partnership, the addresses of the establishments of the partnership in Québec specifying the address of the principal establishment, the names and home addresses of all the partners, their percentage of units and an indication of their management functions, as the case may be;

(6) where the hearing-aid acoustician carries on professional activities within a joint-stock company, the name, the address of the head office of the joint-stock company and the addresses of its establishments in Québec, the names and home addresses of all the shareholders, their percentage of voting shares and non-voting shares and an indication of their functions of director and officer, as the case may be;

(7) a written document provided by the hearing-aid acoustician certifying that the units or shares held and the rules of administration of the partnership or joint-stock company comply with the conditions set out in this Regulation.

6. To retain the right to carry on professional activities within a partnership or joint-stock company, a hearing-aid acoustician must

(1) update and provide, before 31 March of each year, the declaration prescribed in section 5 and pay the fees fixed by the board of directors of the Order; and

(2) promptly notify the Order of any change in the security prescribed in Division III or in the information given in the declaration prescribed in section 5 that might violate the conditions set out in section 3.

7. If more than one hearing-aid acoustician carries on professional activities within a partnership or joint-stock company, a representative and a substitute must be designated to act on behalf of all the hearing-aid acousticians practising in the partnership or joint-stock company to satisfy the conditions set out in sections 4 and 6.

The representative and the substitute must be hearing-aid acousticians and carry on professional activities in Québec within the partnership or joint-stock company.

DIVISION III
SECURITY AGAINST THE PROFESSIONAL
FAULT OF PARTNERSHIP OR JOINT-STOCK
COMPANY MEMBERS

8. To be authorized to carry on professional activities in accordance with this Regulation, a hearing-aid acoustician carrying on professional activities within a partnership or joint-stock company must furnish and maintain security, on behalf of the partnership or joint-stock company, by means of an insurance or suretyship contract, or by joining a group plan contract entered into by the Order, against the liability of the partnership or joint-stock company arising from fault on the part of a hearing-aid acoustician in carrying on professional activities within the partnership or joint-stock company.

9. The security must include

(1) an undertaking by the insurer to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the hearing-aid acoustician pursuant to the Regulation respecting the professional liability insurance of hearing-aid acousticians, approved by Order in Council 1188-94 dated 3 August 1994, up to the amount of the security, any sum that the partnership or joint-stock company may be legally bound to pay to an injured third party on a claim arising from fault on the part of a hearing-aid acoustician in the carrying on of professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer to take up the cause of the partnership or joint-stock company and defend it in any action against it and to pay, in addition to the amounts covered by the security, all legal costs of actions against the partnership or joint-stock company, including the costs of the inquiry and defence and interest on the amount of the security;

(3) an undertaking that the security is not less than \$1,000,000 per claim and \$5,000,000 for all claims filed against the partnership or joint-stock company within a 12-month coverage period;

(4) an undertaking by the insurer or surety to give the secretary of the Order a 30-day prior notice before terminating or modifying the insurance or suretyship contract when the modification affects a condition set out in this section; and

(5) an undertaking by the insurer or surety to provide the secretary of the Order with a notice that the insurance or suretyship contract has not been renewed; the notice must be sent within 15 days following the expiry of the contract.

The suretyship contract referred to in section 8 must be with a bank, savings and credit union, trust or insurance company and provide that the surety will provide the coverage in accordance with the conditions set out in this Regulation and will pay, by waiving the benefit of division and discussion, in lieu of the partnership or joint-stock company up to the amount of the suretyship.

DIVISION IV
DOCUMENT ACCESSIBILITY

10. The documents that may be required from the partnership or joint-stock company under subparagraph 7 of the first paragraph of section 4 are the following:

(1) if the hearing-aid acoustician practises within a limited liability partnership,

(a) the partnership agreement and amendments;

(b) the declaration of registration of the partnership and any update;

(c) an up-to-date register of the partners;

(d) an up-to-date register of the partners performing management functions within the partnership and their home addresses;

(2) if the hearing-aid acoustician practises within a joint-stock company,

(a) an up-to-date register of the articles and by-laws of the joint-stock company;

(b) the declaration of registration of the joint-stock company and any update;

(c) an up-to-date register of the securities of the joint-stock company;

(d) any shareholders' agreement and voting agreement and amendments;

(e) an up-to-date register of the directors of the joint-stock company; and

(f) the names of all the directors and officers and their home addresses.

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