

**5.** A school board must give an account of the application of the complaint examination procedure in its annual report.

## DIVISION II STUDENT OMBUDSMAN

**6.** The Student Ombudsman must be designated by the council of commissioners for a term that may not be less than 3 years.

The Student Ombudsman's term may be revoked only by a vote of not less than two-thirds of the commissioners entitled to vote. The Ombudsman remains in office until re-appointment or replacement.

The Student Ombudsman must be under the responsibility of the council of commissioners.

**7.** The council of commissioners must take appropriate measures to preserve the independence of the Student Ombudsman at all times.

To that end, the school board must take up the defence of the Student Ombudsman if the Student Ombudsman is sued by a third person for an act that the Student Ombudsman performed or failed to perform in the performance of duties, except in the case of a gross fault.

**8.** The Student Ombudsman intervenes after the complainant has exhausted the other remedies provided for in the complaint examination procedure.

Despite the foregoing, the Student Ombudsman may take up a complaint at any stage of the complaint examination procedure if the Student Ombudsman considers that intervention is necessary to prevent harm from being caused to the complainant.

**9.** The Student Ombudsman may require the cooperation of any staff member of the school board whose expertise is considered necessary by the Student Ombudsman and may, with the authorization of the council of commissioners, call on an outside expert.

**10.** The Student Ombudsman may, upon summary examination, dismiss a complaint if, in the Student Ombudsman's opinion, it is frivolous, vexatious or made in bad faith.

The Student Ombudsman may also refuse or cease to examine a complaint if the Student Ombudsman has reasonable cause to believe that intervening would clearly serve no purpose or the length of time having elapsed between the events that gave rise to the dissatisfaction of the user and the filing of the complaint makes it impossible to examine the complaint.

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

9350

## Draft regulation

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

### Hearing-aid acousticians

— Code of ethics  
— Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Code of ethics of hearing-aid acousticians, made by the Bureau 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 purpose of the draft Regulation is to adapt certain rules of ethics to the reality of the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company, as established in the draft Regulation to amend the Code of ethics of hearing-aid acousticians.

The draft Regulation also introduces, pursuant to subparagraph 4 of the first paragraph of section 87 of the Professional Code (R.S.Q., c. C-26), provisions setting out the conditions and procedure applicable to the exercise of the rights of access and correction provided for in sections 60.5 and 60.6 of the Code, and provisions concerning a hearing-aid acoustician's obligation to release documents to a client.

The draft Regulation sets out conditions, obligations and prohibitions in respect of advertising by hearing-aid acousticians.

The draft Regulation sets out, pursuant to the second paragraph of section 87 of the Code, the terms and conditions according to which a hearing-aid acoustician may communicate information that is protected by professional secrecy, provided for in section 60.4 of the Code, to prevent an act of violence.

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<sup>e</sup> étage, Québec (Québec) G1R 5Z3, within the 45-day period. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions 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 to amend the Code of ethics of hearing-aid acousticians\*

Professional Code  
(R.S.Q., c. C 26, s. 87; 2008, c. 11, ss. 1 and 56)

**1.** The Code of ethics of hearing-aid acousticians is amended by inserting the following after section 1.02:

“**1.03.** A hearing-aid acoustician must adequately supervise a student, trainee, employee or person for whom he is immediately responsible.

**1.04.** A hearing-aid acoustician must take reasonable measures to ensure that persons who collaborate with him in the carrying on of professional activities comply with the Hearing aid Acousticians Act (R.S.Q., c. A-33), the Professional Code (R.S.Q., c. C-26) and their regulations.

**1.05.** A hearing-aid acoustician who carries on professional activities within a partnership or joint-stock company must take reasonable measures to ensure that the partnership or company complies with the Hearing aid Acousticians Act, the Professional Code and their regulations.

The duties and obligations under the Hearing aid Acousticians Act, the Professional Code and their regulations are not changed or reduced by the fact that a hearing-aid acoustician carries on professional activities within a partnership or joint-stock company.”

**2.** Section 3.01.04 is amended by replacing “hearing-aid acoustics” by “audioprosthology”.

**3.** Section 3.02.02 is amended by inserting the following after the first sentence:

“Similarly, a hearing-aid acoustician must avoid any misrepresentation with respect to the competency or efficiency of the services generally provided by the persons with whom he carries on professional activities within the same partnership or joint-stock company.”

**4.** Section 3.02.06 is amended by adding the following paragraph at the end:

“A hearing-aid acoustician who carries on professional activities within a partnership or joint-stock company must take reasonable measures to ensure that the partnership or company complies with the requirements of the first paragraph when a hearing aid is entrusted to the partnership or company in connection with the professional activities.”

**5.** Section 3.04.01 is amended by adding the following sentence at the end:

“A hearing-aid acoustician may not invoke the liability of the partnership or joint-stock company within which he carries on professional activities or the liability of another person also carrying on activities within the same partnership or company as a ground for excluding or limiting his personal civil liability.”

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

**7.** The following is inserted after section 3.05.01:

“**3.05.01.01.** A hearing-aid acoustician may not be party to an agreement in which the nature and extent of professional expenses may influence the quality of his practice.

Any agreement entered into by a hearing-aid acoustician or a partnership or joint-stock company of which he is a partner or shareholder regarding the enjoyment of a building or space to carry on his professional activities must be entirely recorded in writing and include a statement by the parties that the obligations arising from the agreement comply with the provisions of this Code and a clause authorizing release of the agreement to the Order on request.”

\* The Code of ethics of hearing-aid acousticians (R.R.Q., 1981, c. A-33, r.2) was amended once by the regulation approved by Order in Council 167-90 dated 14 February 1990 (1990, G.O. 2, 546).

**8.** Section 3.05.04 is amended by replacing “ask him for authorization to continue his professional services” by “cease to carry on his professional activities, unless the patient, after being informed of the nature of the conflict of interest and the facts relating thereto, authorizes the hearing-aid acoustician in writing to continue his professional activities.”.

**9.** The following is inserted after section 3.05.04:

**“3.05.04.01.** A hearing-aid acoustician must take the necessary measures to ensure that information and documents relevant to professional secrecy are not disclosed to a partner, shareholder, director, officer or employee of a partnership or joint-stock company within which the hearing-aid acoustician carries on professional activities or in which he has an interest, where he becomes aware that the partner, shareholder, director, officer or employee has a conflict of interest.

The following factors must be considered in assessing the effectiveness of such measures:

- (1) size of the partnership or company;
- (2) precautions taken to prevent access to the hearing-aid acoustician’s file by the person having a conflict of interest;
- (3) instructions given to protect confidential information or documents related to the conflict of interest; and
- (4) isolation, from the hearing-aid acoustician, of the person having a conflict of interest.”.

**10.** Section 3.05.05 is amended

(1) by inserting “or who is not a person, trust or enterprise referred to in the Regulation respecting the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company approved by Order in Council (*insert the number and date of the Order in Council*)” after “Order”;

(2) by adding the following at the end:

“Where a hearing-aid acoustician carries on professional activities within a partnership or joint-stock company, the income resulting from the professional services rendered within and on behalf of the partnership or company belongs to the partnership or company, unless agreed otherwise.”.

**11.** Section 3.05.09 is amended by replacing “stagiaire en audioprothésiste” in the French text by “stagiaire en audioprothèse”.

**12.** The following is inserted after section 3.06.06:

**“3.06.07.** A hearing-aid acoustician must take reasonable measures to ensure that anyone with whom he carries on his professional activities does not communicate to a third party the confidential information of which he may have taken cognizance.

**§6.1.** *Lifting of professional secrecy to protect individuals*

**3.06.07.01.** A hearing-aid acoustician may communicate information that is protected by professional secrecy to prevent an act of violence, including a suicide, where the hearing-aid acoustician has 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, the hearing-aid acoustician may only communicate the information to a person exposed to the danger, or that person’s representative, and to the persons who can come to that person’s aid. The hearing-aid acoustician may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

If it is necessary in the best interests of the person or persons exposed to the danger, the hearing-aid acoustician is to consult another member of the Order, a member of another professional order, or any other qualified person, provided the consultation will not prejudicially delay the communication of the information.

**3.06.07.02.** A hearing-aid acoustician who communicates information protected by professional secrecy pursuant to section 3.06.07.01 must, for each communication, enter in the patient’s record as soon as possible

- (1) the name of the person or group of persons exposed to a danger;
- (2) the reasons supporting the decision to communicate the information; and
- (3) the subject of the communication, the mode of communication, the name of the person to whom the information was given and the date and time it was communicated.

The hearing-aid acoustician must send that information to the syndic as soon as possible.”.

**13.** The title of subdivision 7 of Division III is replaced by the following:

“Accessibility and correction of records”.

**14.** The following is inserted after section 3.07.01:

**3.07.02.** A hearing-aid acoustician must allow his patient to cause to be corrected any information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected, contained in a document concerning him in any record established in his respect. He must also allow his patient to cause to be deleted any information that is outdated or not justified by the object of the record, or to prepare written comments and file them in the record.

**3.07.03.** A hearing-aid acoustician holding a record that is the subject of a request for access or correction by the patient concerned must respond to that request with diligence and not later than 20 days from the date on which the request is received.

**3.07.04.** A hearing-aid acoustician who charges fees for the reproduction, transcription or transmission of the documents requested must first inform the patient of the approximate amount to be paid.

**3.07.05.** A hearing-aid acoustician who grants a request for correction must issue free of charge to the person who made the request a copy of any information modified or added or, as the case may be, an attestation that information has been deleted.

The person may require the hearing-aid acoustician to send a copy of the information or the attestation, as the case may be, to the person from whom such information was obtained or to any person to whom such information was given.

**3.07.06.** A hearing-aid acoustician who refuses to grant a request for access or correction must notify the patient in writing of the reasons for the refusal, enter the reasons in the patient’s file and inform the patient of the recourses.

**3.07.07.** A hearing-aid acoustician holding information that is the subject of a request for access or correction must, if he does not grant the request, retain the information for such time as is necessary to allow the person concerned to exhaust the recourses provided by law.”.

**15.** Section 3.08.03 is amended by replacing “the numbers” in paragraph *b* by “the number” and by striking out “the electrical cord, the receiver and”.

**16.** Section 4.01.02 is amended by inserting “or who carries on professional activities with a person who has an interest in such a business” after “wholesale of hearing-aids”.

**17.** Section 4.02.01 is amended

(1) by replacing “and 58” in the part preceding paragraph *a* by “, 58, 59.1, 59.2 and those that may be determined pursuant to the second paragraph of section 152”;

(2) by replacing paragraph *e* by the following:

“(e) forming a partnership with or being employed by a person who is not a member of the Order for the purpose of practising audioprosthology, except with a person, trust or enterprise referred to in the Regulation respecting the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company with which the hearing-aid acoustician is authorized to carry on professional activities within a partnership or joint-stock company;”;

(3) by adding the following paragraphs at the end:

“(n) failing to promptly notify the secretary of the Order where, pursuant to the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3), a hearing-aid acoustician or the partnership or company within which he carries on professional activities has made an assignment of property for the benefit of his creditors, is the subject of a receiving order, or has made a proposal that has been rejected by his creditors or dismissed or annulled by the court;

(o) carrying on professional activities within, or having an interest in, a partnership or company whose name compromises the dignity of the profession of hearing-aid acoustician or with a person who, to the hearing-aid acoustician’s knowledge, acts in a manner that compromises the dignity of the profession of hearing-aid acoustician;

(p) carrying on professional activities within, or having an interest in, a partnership or company, where a partner, shareholder, director, officer or employee of the partnership or company, has been struck off the roll for more than 3 months or has had his professional permit revoked, unless the partner, shareholder, director, officer or employee

i. ceases to hold a position of director or officer within the partnership or company within 15 days of the date on which the mandatory striking off or revocation of permit has become effective;

ii. ceases, if applicable, to attend any shareholder meetings and to exercise his right to vote within 15 days of the date on which the mandatory striking off or revocation of permit has become effective; or

iii. disposes of his voting shares or turns them over to a trustee within 15 days of the date on which the mandatory striking off or revocation of permit has become effective; and

(q) intimidating a person or taking reprisals or threatening to take reprisals against any person who

i. has reported derogatory conduct or behaviour or intends to do so; or

ii. has taken part or cooperated in an inquiry into derogatory conduct or behaviour or intends to do so.”.

**18.** The following is added at the end:

**“DIVISION V  
RESTRICTIONS AND OBLIGATIONS RELATING  
TO ADVERTISING**

**5.01.** A hearing-aid acoustician may, in a statement or advertisement, inform the public of any aspect of the practice of his profession, subject to the conditions set out in this Code and to the laws and regulations governing the practice of his profession.

**5.02.** No hearing-aid acoustician may, by any means whatsoever, engage in or allow advertising that is false, deceitful, incomplete or likely to be misleading.

**5.03.** No hearing-aid acoustician may claim specific qualities or skills, in particular as to his level of competence or the scope or effectiveness of his professional services, unless they can be substantiated.

**5.04.** No hearing-aid acoustician may use or allow to be used in advertising any endorsement or statement of gratitude in the hearing-aid acoustician’s regard.

**5.05.** No hearing-aid acoustician may use advertising practices likely to denigrate or discredit the competence, knowledge or services of a colleague or of another professional.

**5.06.** A hearing-aid acoustician must avoid, in advertising, all methods and attitudes likely to give a profit-seeking or commercialistic character to the profession.

**5.07.** A hearing-aid acoustician must keep an integral copy of every advertisement in its original form for a period of 12 months following the date on which it was last published or broadcast. On request, the copy must be given to the syndic.

**5.08.** In a statement or advertisement concerning a price, rebate, discount, free goods or services advertised by a hearing-aid acoustician, the hearing-aid acoustician must legibly indicate the functional features of the product, the model, brand, type, technology, guarantee and services covered by the price.

The hearing-aid acoustician must include in his or her publicity a precautionary mention that an assessment by a hearing-aid acoustician is required in order to determine if the product is suitable for the patient’s needs.

**5.09.** In a statement or advertisement concerning a price, rebate, discount or free goods or services, a hearing-aid acoustician must mention the period of validity of the price, rebate, discount or free goods or services, if any.

**5.10.** No hearing-aid acoustician may, in a statement or advertisement, by any means whatsoever, give more importance to a price, rebate, discount or free goods or services than to the product or service offered.

**5.11.** In a statement or advertisement concerning fees or prices, a hearing-aid acoustician must specify the services covered by those fees or prices.

**5.12.** No hearing-aid acoustician may, in a statement or advertisement, by any means whatsoever, indicate the price of any of the products or services forming part of a set without indicating the total price of that set of products or services.

**5.13.** No hearing-aid acoustician may, in a statement or advertisement, by any means whatsoever, give less importance to the fees or prices of a set of products or services than to the fees or prices of any of the products or services forming part of that set.

**5.14.** No hearing-aid acoustician may, in a statement or advertisement, by any means whatsoever, disclose the amount of the instalments to be paid to acquire a product or receive a service without disclosing and also stressing in a more obvious manner the total price or fees for the product or service.

**5.15.** A hearing-aid acoustician must refrain from advertising trials or trial periods.

**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<sup>e</sup> étage, Québec (Québec) G1R 5Z3, within