

## Regulations and other Acts

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Gouvernement du Québec

### O.C. 1103-2009, 21 October 2009

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

#### Dispensing opticians — Code of ethics — Amendments

Regulation to amend the Code of ethics of dispensing opticians

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), amended by sections 1 and 56 of chapter 11 of the Statutes of 2008, the board of directors of a professional order must make, by regulation, a code of ethics governing the general and special duties of the professional towards the public, clients and the profession, particularly the duty to discharge professional obligations with integrity;

WHEREAS the board of directors of the Ordre des opticiens d'ordonnances du Québec made the Regulation to amend the Code of ethics of dispensing opticians;

WHEREAS, under section 95.3 of the Professional Code, a draft of the Regulation was sent to every member of the Order at least 30 days before being made by the board of directors;

WHEREAS, pursuant to section 95 of the Code, amended by sections 1 and 63 of chapter 11 of the Statutes of 2008 and by section 4 of chapter 16 of the Statutes of 2009, and subject to sections 95.0.1 and 95.2 of the Code, the latter section having been amended by sections 1 and 65 of chapter 11 of the Statutes of 2008, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Code of ethics of dispensing opticians was published in Part 2 of the *Gazette officielle du Québec* of 4 February 2009 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation to amend the Code of ethics of dispensing opticians, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

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### Regulation to amend the Code of ethics of dispensing opticians\*

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

**1.** The Code of ethics of dispensing opticians is amended by inserting the following after section 1.01:

**“1.01.01.** A dispensing optician must take reasonable measures to ensure compliance with the Dispensing Opticians Act (R.S.Q., c. O-6), the Professional Code (R.S.Q., c. C-26) and their regulations by any person other than a dispensing optician who collaborates with him in the carrying on of professional activities and any partnership or joint-stock company within which the dispensing optician carries on professional activities.

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\* The Code of ethics of dispensing opticians, made by Decision dated 9 February 1983 (1983, *G.O.* 2, 1945), was last amended by the regulation approved by Order in Council 578-2005 dated 15 June 2005 (2005, *G.O.* 2, 2055). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2009, updated to 1 March 2009.

**1.01.02.** A dispensing optician who carries on professional activities within a partnership or joint-stock company must take reasonable measures to ensure that the Dispensing Opticians Act, the Professional Code and their regulations are complied with by the partnership or joint-stock company.

The duties and obligations under the Dispensing Opticians Act, the Professional Code and their regulations are not changed or reduced by the fact that a member practises within a partnership or joint-stock company.”.

**2.** Section 3.02.02 is amended by adding the following paragraph at the end:

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

**3.** Section 3.04.01 is amended by adding the following paragraph at the end:

“A dispensing optician 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.”.

**4.** Section 3.05.01 is amended by inserting “, the interest of the partnership or joint-stock company within which he carries on professional activities or in which he has an interest and the interest of any other person carrying on activities within the partnership or joint-stock company or not” after “personal interest”.

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

**“3.05.01.01.** A dispensing optician may not be a party to an agreement in which the nature and the extent of professional expenses may influence the quality of his practice.

An agreement entered into by a dispensing optician or a 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.”.

**6.** Section 3.05.05 is replaced by the following:

**“3.05.05.** In particular, the fact of practising the profession jointly or in association with a natural or legal person who is not a dispensing optician or optometrist constitutes a conflict of interest for a dispensing optician.

Carrying on professional activities within a partnership or joint-stock company referred to in the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company approved by Order in Council 1104-2009, 21 October 2009 does not constitute a conflict of interest for a dispensing optician.”.

**7.** The following is inserted after 3.05.05:

**“3.05.05.01.** A dispensing optician must take the necessary measures to ensure that information and documents relevant to professional secrecy are not disclosed to a partner, shareholder, director, manager, officer or employee of a partnership or joint-stock company within which the dispensing optician carries on professional activities or in which he has an interest, as soon as he becomes aware that the partner, shareholder, director, manager, 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 dispensing optician’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 dispensing optician, of the person having a conflict of interest.”.

**8.** Section 3.05.06 is amended by replacing “ask the client if he authorizes him to continue his professional services” by “cease to carry on his professional activities, unless the client, after being informed of the nature of the conflict of interest and the facts relating thereto, authorizes the dispensing optician in writing to continue.”.

**9.** Section 3.05.07 is amended by adding the following at the end: “, except for

(1) a person, trust or enterprise referred to in subparagraph 1 of section 2 or subparagraph 1 of section 3 of the Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company; or

(2) a partnership or joint-stock company within which he carries on professional activities.”.

**10.** Section 3.05.09 is amended by inserting “, except for customary tokens of appreciation and gifts of small value” after “profession”.

**11.** The following is inserted after 3.05.09:

“**3.05.09.01.** Despite section 3.05.09, a dispensing optician is not in a conflict of interest if he accepts a discount from a supplier for one of the following reasons:

(1) for prompt regular payment, if the discount appears on the invoice and is in keeping with marketplace rules in similar matters; or

(2) due to the volume of products purchased related to the practice of the profession of dispensing optician, if the discount appears on the invoice or the statement of account and is in keeping with marketplace rules in similar matters.”.

**12.** Section 3.06.07 is replaced by the following:

“**3.06.07.** A dispensing optician must take reasonable measures to ensure that every person with whom he carries on his professional activities does not disclose to a third person the confidential information of which he may have taken cognizance.”.

**13.** Subdivision 7 of Division III is replaced by the following:

“§7. *Accessibility and rectification of records*

**3.07.01.** A dispensing optician 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 respect.

**3.07.02.** A dispensing optician may charge the client reasonable fees for the reproduction or transcription of the documents and the cost of transmitting a copy of the documents.

A dispensing optician who intends to charge fees for the reproduction, transcription or transmission of the documents requested must first inform the client of the approximate amount to be paid.

**3.07.03.** A dispensing optician must provide a client or a person designated by the client, on request, with all information that would allow him to obtain a benefit to which he may be entitled.

**3.07.04.** A dispensing optician must, at the written request of the client and at the latest within 20 days of the date of the request, provide any person designated by the client with the relevant information in the record kept or maintained by the dispensing optician in the client’s respect.

**3.07.05.** A dispensing optician 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. He must also respect the client’s right to make written comments in the record.

A dispensing optician must give the client, free of charge, a copy of the information filed in the record so that the client may verify that the information has been corrected or deleted or, where applicable, give the client an attestation stating that the client’s written comments have been filed in the record.

**3.07.06.** A dispensing optician must send a copy, free of charge, of the corrected information or an attestation stating that the information has been deleted or, where applicable, that the written comments have been filed in the record, to every person from whom the dispensing optician received the information that was the subject of the correction, deletion or comments, and to every person to whom the information was communicated.

**3.07.07.** A dispensing optician may temporarily deny access to personal information contained in a client’s record if its disclosure would likely cause serious harm to the client’s health. In such a case, the dispensing optician determines the time at which consultation may take place and informs the client thereof. In addition, the dispensing optician must inform the client of the reasons for the refusal, enter the reasons in the record and inform the client of all available remedies.

**3.07.08.** A dispensing optician must respond promptly to any written request from a client to have a document returned to the client.”.

**14.** Section 3.08.08 is revoked.

**15.** The following paragraph is added at the end of section 3.09.01:

“No dispensing optician may allow a partnership or joint-stock company within which he carries on his professional activities to engage in, by any means whatsoever, advertising that is false, misleading, incomplete or likely to mislead the public.”

**16.** The following paragraphs are added at the end of section 4.02.01:

“(n) to fail to promptly notify the secretary of the Order where, pursuant to the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3), a dispensing optician 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) to carry on professional activities within, or to have an interest in, a partnership or joint-stock company whose name compromises the dignity of the profession of dispensing optician or with a person who, to the optician’s knowledge, acts in a manner that compromises the dignity of the profession of dispensing optician;

(p) to carry on professional activities within, or to have an interest in, a partnership or company, where a partner, shareholder, director, manager, 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, manager, officer or employee

i. ceases to hold a position of director, officer or manager within the 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 meeting 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;

(q) to fail to take reasonable measures to put an end to, or prevent the repeated performance of, an act derogatory to the dignity of the profession performed by another person carrying on professional activities within the partnership or company, and that was brought to the dispensing optician’s attention more than 30 days earlier; and

(r) to intimidate a person or to take reprisals or threaten to take reprisals against a 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.”

**17.** 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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Gouvernement du Québec

**O.C. 1104-2009**, 21 October 2009

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

**Dispensing optician  
— Practice of the profession within a partnership  
or a joint-stock company**

Regulation respecting the practice of the profession of dispensing optician within a partnership or a joint-stock company

WHEREAS, under paragraph *p* of section 94 of the Professional Code (R.S.Q., c. C-26), the board of directors of a professional order may make a regulation respecting the practice of a profession within a partnership or a joint-stock company;

WHEREAS, under paragraphs *g* and *h* of section 93 of the Professional Code, amended by section 61 of chapter 11 of the Statutes of 2008, the board of directors must then, by regulation, impose on its members who carry on their professional activities within a partnership or joint-stock company the obligation to furnish and maintain coverage, on behalf of the partnership or company, against liabilities of the partnership or company arising from fault in the practice of their profession and fix the conditions and procedure applicable to a declaration made to the order;