

**13.** Upon the request of the executive committee, of the person designated or committee designated to hold an inquiry, the claimant or the chartered administrator concerned shall provide all the details and documents relating to the claim and produce any relevant proof.

**14.** The executive committee decides on a timely basis whether it is expedient to accept a claim in whole or in part and, where applicable, fixes the indemnity. Its decision is final.

**15.** The maximum indemnity payable from the indemnity fund for the period covering the fiscal year of the Ordre is limited to \$100,000 for all claims concerning a chartered administrator.

When the executive committee believes that claims in excess of this amount may be presented with regards to the same chartered administrator, it shall suspend the payment of indemnities until it has reviewed all claims concerning this chartered administrator. It shall prepare an inventory of the funds, securities and other property entrusted to this chartered administrator and advise in writing the persons likely to file a claim.

The maximum indemnity is reconsidered every five years, starting the day the present Regulation comes in force.

**16.** The balance of a chartered administrator's trust account the sums of which have been blocked or otherwise disposed of in accordance with section 30, is distributed by the secretary of the Ordre at the expiry of a 60 day delay starting on the date of publication of a notice to that effect in a newspaper having general circulation in the location where the chartered administrator has or had his professional domicile, among the claimants on a prorata basis according to the amounts of their claims allowed, up to the amount of the claim, less the indemnity fixed under section 14.

**17.** Before receiving the indemnity set by the executive committee, the claimant must sign a discharge in favor of the Ordre of his claim up to the amount of the indemnity, against the offending chartered administrator, his successors and any person, partnership or legal person that is or might be held liable for such payment.

#### SECTION IV FINAL AND TRANSITORY PROVISIONS

**18.** This regulation replaces the Regulation respecting the indemnity fund of the Corporation professionnelle des administrateurs agréés du Québec (R.Q., 1981, c. C-26, r.12).

However, the Regulation respecting the indemnity fund of the Corporation professionnelle des administrateurs agréés du Québec continues to apply to the claims filed to the fund before the date on which the present regulation came into force as well as to the claims filed against the fund after that date but which relate to events that took place prior to that date.

**19.** This regulation comes into force on the fifteenth day which follows the date of its publication in the *Gazette Officielle du Québec*.

9527

### Draft Regulation

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

#### Midwives — 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 midwives, adopted by the board of directors of the Ordre des sages-femmes 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 replaces the Code of ethics of midwives to increase the duties and obligations of midwives towards the woman, the public and the profession, to ensure better protection of the public.

The draft Regulation is not likely to have an impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Dominique Porret, President, Ordre des sages-femmes du Québec, 204, rue Notre-Dame Ouest, bureau 400, Montréal (Québec) H2Y 1T3; telephone: 514 286-1313 or 1 877 711-1313; fax: 514 286-0008.

Any person wishing to comment on the draft Regulation is requested to submit comments within 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 forwarded by the Office to the Minister of Justice and may also be sent to the Order and to interested persons, departments and bodies.

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

## Code of ethics of midwives

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

### DIVISION I

#### GENERAL DUTIES TOWARDS THE PUBLIC

- 1.** This Code determines, pursuant to section 87 of the Professional Code (R.S.Q., c. C-26), the duties and obligations that must be discharged by every member of the Ordre professionnel des sages-femmes du Québec.
- 2.** Midwives must promote the improvement of the quality and availability of professional services in the field in which they practise.
- 3.** Midwives must take into consideration all the foreseeable consequences of their research and work on public health.
- 4.** Midwives must promote education and information measures concerning their profession. They must also perform the necessary acts to ensure that such education and information duties are carried out.
- 5.** Midwives must practise their profession in accordance with the highest possible current standards of the profession of midwifery and, to that end, they must, in particular, develop, perfect and keep their knowledge and skills up to date, and show a generally accepted attitude in the practice of the profession of midwifery.

### DIVISION II

#### DUTIES AND OBLIGATIONS TOWARDS THE WOMAN, PARENTS AND CHILD

##### §1. *General*

- 6.** In their practice, midwives must show respect for the dignity and freedom of humans.
- 7.** In performing professional acts, midwives must take into account the extent of their knowledge, abilities and means at their disposal.
- 8.** At all times, midwives must respect the woman's right, and after delivery, the parents' right, to consult another midwife or a member of another professional order.
- 9.** In addition to the provisions of section 54 of the Professional Code, midwives must refrain from practising their profession in a state or in a condition that may compromise the quality of their professional services or the dignity of the profession in particular

while under the influence of alcoholic beverages, drugs, hallucinogens, narcotics, anaesthetics or any other substance causing intoxication, reduced or disturbed faculties or unconsciousness.

**10.** Midwives must seek to maintain a relationship of trust with the woman. To that end, they must provide their professional services in a personalized manner.

**11.** Midwives who provide professional services to the other parent of a child must discharge the duties and obligations provided for in this Code towards the other parent.

##### §2. *Integrity*

**12.** Midwives must discharge their professional obligations with competence, integrity and loyalty.

**13.** Midwives must avoid any misrepresentation with respect to their level of competence or the efficiency of their professional services and of those generally rendered by midwives.

**14.** If the interest of a woman or a child so requires, a midwife must consult another midwife, a member of another professional order or another competent person, or refer the woman or the child to one of those persons.

**15.** Midwives must, when referring a woman or a child to another midwife, a member of another professional order or another competent person, with the authorization of the woman or the other parent of the child, provide that person with the information they have and that is relevant to the follow-up of the woman or the child.

**16.** Midwives must not enter false information into a woman's or a child's record, insert notes under another person's signature, alter notes previously entered into a client's record, or replace any part thereof with the intention of falsifying them.

**17.** In their professional relationship, midwives must demonstrate reasonable availability and diligence.

**18.** Midwives must, during follow-up, provide a woman and, after delivery, the parents of a child with all explanations necessary to understand the professional services rendered.

**19.** Midwives who can no longer provide the required follow-up of a woman or a child must, before ceasing to do so, ensure that the woman and the child can continue to receive the required care, and contribute to the care to the extent necessary.

**20.** Midwives may not, without sufficient cause, abandon a woman or a child who requires supervision, or refuse to provide professional services without ensuring competent relief personnel.

**21.** Midwives may not refuse to provide professional services if a woman's or a child's life is in danger.

§3. *Independence and impartiality*

**22.** Midwives must subordinate their personal interests to those of a woman or a child.

**23.** Midwives must ignore any intervention by a third person which could affect the carrying out of their professional duties and obligations, and cause prejudice to a woman or a child.

**24.** Midwives must refrain from interfering in the personal affairs of a woman on subjects not falling within their areas of professional expertise.

**25.** Midwives must safeguard their professional independence at all times and avoid any situation in which they could be in conflict of interest.

**26.** As soon as she ascertains that she is in a situation of conflict of interest, a midwife must take reasonable measures so that the professional services be provided by another midwife, unless the situation requires that she provide or continue the care. In that case, the midwife must, as soon as possible, inform the woman or, if the situation occurs after delivery, the parents of the child.

**27.** Midwives called upon to collaborate with another midwife or a member of another professional order must maintain at all times their professional independence. They must avoid performing a task contrary to their professional conscience or to the standards of the profession of midwifery.

**28.** Midwives may share their fees with another person only insofar as the sharing corresponds to the sharing of services and responsibilities.

**29.** Subject to the remuneration to which they are entitled, midwives may not pay or receive any benefit, rebate or commission relating to the practice of their profession.

They may however offer or accept customary tokens of appreciation or gifts of small value.

**30.** Midwives must refrain from urging anyone pressingly or repeatedly, personally or through a natural or legal person, a partnership, a group or an association, to retain their professional services.

**31.** Midwives must assume full civil liability in their practice. They may not evade or attempt to evade personal civil liability or request that a person renounce any recourse taken in a case of professional negligence on their part.

§4. *Professional secrecy*

**32.** Midwives must preserve professional secrecy. They may be released from their obligation of professional secrecy only with the authorization of the woman or the other parent of the child, as the case may be, or where expressly provided by law. Midwives must take reasonable means with respect to the persons with whom they work to ensure that professional secrecy is maintained.

**33.** Midwives must avoid any indiscreet conversation about a woman and, after delivery, about the parents or the child, or the services provided to them.

**34.** Midwives must refrain from using confidential information to the detriment of the parents or the child or with a view to obtaining a direct or indirect benefit for themselves or another person.

**35.** Midwives who, pursuant to the third paragraph of section 60.4 of the Professional Code, communicate information protected by professional secrecy must do so immediately. When communicating the information, they must specify

(1) the name and, if possible, the contact information of the person or group of persons exposed to a danger;

(2) the name and, if possible, the contact information of the person who made the threats;

(3) the nature of the threats; and

(4) if known, the circumstances in which the threats were made.

They must then enter the following in the woman's or child's record:

(1) the reasons supporting the decision to communicate the information protected by professional secrecy;

(2) the date and time of the communication; and

(3) the content of the communication, the mode of communication used and the identity of the person to whom the communication was made.

*§5. Accessibility of documents contained in a record, correction and deletion of information, and filing of comments*

**36.** Midwives practising in a public body governed by the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1), the Act respecting health services and social services (R.S.Q., c. S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5) must respect the rules of accessibility and correction of records provided for in those statutes.

**37.** Midwives must accede to requests for access to documents, correction or deletion of information, and filing of comments in a record, which are referred to in sections 60.5 and 60.6 of the Professional Code, with due diligence and not later than 30 days after receipt of the request.

**38.** For the purposes of the first paragraph of section 60.5 of the Professional Code, access to documents contained in a record is free. Midwives may, however, charge fees not exceeding the cost of reproducing or transcribing documents or the cost of transmitting a copy of the documents.

Midwives who intend to charge fees pursuant to this section must inform the person making the request of the amount to be paid before transcribing, copying or transmitting the documents.

**39.** Midwives who grant a request for correction pursuant to section 60.6 of the Professional Code must, without charge, deliver to the person making the request a copy of all information that has been changed or added or, as the case may be, a certification that information has been deleted or that comments have been filed in the record.

The person may require midwives to transmit a copy of the information or certification, as the case may be, to the person from whom such information was obtained or to any other person to whom such information was given.

**40.** Midwives who refuse a request referred to in sections 60.5 and 60.6 of the Professional Code must, within 30 days of the request, give reasons for the refusal, inform the person making the request in writing and inform that person of available legal remedies.

**41.** Midwives who hold a document or information that is the subject of a request referred to in sections 60.5 and 60.6 of the Professional Code must, if they refuse the request, keep the document or information for the time needed by the person making the request to pursue all remedies.

*§6. Determination and payment of fees*

**42.** Midwives must charge fair and reasonable fees warranted under the circumstances, and proportional to the professional services provided.

**43.** Midwives must provide a woman and the other parent of the child, if the parent declares to be liable for the fees related to the professional services provided to his or her child, with all the explanations required for the understanding of their statement of fees and the terms of payment.

**44.** Midwives must inform a woman and the other parent of the child, if the parent declares to be liable for the fees related to the professional services provided to his or her child, of the anticipated cost of the professional services before providing them.

**45.** Midwives may not require advance payment of their fees for their professional services. They may, however, by written agreement, obtain an advance to cover expenses that are necessary for the execution of the required professional services.

**46.** Midwives may claim fees for professional services actually provided only.

**47.** Midwives must refrain from claiming fees for professional services the cost of which is paid by a third person under a statute, except if, pursuant to that statute, midwives enter into an agreement to that effect with the debtor.

**48.** Midwives may not charge interest on outstanding accounts unless the debtor has been notified. The interest so charged must be reasonable and expressed in annual percentages.

**49.** Before instituting legal proceedings, midwives must recover their fees in an amicable way.

**50.** Midwives who appoint a third person to collect their fees must ensure that the third person proceeds with tact and moderation.

### **DIVISION III RESEARCH**

**51.** Before undertaking any research involving humans, midwives must obtain approval of the project from a research ethics committee that must respect generally recognized standards, in particular regarding its structure and procedures. They must also ensure their ethical obligations are made known to all persons collaborating in the research.

**52.** Before undertaking research, midwives must evaluate the possible repercussions on the participants. They must in particular

(1) consult the persons likely to help them in deciding whether to undertake the research or in taking measures intended to eliminate risks to participants; and

(2) ensure that all those working with them on the research respect the physical and psychological integrity of the participants.

**53.** Midwives may not force or urge a person insistently to take part in research or to maintain that participation.

**54.** Midwives must, in respect of a participant or legal representative, ensure

(1) that the participant or legal representative is adequately informed of the research project's objectives, its benefits, risks or inconveniences, the benefits derived from regular care, if applicable, as well as the fact, if such is the case, that the midwife will derive a benefit from enrolling or maintaining the participant or legal representative in the research project;

(2) that free and enlightened written consent, revocable at all times, is obtained from the participant or legal representative before the participant or legal representative begin participation in the research project or whenever there is any material change in the research protocol; and

(3) that clear, specific and enlightened consent is obtained from the participant or legal representative before communicating information concerning the participant or legal representative to a third person for the purposes of scientific research.

**55.** Midwives must refuse to collaborate in any research activity if the risks to the health of participants appear disproportionate in relation to the potential benefits they may derive from it or the benefits they would derive from regular treatment or care, if applicable.

**56.** Midwives must respect a participant's right to withdraw from a research project at any time.

#### **DIVISION IV DUTIES AND OBLIGATIONS TOWARDS THE PROFESSION**

**57.** Midwives must reply promptly in writing to all communications from the Order, in particular from the secretary of the Order, the syndic, an expert appointed

to assist the syndic, the professional inspection committee or one of its members, an inspector, an investigator or a committee expert.

**58.** Midwives must notify the Order as soon as possible of the fact that a person who is not a midwife is using a title reserved for midwives or is practising an activity reserved to midwives.

**59.** Midwives who have reasonable cause to believe that a midwife is incompetent or contravenes the Professional Code, the Midwives Act (R.S.Q., c. S-0.1) or a regulation made under the Code or that Act, in particular this Code, must so inform the Order.

**60.** Midwives must refrain from intimidating, hindering or denigrating in any way whatsoever a representative of the Order in the performance of the duties conferred on the representative by the Professional Code, the Midwives Act or a regulation made under the Code or the Act, in particular this Code, or any person who has requested the holding of an inquiry, or any other person likely to testify before a disciplinary body.

**61.** Midwives must not use unfair practices, betray the good faith or breach the trust of any person with whom they are in relation in the practice of their profession.

They must not, in particular, take credit for work performed by another person.

**62.** Midwives consulted by another midwife or a member of another professional order must provide the person with their opinion and recommendations as quickly as possible.

**63.** Midwives ensuring the follow-up of a woman or a child during the absence of the midwife responsible for the woman's or the child's follow-up must send to that midwife, on her return, any information useful for continuing the follow-up.

**64.** In emergency cases, midwives must assist another midwife or a member of another professional order in the practice of their profession when the other midwife or member of the other professional order requests assistance.

**65.** Midwives must, to the extent possible, participate in the development of their profession by sharing their knowledge and experience with other midwives, trainees, candidates to the practice of the profession and students in the undergraduate midwifery degree program and by taking part in activities, courses and refresher training periods organized for the members of the Order.

**DIVISION V**  
**ADVERTISING**

**66.** Midwives must have their name and title of midwife appear in any advertisement.

**67.** In their advertising, midwives must use information that may help the public make an enlightened choice concerning their professional services.

**68.** Midwives expressing professional opinions publicly must

(1) inform the public of the professional opinions generally recognized on the subject; and

(2) avoid any uncalled for publicity favouring a medication, a product or a treatment method.

**69.** Midwives must avoid any advertising that may tarnish the image of the profession.

**70.** Midwives may not use advertising practices that, directly or indirectly, denigrate or discredit another person, or minimize a service or product provided by the person.

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

**72.** Midwives may not, by any means whatsoever, engage in advertising or allow advertising that is likely to influence persons who may be physically or emotionally vulnerable because of their age, their state of health, or the occurrence of a specific event.

**73.** Midwives may not claim, in their advertising, specific qualities or skills, or make representations, in particular as to their level of competence or the scope or effectiveness of their services and services generally rendered by other members of the Order, unless they can be substantiated.

**74.** Midwives may not use or allow to be used in advertising any endorsement or statement of gratitude in a midwife's regard other than awards for excellence and other merits underlining a contribution or an achievement for which the entire profession shared the honour.

**75.** Midwives who advertise fees or prices must

(1) set fixed fees or prices;

(2) specify the nature and scope of the services included in the fees or prices;

(3) indicate whether additional services or products may be required that are not included in the fees or prices; and

(4) indicate whether expenses or other disbursements are included in the fees or prices.

The fees or prices must remain in effect for a period of at least 90 days following the date of the last broadcast or publication of the advertisement. However, a lower price may always be agreed upon.

**76.** Midwives must keep a complete copy of every advertisement in its original form for a period of 3 years following the date of its last broadcast or publication. The copy must be submitted to the secretary or the syndic of the Order on request.

**77.** Midwives practising in a partnership are responsible with their partners for complying with the rules on advertising unless they establish that the advertising took place without their knowledge and consent, and despite measures taken to ensure compliance with the rules.

**78.** Midwives 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.

**79.** Midwives who use the graphic symbol of the Order for advertising purposes, except on business cards, must include the following disclaimer:

“This is not an advertisement of the Ordre professionnel des sages-femmes du Québec and engages the liability of its author only.”.

**80.** Where midwives use the graphic symbol of the Order for advertising purposes, including on business cards, they may not juxtapose or otherwise use the name of the Order, except to indicate that they are members of the Order.

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

9529