

(4) the isolation of the person in the conflict of interest with respect to the occupational therapist.”

7. Section 3.05.03 is amended by adding at the end “other than customary tokens of appreciation and gifts of small value”.

8. The following is inserted after section 3.05.03:

“**3.05.04.** An occupational therapist may share his or her fees only with a person with whom the occupational therapist is authorized to practise under the Regulation respecting the practice of the profession of occupational therapist within a partnership or joint-stock company, approved by Order in Council (*insert the number and date of the Order in Council*), or within a partnership or joint-stock company in which the occupational therapist is authorized to practise under that Regulation.”

9. The following is inserted after section 3.06.01:

“**3.06.01.01.** Occupational therapists must take reasonable measures to ensure that any person with whom they carry on professional activities does not communicate to a third person the confidential information of which they may have taken cognizance.”

10. Section 3.06.04 is amended by replacing “or for another person” by “, for another person or for a partnership or company in which the occupational therapist carries on professional activities”.

11. The following is inserted after section 3.08.03:

“**3.08.03.01.** An occupational therapist who carries on professional activities within a partnership or joint-stock company must ensure that the fees and expenses for professional services provided by occupational therapists are always indicated separately on every invoice or statement of fees that the partnership or company sends the client.”

12. Section 3.08.06 is replaced by the following:

“**3.08.06.** No occupational therapist may sell or otherwise transfer accounts of professional fees, except to another occupational therapist or to a partnership or joint-stock company within which the occupational therapist is authorized to carry on professional activities under the Regulation respecting the practice of the profession of occupational therapist within a partnership or joint-stock company.”

13. Section 4.01.01 is amended by adding the following paragraphs:

“(f) 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 or her professional permit revoked, unless the partner, shareholder, director, officer or employee, within 15 days of the date on which the mandatory striking off or revocation of permit has become effective, ceases to hold a position of director or officer within the partnership or company, ceases, if applicable, to attend any shareholder meetings and to exercise the right to vote and disposes of his or her voting shares or turns them over to a trustee; and

(g) failing to inform the Order that he has reasonable grounds to believe that an occupational therapist or a partnership or joint-stock company within which occupational therapists practise contravenes the Professional Code or a regulation thereunder.”

14. The following is inserted after section 5.13:

“**5.14.** In the case of a partnership or joint-stock company which provides professional services of occupational therapists and services of persons other than members of the Order with whom the occupational therapist is authorized to carry on professional activities, the graphic symbol of the Order may be used in connection with the name of the partnership or company or in its advertising provided the graphic symbol identifying each of the professional orders to which such persons belong is also used.”

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

9805

Draft Regulation

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

Occupational therapists — Practice 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 occupational therapist within a partnership or a joint-stock company”, made by the board of directors of the

Ordre des ergothérapeutes 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 contains special provisions setting out the terms and conditions on which occupational therapists may practise within a partnership or a joint-stock company, on their own or with members of certain professional orders governed by the Professional Code (R.S.Q., c. C-26), particularly as regards the management of the partnership or joint-stock company and the holding of shares or partnership units. Special rules are made for partnerships or joint-stock companies that hold themselves out exclusively as partnerships or joint-stock companies of occupational therapists.

In accordance with Chapter VI.3 of the Professional Code, the conditions set out also include the obligation to take out insurance to cover any liability that may be incurred by the partnership or joint-stock company as a result of faults or negligence committed by members while practising the profession within the partnership or joint-stock company. Members must also provide the Order with the required information on the partnership or joint-stock company and update that information.

The Ordre des ergothérapeutes 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 Caroline Fortier, Ordre des ergothérapeutes du Québec, 2021, avenue Union, bureau 920, Montréal (Québec) H3A 2S9; telephone: 514 844-5778 or 1 800 265-5778; fax: 514 844-0478.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e 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 professional order that made the Regulation and 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 occupational therapist 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*)

DIVISION I GENERAL

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

2. Occupational therapists may carry on their professional activities within a partnership or joint-stock company that holds itself out exclusively as a partnership or joint-stock company of occupational therapists if the following conditions are met at all times:

(1) more than 50% of the voting rights attached to the company shares or partnership units are held by the following persons or trust patrimonies or a combination of persons and trust patrimonies:

(a) 1 or more occupational therapists carrying on professional activities within the partnership or joint-stock company;

(b) a joint-stock company where at least 90% of the voting rights attached to the shares are held by 1 or more occupational therapists all carrying on their professional activities within the joint-stock company;

(c) a trust where all the trustees are occupational therapists all carrying on their professional activities within the partnership or joint-stock company;

(2) a majority of the directors of the board of directors of the joint-stock company, the partners or, as the case may be, the managers appointed by the partners to manage the affairs of the limited liability partnership are occupational therapists carrying on their professional activities within the partnership or joint-stock company;

(3) to constitute a quorum of the board of directors of a joint-stock company, a majority of the members present must be occupational therapists.

Occupational therapists who are partners, directors, managers, officers or shareholders of the partnership or joint-stock company must ensure that those conditions appear, as the case may be, in the articles of the joint-stock company or in the contract of the limited liability partnership and that the documents also provide that the partnership or joint-stock company is constituted for the purpose of carrying on professional activities.

3. In cases other than those in section 2, occupational therapists are authorized to carry on professional activities within a limited liability partnership or a joint-stock company if the following conditions are met at all times:

(1) more than 50% of the voting rights attached to the company shares or partnership units are held by the following persons or trust patrimonies or a combination of persons and trust patrimonies:

(a) 1 or more members of a professional order governed by the Professional Code or 1 member of one of the following professional associations:

— a regulatory organization that is a member of the Association of Canadian Occupational Therapy Regulatory Organizations;

— a regulatory organization that is a member of the Canadian Alliance of Physiotherapy Regulators;

(b) a joint-stock company where at least 90% of the voting rights attached to the shares are held by 1 or more persons referred to in subparagraph a;

(c) a trust where all the trustees are persons referred to in subparagraph a;

(2) a majority of the directors of the board of directors of the joint-stock company, the partners or, as the case may be, the managers appointed by the partners to manage the affairs of the limited liability partnership are persons referred to in subparagraph a of subparagraph 1 of the first paragraph;

(3) to constitute a quorum of the board of directors of a joint-stock company, a majority of the members present must be persons referred to in subparagraph a of subparagraph 1 of the first paragraph.

Occupational therapists who are partners, directors, managers, officers or shareholders of the partnership or joint-stock company must ensure that those conditions appear, as the case may be, in the articles of the joint-stock company or in the contract of the limited liability partnership and that the documents also provide that the partnership or joint-stock company is constituted for the purpose of carrying on professional activities.

4. An occupational therapist who wishes to carry on professional activities within a partnership or a joint-stock company must, before carrying on those activities, provide the secretary of the Order with

(1) a declaration provided for in section 5 made on the form provided by the secretary of the Order, accompanied by the fees fixed by the board of directors of the Order;

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

(3) in the case of a joint-stock company, a copy of its articles of constitution issued by a competent authority certifying that the company exists;

(4) a written document issued by a competent authority certifying that the partnership or joint-stock company is duly registered in Québec;

(5) a written document issued by a competent authority certifying that the partnership or joint-stock company has an establishment in Québec;

(6) an undertaking from the partnership or joint-stock company 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 12 from any person or to obtain a true copy of such a document;

(7) 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; and

(8) a written undertaking from the partnership or joint-stock company that its shareholders having voting rights, its partners, directors, managers and officers, as well as the members of its staff who are not occupational therapists are aware of and comply with the Code of ethics of occupational therapists (R.R.Q., 1981, c. C-26, r.78).

5. The declaration provided for in paragraph 1 of section 4 contains the following information:

(1) the occupational therapist's name, member number and status within the partnership or joint-stock company;

(2) the partnership or joint-stock company name and any other names used in Québec by the partnership or joint-stock company within which the occupational therapist carries on professional activities and the business number assigned by the competent authority;

(3) the legal form of the partnership or joint-stock company and the fact that the partnership or joint-stock company complies with the conditions prescribed in section 1, 2 or 3;

(4) if the occupational therapist carries on professional activities within a limited liability partnership, the address 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, if applicable;

(5) if the occupational therapist carries on professional activities within a joint-stock company, the address of the head office of the company and 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;

(6) if applicable, the date on which the general partnership has become a limited liability partnership; and

(7) a document 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. If more than one occupational therapist carries on professional activities within a partnership or joint-stock company, only one declaration may be made by a representative for all the occupational therapists in the partnership or joint-stock company.

The declaration is deemed to be each occupational therapist's declaration and each occupational therapist remains responsible for the accuracy of the information provided pursuant to paragraphs 1 and 2 of section 5.

The representative must be an occupational therapist who carries on professional activities within the partnership or joint-stock company.

7. An occupational therapist or a representative must

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

(2) immediately notify the secretary of the Order of any change in the security prescribed in Division II or in the information contained in the declaration prescribed in section 5 that might affect compliance with the conditions set out in section 2 or 3.

8. Where an occupational therapist becomes aware that any of the terms, conditions or restrictions set out in this Regulation or in Chapter VI.3 of the Professional Code is no longer met, the occupational therapist must, within 15 days, take the necessary measures to comply, failing which, the occupational therapist is no longer authorized to carry on professional activities within the partnership or joint-stock company.

9. Where an occupational therapist carries on professional activities within a joint-stock company, the income resulting from the professional services rendered within and on behalf of the company belongs to the company, unless agreed otherwise.

DIVISION II

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

10. To be authorized to carry on professional activities in accordance with this Regulation, an occupational therapist 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 contract or by joining a group plan contract entered into by the Order, or by contributing to a professional liability insurance fund established in accordance with section 86.1 of the Professional Code, against liabilities of the partnership or joint-stock company arising from fault on the part of occupational therapists in the carrying on of professional activities within the partnership or joint-stock company.

11. 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 member pursuant to the Règlement sur l'assurance de la responsabilité professionnelle des ergothérapeutes, approved by the Office des professions du Québec on 6 November 2002, up to the amount of the security, any sum that the partnership or joint-stock company may be legally bound to pay to a third person on a claim filed during the coverage period and arising from fault on the part of the occupational therapist 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 by the insurer that the security is at least \$3,000,000 per claim and at least \$6,000,000 for all claims filed against the partnership or joint-stock company within a coverage period not exceeding 12 months, regardless of the number of members in the partnership or joint-stock company;

(4) where an occupational therapist is the sole practitioner of a joint-stock company, an undertaking that the security is at least \$1,000,000 per claim and at least \$3,000,000 for all claims filed against the company within a coverage period not exceeding 12 months;

(5) an undertaking by the insurer to give the partnership or joint-stock company and the Order a 30-day prior notice before modifying, terminating or not renewing the insurance contract; and

(6) an undertaking by the insurer to inform the Order when it pays an amount of money as a result of the fault of an occupational therapist in the carrying on of professional activities within a partnership or joint-stock company, specifying, in particular, the name of the partnership or joint-stock company and of the occupational therapist involved, the nature of the injury and of the fault, and the amount of money that was paid.

DIVISION III DOCUMENT ACCESSIBILITY

12. The documents that may be required from a partnership or joint-stock company pursuant to paragraph 6 of section 4 are the following:

(1) if the occupational therapist practises within a joint-stock company,

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

(b) an up-to-date register of the shares of the joint-stock company;

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

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

(e) any shareholders' agreement and voting agreement, and amendments;

(f) any agreement concerning a stock option with voting or any other rights, even if conditional, granted to a person to be issued such stocks;

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

(h) an up-to-date list of the joint-stock company's principal officers and their home addresses;

(2) if the occupational therapist practises within a limited liability partnership,

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

(b) the partnership contract and amendments;

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

(d) if applicable, an up-to-date register of the managers of the partnership; and

(e) the names of the principal officers and their home addresses.

13. 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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