

Gouvernement du Québec

O.C. 547-2010, 23 June 2010

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

Correction to the English text of the Regulation respecting the public accountancy permit of the Ordre des comptables généraux accrédités du Québec

WHEREAS, by Order in Council 1199-2009 dated 18 November 2009, the Government approved the Regulation respecting the public accountancy permit of the Ordre des comptables généraux accrédités du Québec;

WHEREAS the English text of the first paragraph of section 4 and the first and second paragraphs of sections 9 and 15 of the Regulation is not consistent with the French text;

WHEREAS it is expedient to correct the English text of the Regulation to make it consistent with the French text;

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

THAT the English text of the Regulation respecting the public accountancy permit of the Ordre des comptables généraux accrédités du Québec be amended

— by replacing “Order” wherever it appears in the first paragraph of section 4 by “Board of Directors”;

— by replacing “Board of Directors” in the first paragraph of section 9 after “to the attention of the” and in the second paragraph of that section by “committee”;

— by replacing “Board of Directors” in the first paragraph of section 15 after “to the attention of the” and in the second paragraph of that section by “committee”.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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Gouvernement du Québec

O.C. 548-2010, 23 June 2010

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**

Regulation respecting the practice of the profession of hearing-aid acoustician 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 Code, the board of directors must, by regulation, impose on its members who carry on their professional activities within a partnership or a 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 the declaration made to the Order;

WHEREAS the board of directors of the Ordre professionnel des audioprothésistes du Québec made the Regulation respecting the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company;

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 it was made by the board of directors;

WHEREAS, pursuant to section 95 of the Professional Code and subject to sections 95.0.1 and 95.2 of the Code, 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, pursuant to the first paragraph of section 95.2 of the Professional Code, a regulation made by the board of directors under section 65, 88, 89, 90 or 91,

paragraph *a, b, d, e, f, g* or *h* of section 93, or paragraph *a, j, n* or *o* of section 94 of the Code must be transmitted for examination to the Office, which may approve it with or without amendment, and the same applies to any regulation under paragraph *p* of section 94 of the Code if it is not the first regulation made by the board of directors under that paragraph;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company was published in Part 2 of the *Gazette officielle du Québec* of 15 July 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 the Office approved section 5, which pertains to the declaration, and Division III of the Regulation, which pertains to the guarantee of the partnership or company;

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 respecting the practice of the profession of hearing-aid acoustician within a partnership or a joint-stock company, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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*)

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 partner or shareholder has an interest in an undertaking for the manufacture or wholesale of hearing aids sold within the partnership or joint-stock company.

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 11, 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.

8. The name of the partnership or joint-stock company must not be a number name or include the name of a hearing aid manufacturer.

DIVISION III

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

9. 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.

10. 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 9 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

11. 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.

12. 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. 549-2010, 23 June 2010

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

Hearing-aid acousticians

— Code of ethics
— Amendments

Regulation to amend the Code of ethics of hearing-aid acousticians

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), 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 professionnel des audioprothésistes du Québec made the Regulation to amend the Code of ethics of hearing-aid acousticians under that provision;

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 Professional Code and subject to sections 95.0.1 and 95.2 of the Code, 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 hearing-aid acousticians was published in Part 2 of the *Gazette officielle du Québec* of 15 July 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 hearing-aid acousticians, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Code of ethics of hearing-aid acousticians*

Professional Code
(R.S.Q., c. C-26, s. 87)

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.

* 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).