

**9.** his Code is amended by inserting, after section 38, the following:

“**38.1.** It is also derogatory to the dignity of the profession when a respiratory therapist who practices his profession within a partnership or corporation:

(1) practices his profession in a partnership or corporation with other persons when he knows that any of the terms, conditions or restrictions under which he is authorized to practice his profession is not respected;

(2) continues to practice his profession within this partnership or corporation when the respondent for the partnership or corporation with the Order, a director, an executive or an employee continues to perform his duties more than 10 days after having had his membership suspended for more than 3 months or had his permit revoked;

(3) continues to practice his profession within this partnership or corporation when a shareholder or partner has been suspended for more than 3 months or had his permit revoked except if, within 10 days from the date on which this penalty has become enforceable, that partner or shareholder divests himself of his voting shares or leaves them in the hands of a trustee;

(4) enter into or allow the entering into of an agreement, in particular a unanimous shareholders’ agreement, that has the effect of jeopardizing the independence, objectivity, and integrity required for the practice of his profession or members’ respect for the Order of the Professional Code and its implementing regulations.”

**10.** Section 50 of this Code is replaced by the following:

“**50.** Unless he is able to substantiate them, a respiratory therapist shall not claim to possess special qualities or skills or make representations as to:

(1) his level of competence or the scope or effectiveness of his services;

(2) the level of competence or scope or effectiveness of the services of members of the Order or persons with whom he practices his profession within a partnership or corporation.”

**11.** This Code is amended by inserting, after Section 57, the following:

“**57.1.** A respiratory therapist shall ensure that the partnership or corporation within which he practices his profession does not use the graphic symbol of the Order

in relation with its advertising or its name unless all services provided by this partnership or corporation are professional services by respiratory therapists.

In the case of a partnership or corporation within which the professional services of respiratory therapists and of persons other than respiratory therapists are offered, the graphic symbol of the Order may be used in relation with the name or in the advertising of this partnership or corporation on condition that the graphic symbols identifying each of the professional orders or bodies to which these persons belong are also used.

However, the graphic symbol of the Order may always be used in relation to the name of a respiratory therapist.

## **DIVISION VI** **NAME OF THE PARTNERSHIP OR CORPORATION**

“**57.2.** A respiratory therapist shall not practice his profession within a partnership or corporation under a name or designation that is deceptive, misleading, violates the honour or dignity of the profession or is a numbered corporation.”

**12.** This regulation comes into force on the fifteenth day that follows its publication in the *Gazette officielle du Québec*.

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## **Draft Regulation**

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

### **Respiratory therapists** **— Practice of the profession in a partnership or 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 respiratory therapist in a partnership or joint-stock company”, made by the board of directors of the Ordre professionnel des inhalothérapeutes 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 prescribes terms and conditions for authorizing members of the Order to carry on professional activities within a partnership or a joint-stock company, particularly regarding the administration of the partnership or joint-stock company and the holding of company shares or partnership units.

Those conditions also include the obligation to furnish and maintain coverage, on behalf of the partnership or joint-stock company, against liabilities of the partnership or joint-stock company arising from fault on the part of a member in the practice of his profession within the partnership or joint-stock company, as well as the obligation to provide the Order with the required information on the partnership or joint-stock company and to keep it up-to-date.

The draft Regulation has no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Andrée Lacoursière, assistant to the general directorate, Ordre professionnel des inhalothérapeutes du Québec, 1440, rue Sainte-Catherine Ouest, bureau 320, Montréal (Québec) H3G 1R8; telephone: 514 931-2900 or 1 800 561-0029; fax: 514 931-3621; email: [adjoint.dg@opiq.qc.ca](mailto:adjoint.dg@opiq.qc.ca)

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<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*

## **Regulation respecting the practice of the profession of respiratory therapist in a partnership or joint-stock company**

Professional Code  
(R.S.Q., c. C-26, ss. 93, pars. *g* and *h* and 94, par. *p*)

### **DIVISION I GENERAL PROVISIONS**

**1.** Respiratory therapists may carry on their professional activities within a limited liability partnership or a joint-stock company in the meaning of Chapter VI.3 of the Professional Code (R.S.Q., c. C-26) subject to the terms, conditions and restrictions provided for in this Regulation.

At all times, the respiratory therapist shall ensure that the partnership or joint-stock company allows him to respect the provisions of the Professional Code and its implementing regulations.

**2.** If he determines that one of the conditions provided herein or in Chapter VI.3 of the Professional Code is no longer respected, the respiratory therapist must, within 15 days of such determination, take the steps necessary to comply, failing which, he ceases to be authorized to practice his professional activities within the partnership or joint-stock company.

**3.** If a respiratory therapist is suspended for period of more than three months or has his permit revoked, he may not, during the period of suspension or revocation, directly or indirectly own any share in the partnership or joint-stock company.

Nor may he, during this period, be director, executive or representative of the partnership or joint-stock company.

### **DIVISION II TERMS AND CONDITIONS OF PRACTICE**

**4.** A respiratory therapist may practice his professional activities within limited liability partnership or a joint stock joint-stock company which presents itself exclusively as a partnership or joint-stock company of respiratory therapists, if the following conditions are respected:

(1) more than 50% of the voting rights associated with the shares of the partnership or joint-stock company are owned by:

(a) respiratory therapists;

(b) legal entities, trusts or another company where the voting rights associated with the shares or ownership interests or other rights are owned entirely by respiratory therapists;

(c) by the persons, trusts or companies contemplated by both sub-paragraphs *a* and *b*;

(2) no manufacturer, wholesaler, vendor or representative of products associated with the practice of respiratory therapy or any person with a majority interest in such a manufacturer or wholesaler, vendor or representative owns shares of the partnership or joint-stock company;

(3) the directors of the Board of Directors or, where appropriate, the partners or directors named by the partners are by a majority respiratory therapists who constitute the majority of the quorum on the Board of Directors or internal management board, as appropriate;

(4) the chairman of the board of directors of the partnership or joint-stock company or, where appropriate, the person exercising similar duties in the limited liability partnership is a respiratory therapist who is a shareholder with the right to vote or a partner.

A respiratory therapist shall make sure that the conditions provided in the first paragraph appear in the articles of incorporation of the joint-stock company or are stipulated in the contract creating the limited liability partnership and that it is also provided that this partnership or joint-stock company is constituted for the purposes of the practice of professional activities.

**5.** In cases other than those provided in section 4, a respiratory therapist may practice his professional activities within a limited liability partnership or joint-stock company if the following conditions are met:

(1) more than 50% of the voting rights associated with the shares of the partnership or joint-stock company are held:

(a) by professionals governed by the Professional Code;

(b) by legal entities, trusts or any other company where the voting rights associated with the shares or ownership interests or other rights are entirely owned by professionals governed by the Professional Code;

(c) or by the persons, trusts or companies contemplated in both sub-paragraphs *a* and *b*;

(2) no manufacturer, wholesaler, vendor or representative of products associated with the practice of respiratory therapy or any person with a majority interest in such a manufacturer or wholesaler, vendor or representative owns shares of the partnership or joint-stock company;

(3) the directors of the Board of Directors or, where appropriate, the partners or directors named by the partners are by a majority professionals governed by the Professional Code and they constitute the majority of the quorum on the Board of Directors or internal management board, as appropriate;

(4) the chairman of the board of directors of the partnership or joint-stock company or, where appropriate, the person exercising similar duties in the limited liability partnership is a professional governed by the Professional Code who is a shareholder with the right to vote or a partner.

The respiratory therapist shall ensure that the conditions provided in the first paragraph appear in the articles of incorporation of the joint-stock company or are stipu-

lated in the contract creating the limited liability partnership and that it is also provided that this partnership or joint-stock company is constituted for the purposes of the practice of professional activities.

**6.** The name of the partnership or joint-stock company must not be a number.

**7.** A respiratory therapist who wishes to practice his professional activities within a partnership or joint-stock company must first provide the secretary of the Ordre professionnel des inhalothérapeutes du Québec with the following documents:

(1) a sworn declaration in accordance with the provisions of section 8, accompanied by the fees payable prescribed by the Board of Directors of the Order;

(2) written confirmation from the competent authority that the partnership or joint-stock company is the subject of a guarantee in accordance with the provisions of Division III;

(3) in the case of a joint-stock company, a copy of the articles of incorporation issued by the competent authority attesting to the existence of the joint-stock company;

(4) where appropriate, a true certified copy of the declaration required pursuant to the Act respecting the legal publicity of enterprises, (R.S.Q., c. P-44.1) indicating that the partnership has become a limited liability partnership;

(5) written confirmation from the competent authority indicating that the partnership or joint-stock company is registered in Québec;

(6) written confirmation indicating that the partnership or joint-stock company maintains an establishment in Québec;

(7) written irrevocable authorization by the partnership or joint-stock company entitling a person, a committee, a disciplinary body or a tribunal contemplated by section 192 of the Professional Code to require any person to produce and obtain a document mentioned in section 15 or a copy of such a document;

(8) a written attestation by the partnership or joint-stock company indicating that its shareholders with a voting right in the partnership or joint-stock company, its partners, directors and executives, as well as the members of its staff who are not members of the Order have become familiar with the Code of Ethics of Respiratory Therapists of Québec.

**8.** The sworn declaration provided in paragraph (1) of section 7 is made on the form providing for this purpose by the Order and shall contain the following information:

(1) the name, membership number, home address of the respiratory therapist and his status within the partnership or joint-stock company;

(2) the name of the partnership or joint-stock company and its enterprise number assigned by the Registrar of Enterprises;

(3) the legal form of the partnership or joint-stock company and the fact that this partnership or joint-stock company respects the conditions provided in section 4 or 5, as appropriate;

(4) the professional activities exercised by the respiratory therapist within the partnership or joint-stock company;

(5) in the case of a limited liability partnership, the address of the establishments of the partnership in Québec, specifying whether it is the principal establishment, the name and address of the domicile of all partners, their percentage of shares and an indication of their management functions, if any;

(6) in the case of a joint stock joint-stock company, the address of the head office of the joint-stock company and its establishments in Québec, the name and address of the domicile of all shareholders, their percentage of shares with voting rights and of shares without voting rights and an indication of their functions as director and executive, if any;

(7) an indication that the shares are held and the administrative rules of the partnership or joint-stock company respect the conditions provided herein.

**9.** When more than one respiratory therapist practices his professional activities within the same partnership or joint-stock company, a single declaration may be made by one respondent for all respiratory therapists in this partnership or joint-stock company.

The respondent must be a respiratory therapist who is a partner, director, executive or shareholder of the partnership or joint-stock company.

The declaration by the respondent is deemed to be the declaration of each of the respiratory therapists. Each respiratory therapist remains responsible for the accuracy of the information provided pursuant to section 8.

**10.** The respiratory therapist or the respondent shall:

(1) update and submit the declaration provided in section 7 before March 31 of each year;

(2) inform the secretary of the Order without delay of any change or cancellation of the guarantee provided in Division III, of the de-registration, dissolution, assignment of assets, bankruptcy, voluntary or forced liquidation of the partnership or joint-stock company or any other cause likely to prevent the partnership or joint-stock company from pursuing its activities as well as any changes to the information sent in the declaration provided in section 7 with the effect of affecting respect for the conditions provided in section 4 or 5, as appropriate.

### **DIVISION III** **PROFESSIONAL LIABILITY COVERAGE**

**11.** A respiratory therapist who practices his professional activities within a partnership or joint-stock company shall provide and maintain for that partnership or joint-stock company, either by insurance or suretyship contract or by participation in group insurance contracted by the Order, security against the professional liability that this partnership or joint-stock company could incur as the result of errors committed by respiratory therapists in the practice of their professional activities within this partnership or joint-stock company.

**12.** This security must provide the following minimum terms in the contract or a specific rider:

(1) the undertaking by the insurer or the surety to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the respiratory therapist in accordance with the Regulation respecting professional liability insurance of the Ordre professionnel des inhalothérapeutes du Québec, approved by the Office des professions du Québec on December 19, 1995, or any other amount purchased by the respiratory therapist if it is higher, up to the amount of the security, any sum that the partnership or joint-stock company can legally be held to pay to a third party, as the result of a claim submitted during the period covered by the security and resulting from errors committed by the respiratory therapist in the practice of his professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer or the surety to take up the case 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 the interest on the amount of the security;

(3) an undertaking by the insurer or surety that the security is at least \$1,000,000 per claim and for all claims presented against the partnership or joint-stock company during a guarantee period of 12 months;

(4) an undertaking by the insurer or surety to give 30 days' notice to the secretary of the Order prior to any cancellation of the insurance or suretyship contract or any change in this contract when the change affects a condition provided herein;

(5) an undertaking by the insurer or surety to immediately notify the secretary of the Order when the insurance or suretyship contract is not renewed.

**13.** The suretyship contract must be with a bank, financial services cooperative, trust company or insurance company domiciled in Canada and having and maintaining sufficient property in Quebec to provide the coverage required herein.

The institution referred to the first paragraph must undertake to provide the coverage in accordance with the conditions provided herein and waive the benefits of division and discussion.

#### **DIVISION IV** ADDITIONAL INFORMATION

**14.** When a general partnership is continued as a limited liability partnership or when a limited liability partnership or joint-stock company is formed, the respiratory therapist who practices his professional activities within a partnership or joint-stock company shall send notice to his clients, on the date of the continuation or formation, informing them of the nature and effects of the continuation or formation of the partnership or joint-stock company, specifically with respect to his professional liability and that of the partnership or joint-stock company.

**15.** The documents contemplated in paragraph (7) of section 7 are the following:

(1) in the case of a limited liability partnership:

(a) the partnership agreement and its amendments;

(b) the declaration of registration of the partnership and its update;

(c) the name of the principal executives of the partnership or joint-stock company and the address of their domicile;

(d) le the complete and up-to-date register of partners of the partnership;

(e) where appropriate, the complete and up-to-date register of directors of the partnership.

(2) in the case of a joint-stock company:

(a) The complete and up-to-date register of the articles and bylaws of the joint-stock company;

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

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

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

(e) any shareholders' agreement or voting agreement and any modification applicable to them;

(f) any agreement on the granting share purchase options with voting rights or on any other right, even conditional, conferred on a person and allowing that person to be issued such shares;

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

(h) the name of the principal executives and the address of their domicile.

#### **DIVISION V** TRANSITIONAL AND FINAL PROVISIONS

**16.** A respiratory therapist who practices his professional activities within a partnership or joint-stock company formed before the date of coming into force of this regulation must, at the latest within one year of that date, comply with the requirements provided in this regulation.

**17.** This regulation comes into force on the fifteenth day that follows the date of its publication in the *Gazette officielle du Québec*.

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