

Under section 7 of the Regulation, the objectives and standards for a component of general education that is common to all programs are determined by the Minister. The Minister may also determine all or part of the learning activities required to attain those objectives and standards.

Further information may be obtained by contacting Joanne Munn, Director, Direction de l'enseignement collégial, Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie, 1035, rue De La Chevrotière, 12^e étage, Québec (Québec) G1R 5A5; telephone: 418 644-8976, extension 2578.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Higher Education, Research, Science and Technology, 1035, rue De La Chevrotière, 12^e étage, Québec (Québec) G1R 5A5.

PIERRE DUCHESNE,
*Minister of Higher Education,
Research, Science and Technology*

Regulation to amend the College Education Regulations

General and Vocational Colleges Act
(chapter C-29, s. 18)

1. The College Education Regulations (chapter C-29, r. 4) are amended by adding the following after subparagraph 4 of the first paragraph of section 7:

“(5) History of Québec, 2 credits.”.

2. Section 9 is amended by replacing “4” in the third paragraph by “2”.

3. The amendments made by sections 1 and 2 apply from 1 July 2014. However, they do not apply to a student whose program of pre-university or technical studies is underway on that date.

4. 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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Draft Regulation

An Act respecting the Barreau du Québec
(chapter B-1)

Professional Code
(chapter C-26)

Advocates

— Code of ethics

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Code of Professional Conduct of Lawyers, adopted by the board of directors of the Barreau du Québec and appearing below, 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 is designed to replace the Code of ethics of advocates (chapter B-1, r. 3) to strengthen the general and special duties of advocates towards the public, clients and the profession.

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

Further information may be obtained by contacting Chantal Perreault, advocate, Service de recherche et de législation, Barreau du Québec, 445, boulevard Saint-Laurent, Montréal (Québec) H2Y 3T8; telephone: 514 954-3400, extension 3163 or 1 800 361-8495; fax: 514 954-3463; email: cperreault@barreau.qc.ca

Any person wishing to comment on the matter 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 Order and to interested persons, departments and bodies.

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

Code of Professional Conduct of Lawyers

An Act respecting the Barreau du Québec
(chapter B-1, s. 4)

Professional Code
(chapter C-26, ss. 87 and 89)

PREAMBLE

WHEREAS a lawyer is a servant of justice;

WHEREAS the practice of the profession of lawyer is based on the following values and principles which a lawyer must take into consideration in all circumstances:

- (1) compliance with legal provisions and preservation of the rule of law;
- (2) access to justice;
- (3) respect for individuals and protection of their fundamental rights, including the right to be free from discrimination and harassment;
- (4) integrity, independence and competence;
- (5) loyalty to clients as well as protection of their legitimate interests and the confidentiality of information concerning them;
- (6) collaboration in the sound administration of justice and support for the authority of the courts;
- (7) respect for the honour and dignity of the profession;
- (8) respect for members of the profession as well as all other persons with whom the lawyer collaborates when engaging in his professional activities; and
- (9) consideration for the social context within which the law evolves.

TITLE I PRELIMINARY PROVISIONS

- 1.** This code sets out general and specific duties a lawyer owes to the public, to clients, to the administration of justice and to the profession.
- 2.** This code applies to every lawyer, regardless of the manner in which he engages in his professional activities. This code also applies, with the necessary modifications, to every lawyer acting in respect of a recourse or dispute that concerns him personally.

It applies in addition to any other rule of professional conduct related to the exercise, by the lawyer, of any other activity, in particular, a job, a function, an office or the operation of an enterprise.

This code does not apply to acts performed by a lawyer who is a member of an administrative tribunal while exercising an adjudicative function conferred by statute.

3. In this code:

(1) “client” includes any person or organization, as the case may be, to whom the lawyer renders or undertakes to render professional services; where the context allows, this term also means a representative of the client and a person who has reasonable grounds to believe that a lawyer-client relationship exists;

(2) “firm” includes any person who engages in his professional activities or any group of persons comprised of several lawyers or of at least one lawyer and one other professional referred to in Schedule A of the Regulation respecting the practice of the profession of advocate within a limited liability partnership or joint-stock company and in multidisciplinary (chapter B-1, r. 9) who engage in their professional activities together or represent themselves as doing so;

(3) “mandate” includes any contract pursuant to which a lawyer acts on behalf of a client;

(4) “tribunal” includes a court of justice as well as any person or other body that exercises an adjudicative function.

TITLE II RULES OF PROFESSIONAL CONDUCT

CHAPTER 1 GENERAL DUTIES

DIVISION I GENERAL RULES

4. A lawyer must act with honour, dignity, integrity, respect, moderation and courtesy.

5. A lawyer must take reasonable measures to ensure that every person who works or collaborates with him when he engages in his professional activities and, where applicable, every firm within which he engages in such activities, complies with the Act respecting the Barreau du Québec (chapter B-1), the Professional Code (chapter C-26) and the regulations adopted thereunder.

6. A lawyer who exercises authority over another lawyer must ensure that the framework within which such other lawyer engages in his professional activities allows him to comply with his professional obligations.

7. A lawyer must avoid all methods and attitudes likely to give a profit-seeking character to his profession, namely, greedily seeking a profit or abusing his status as a member of the Barreau in order to enrich himself.

8. A lawyer who offers his professional services cannot, by any means whatsoever, make or allow to be made a representation that is false or misleading, that amounts to coercion, duress, or harassment or that seeks to take advantage of a vulnerable person.

9. A lawyer must not, directly or indirectly, insistently or repeatedly urge anyone to retain his professional services.

10. A lawyer must not claim specific qualities or skills relating, in particular, to his competence or to the extent or efficiency of his professional services, unless he can substantiate those claims.

Moreover, he must not claim specific qualities or skills relating to the competence or to the extent or efficiency of the services provided by other members of the Barreau or by persons with whom he engages in his professional activities within a firm, unless he can substantiate those claims.

11. When a lawyer engages in activities which do not relate to the profession of lawyer, in particular in connection with a job, a function, an office or the operation of an enterprise:

(1) he must ensure that those activities do not compromise his compliance with this code; and

(2) he must avoid creating or allowing any ambiguity to persist as to the capacity in which he is acting.

12. A lawyer must support respect for the rule of law. However, he may, for good reason and by legitimate means, criticize a legal provision, contest the interpretation or application thereof, or seek to have it repealed, amended or replaced.

DIVISION II INTEGRITY AND PROFESSIONAL INDEPENDENCE

13. A lawyer must protect his integrity and safeguard his professional independence regardless of the manner in which he engages in his professional activities or the circumstances in which he does so.

He must not let his professional judgment be subject to pressure exerted on him by another person or use his position of authority over another lawyer in order to cause him to contravene this rule.

14. A lawyer must not help or, through encouragement or advice, facilitate conduct by a client that the lawyer knows or should know is unlawful or fraudulent.

15. A lawyer must not conceal or knowingly omit to disclose what the law obliges him to disclose or help anyone conceal or omit to disclose what the law obliges that person to disclose.

16. A lawyer must not provoke a dispute in order to obtain a mandate or reap a benefit therefrom for himself or for any other person.

DIVISION III PUBLIC COMMUNICATIONS

17. Provided he complies with this code, a lawyer may communicate information to the media, make public appearances or make public communications, including on a website, blog or online social network, by means of statements, photographs, images or videos.

18. A lawyer must not make public statements or communicate information to the media about a matter pending before a tribunal if the lawyer knows or should know that the information or statements could adversely affect a tribunal's authority or prejudice a party's right to a fair trial or hearing.

19. A lawyer must not, directly or indirectly, publish, broadcast, communicate or send writings or comments which are false or which he should know are false or assist anyone in doing so.

CHAPTER II DUTIES TO THE CLIENT

DIVISION I GENERAL RULES

20. A lawyer owes his client duties of integrity, competence, loyalty, confidentiality, independence, impartiality, diligence and prudence.

21. A lawyer must engage in his professional activities with competence. To this end, he must develop his knowledge and skills and keep them up to date.

22. A lawyer must provide quality services.

He must not engage in his professional activities in a state or under conditions likely to compromise the quality of his services.

23. A lawyer must act at all times in the best interests of the client, in compliance with the rules of law and in such a manner as to establish and maintain a relationship of mutual trust.

24. A lawyer must respect the right of a client or prospective client to choose his lawyer.

25. A lawyer must at all times acknowledge a client's right to consult another lawyer, a member of another professional order or any other competent person. He must cooperate with the person the client has consulted.

26. A lawyer must communicate with his client in such a manner as to be understood by the client.

DIVISION II DUTIES PERTAINING TO MANDATES

§1. Acceptance of mandate

27. A lawyer must act pursuant to a mandate given to him by a client or when he has been designated to act for a client by a competent authority.

He may also act within the scope of a mandate given to him by another lawyer on behalf of a client, in which case the other lawyer's client is also considered to be his client for purposes of this code.

28. A lawyer must determine together with the client the terms, conditions and scope of the mandate given to him. In particular, he must set out in an objective manner the nature and scope of the problems as he sees them on the basis of the facts brought to his attention and the risks inherent in the measures recommended.

A lawyer must obtain the client's consent to the mandate, paying particular attention and care when the client is vulnerable due, in particular, to his age or his physical or psychological condition.

29. Before accepting or pursuing a mandate, a lawyer must bear in mind any limits to his skills in light of the area of law involved or the nature of the professional activities required, the time available for carrying out the mandate and the possibility of collaborating with another person.

If he believes such limits will jeopardize the quality of his services or the proper protection of the client's interests, he must so notify the client and advise him about the conditions for the performance of the mandate so the client can make an informed decision.

A lawyer who, with the consent of the client, undertakes or pursues a mandate notwithstanding the limits identified, must take reasonable means to obtain the necessary assistance for its performance.

30. When a lawyer foresees that certain services relating to the performance of a mandate will be carried out in their essential aspects by another person, he must so inform the client.

31. A lawyer who accepts a limited scope mandate must inform the client of the professional services that will be rendered to him and the fact that they will be rendered on the basis of these limits.

The acceptance of a limited scope mandate does not exempt a lawyer from his other duties.

32. A lawyer may agree to act for a client no matter what his opinion may be on the client's guilt or liability.

33. A lawyer may refuse to act for a client, subject to his obligations of professional conduct.

34. A lawyer must inform his client without delay when he believes the client qualifies for legal aid.

§2. Performance of mandate

35. A lawyer must provide professional services that are appropriate to the nature of his mandate and avoid performing or multiplying professional acts without sufficient reason.

He is responsible for the mandate and must adequately supervise work performed by others who are working with him in the performance of the mandate.

36. Although a lawyer may receive instructions from a representative of the client with respect to the performance of the mandate, the lawyer must act for the client and serve and protect the client's interests.

37. A lawyer must be honest and candid when advising clients.

38. A lawyer must provide his client with any explanation necessary for the understanding and evaluation of his professional services.

39. A lawyer must be reasonably available and diligent with respect to the performance of the various professional tasks related to a mandate.

40. A lawyer must report to the client, periodically or at the client's request, about the progress of his file.

41. A lawyer must try to dissuade a client from exercising a recourse or filing proceedings that the lawyer considers abusive and must inform the client of the possible consequences.

If the client persists, the lawyer must refuse to act for him in such recourse or proceedings.

42. Throughout the course of a mandate, the lawyer must inform and advise the client about all available means for settling his dispute, including dispute prevention and resolution methods.

43. A lawyer must submit to the client every settlement offer he receives with respect to the mandate and advise him in his assessment of the offer.

44. A lawyer must fulfil all undertakings given by him in the course of performing a mandate, unless it is not reasonably possible to do so.

45. A lawyer must notify the client of any fact learned by him in the performance of his professional services which, in the lawyer's opinion, may be a breach of the law by the client.

If the client is not a natural person, the lawyer must give such notification to the representative of the client with whom the lawyer deals when providing his professional services. If the lawyer later becomes aware that the client has not remedied the unlawful situation, he must notify the appropriate hierarchical authority.

46. A lawyer must not elude or attempt to elude his civil liability with respect to the performance of a mandate nor the civil liability of any person who is collaborating with him for such purpose or, where applicable, the civil liability of the firm within which he practises his profession.

47. A lawyer must notify his insurer or any other guarantor of any fact or circumstance which may give rise to a claim.

§3. *Termination of mandate*

48. Unless it is at an inopportune time, a lawyer may, for serious reasons, cease acting for a client.

The following, in particular, constitute serious reasons:

(1) when there is a loss of confidence between the lawyer and the client;

(2) when the client has deceived the lawyer, failed to cooperate with the lawyer or acted without taking the lawyer's advice into account;

(3) when the client, after reasonable notice, refuses to pay disbursements and fees to the lawyer or a provision therefor; or

(4) when the lawyer is in a situation of conflict of interest or in a context in which his professional independence could be called into question.

49. A lawyer must cease to act for a client, except where a tribunal orders otherwise:

(1) if the client revokes his mandate;

(2) if, notwithstanding the lawyer's advice, the client or a representative of the client persists in contravening a legal provision or in inciting the lawyer to do so;

(3) if the lawyer determines that he does not have the competence required to continue to perform the mandate; or

(4) if the client persists in exercising a recourse or filing proceedings that the lawyer considers abusive.

50. A lawyer must not threaten to cease acting for a client by imposing unreasonable conditions upon him.

51. Before ceasing to act for a client, the lawyer must notify the client as soon as possible and, where applicable, the other party and the tribunal in a timely manner. The lawyer must inform the client of the reasons he intends to cease acting for him and give him a reasonable period of time within which to retain a new lawyer.

52. A lawyer who ceases to act for a client must take the necessary conservatory measures to spare the client serious and foreseeable prejudice. He must, in particular:

(1) promptly deliver to the client all documents and property to which the client is entitled;

(2) give the client all the information he has with respect to the mandate;

(3) account for all funds he held or holds in trust, including the refund of any advance;

(4) promptly inform the client about his unpaid fees and disbursements; and

(5) make all reasonable efforts to facilitate the transfer of the file to the lawyer succeeding him and cooperate with the successor lawyer for that purpose.

§4. Access to file and rectification

53. A lawyer must diligently respond to all requests from a client to examine or obtain copies of documents concerning the client in any record established by the lawyer with respect to the client.

54. A lawyer who consents to a request referred to in section 53 must give the client access to the documents at no cost, in the presence of the lawyer or a person authorized by the lawyer.

With respect to a request referred to in section 53, a lawyer may charge the client reasonable costs that do not exceed the costs for transmitting, transcribing or reproducing the documents in question.

A lawyer who charges such costs must, before incurring them, notify the client of the approximate amount to be paid.

55. A lawyer must respond with diligence, and not later than 30 days after the date of receipt, to any request from a client:

(1) to cause to be corrected, in a record concerning the client, any information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected;

(2) to cause to be deleted any information that is outdated or not justified by the object of the record; or

(3) to file the client's written comments in the record.

56. For purposes of applying section 60.6 of the Professional Code (chapter C-26), a lawyer who responds to a request under section 55 must, in addition to complying with the obligations set forth in the second paragraph of article 40 of the Civil Code, provide to the applicant, at no cost, a copy of the corrected information or, if applicable, an attestation that the information has been deleted or the comments have been filed in the record.

57. A lawyer must respond with diligence to any written request from a client to take back a document or exhibit the client entrusted to him.

With respect to the request, the lawyer may charge the client reasonable costs that do not exceed the costs for transmitting the document or exhibit in question.

58. A lawyer who refuses a request referred to in section 60.5 or 60.6 of the Professional Code (chapter C-26) must, within 30 days following the request, provide reasons for the refusal, notify the client thereof in writing and inform him of the recourses available at law.

59. A lawyer who has a document or information that is the subject of a request referred to in section 60.5 or 60.6 of the Professional Code (chapter C-26) must, if he refuses the request, retain the document or information for as long as is necessary to allow the client to exhaust his recourses.

DIVISION III **DUTY OF CONFIDENTIALITY**

60. A lawyer must ensure the confidentiality of all information concerning the affairs and activities of a client of which the lawyer becomes aware in the course of the professional relationship.

61. A lawyer must take reasonable measures to ensure that every person who collaborates with him when he engages in his professional activities and, where applicable, the firm within which he engages in such activities, protects confidential information.

Similarly, when the lawyer engages in his professional activities within an organization, he must take reasonable measures to ensure that the organization provides him with the necessary means to protect confidential information.

62. A lawyer who retains the services of a person who worked with another professional must take reasonable measures so that such person does not disclose to him confidential information of the clients of the other professional.

63. A lawyer must not use confidential information with a view to obtaining a benefit for himself or for another person.

64. A lawyer must not accept a mandate if he has reason to believe that doing so entails or is likely to entail the communication or use of confidential information concerning another client.

65. A lawyer may communicate confidential information in the following situations:

(1) with the express or implied authorization of the client;

(2) if an express legal provision orders or authorizes him to do so;

(3) in order to collect his unpaid fees before a tribunal, but only to the extent necessary for that purpose;

(4) in order to defend himself in the event of proceedings, complaints or allegations calling his professional competence or conduct into question, but only to the extent necessary for that purpose; or

(5) in order to prevent an act of violence, including a suicide, where the lawyer has reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

66. A lawyer who communicates confidential information with a view to preventing an act of violence may only communicate the information to the person or group of persons exposed to the danger, to their representative or to the persons who can come to their aid.

67. When a lawyer communicates confidential information with a view to preventing an act of violence, pursuant to the third paragraph of section 60.4 of the Professional Code, subsection 3 of section 131 of the Act respecting the Barreau du Québec or subsection 5 of section 65 of this code, he must, at the time of such communication, mention the following:

(1) his name and the fact that he is a member of the Barreau du Québec;

(2) that the information he will communicate is protected by his obligation of confidentiality;

(3) that he is communicating the information in order to prevent an act of violence, because he has reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons;

(4) the act of violence he is trying to prevent; and

(5) the identity and, if possible, the contact information of the person or group of persons exposed to the danger, when he communicates the confidential information to their representative or to the persons who can come to their aid.

He may also, if it is necessary to achieve the purposes of the communication, disclose the identity and contact information of the person who provided him with the information concerning the apprehended act of violence.

68. In all cases in which a lawyer communicates confidential information in order to prevent an act of violence, he must prepare a written note as soon as possible containing the following:

(1) the date and time of the communication;

(2) the grounds in support of his decision to communicate the information, including the act of violence he is trying to prevent, the identity of the person who provided him with the information that prompted him to make the communication as well as the identity of the person or group of persons exposed to the danger;

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

(4) where applicable, the name of the person consulted at the office of the syndic of the Barreau, the opinion provided by this person as well as the date and time of said communication.

69. In all cases in which a lawyer communicates confidential information, he may only communicate such information as is necessary to achieve the purposes of the communication.

70. Where circumstances permit, a lawyer may consult the office of the syndic of the Barreau in order to obtain assistance to assess the appropriate course of action before communicating confidential information.

DIVISION IV CONFLICTS OF INTEREST

§1. General rules

71. A lawyer must avoid any situation of conflict of interest.

72. A lawyer is in a conflict of interest where, in particular:

(1) he acts for clients with conflicting interests;

(2) he acts for clients whose interests are such that he might tend to favour certain among them or that his judgment and loyalty may be unfavourably affected; or

(3) there is a substantial risk that the lawyer's own interests or his duties to another client, a former client, or another person would adversely interfere with his duties to the client.

When the lawyer engages in his professional activities within a firm, conflict of interest situations must be assessed with regard to all the firm's clients.

73. A lawyer who notices or anticipates that the interests of a representative of the client and those of the client may differ must inform the representative of his duty of loyalty towards the client.

74. To decide any question concerning a conflict of interest, consideration must be given to the higher interests of justice, the explicit or implicit consent of the parties, the extent of prejudice for each of the parties, the time elapsed since the situation arose that could give rise to the conflict, as well as the good faith of the parties.

75. Where a lawyer who engages in his professional activities within a firm is in a conflict of interest, every other lawyer in the firm must take reasonable measures to ensure that confidential information in the file involving the conflict of interest is not disclosed to him. Moreover, the lawyer who is in a conflict of interest and every other lawyer in the firm must see to it that such measures apply to the other persons with whom they collaborate when engaging in their professional activities.

In assessing the effectiveness of these measures, the following, in particular, must be taken into consideration:

- (1) the size of the firm;
- (2) the precautions taken to prevent access to the file by the lawyer who is in a conflict of interest;
- (3) the instructions given as to the protection of confidential information involved in the conflict of interest; and
- (4) the isolation of the lawyer in a conflict of interest with respect to every person in the firm who has access to the file.

§2. *Lawyer as witness*

76. A lawyer must not personally act in a dispute if he knows or should know that he will be called upon as a witness.

However, he may act:

- (1) if the fact of not acting is of a nature to cause serious prejudice to the client; or
- (2) if his testimony only refers to:
 - (a) an uncontested matter;

(b) a question of form and there is no reason to believe that serious proof will be offered to contradict such testimony; or

(c) the nature or value of the professional services rendered by him to the client or, as the case may be, by another professional who engages in his activities within the same firm.

§3. *Potentially litigious property*

77. A lawyer must not directly or indirectly acquire a right in property that is or may be the subject of a dispute related to a mandate given to him, nor may he allow a person practising within the same firm to do so.

§4. *Lawyer occupying a public office*

78. A lawyer who occupies a public office must avoid placing himself in a situation of conflict between his personal interests and the obligations of his office. Thus, he must not, in particular:

- (1) take advantage of his office in order to obtain or attempt to obtain an advantage for himself or for a client;
- (2) use his office to influence or attempt to influence a judge or a member of a tribunal in order that they may act in his favour or in favour of the firm within which he engages in his professional activities, another person in the firm or a client; or
- (3) accept an advantage from any person when he knows or should know that the advantage has been granted to him for the purpose of influencing his decision as the holder of a public office.

§5. *Relationship with tribunal or public organization*

79. A lawyer must not engage in his professional activities with respect to a matter in which:

- (1) he or another person within the same firm who has an interest therein is carrying out or has carried out functions as a judge or member of a tribunal; or
- (2) he has been engaged as a member or representative of a public organization, such as the Government of Canada or of a province, a municipality or a school board, unless he represents such organization.

80. In the following cases, a lawyer must not appear or plead before a judge or a person who exercises an adjudicative function, unless all the parties consent and it is in the interests of justice that the lawyer do so:

(1) the judge or person has an interest in the firm within which the lawyer engages in his professional activities;

(2) the part-time judge or the person engages in his professional activities within the same firm; or

(3) the judge or person is related to, or allied with the lawyer within the meaning of the rules concerning recusal in the Code of Civil Procedure (chapter C-25).

§6. Lawyer for trustee in bankruptcy or liquidator

81. A lawyer must not act as lawyer for a trustee in bankruptcy or a liquidator in the following cases:

(1) he represents the debtor, legal person, partnership or association without legal personality that is under liquidation, a secured creditor or a creditor whose claim is contested; or

(2) he rendered professional services to one of the persons, to the partnership or to the association referred to in subsection (1) in the two preceding years, unless he discloses the fact in writing to the creditors or the inspectors.

§7. Audit or review engagement

82. A lawyer must not act for a client respecting a matter or issue which could have a significant effect on the financial statements of the client for a given fiscal year when, for the same period, he or a person from the same firm is responsible for an audit or review engagement within the meaning of the Handbook of the Canadian Institute of Chartered Accountants.

However, in the case of a review engagement, the lawyer may act for a client in the following cases:

(1) the client is a partnership or legal person that has not made a public distribution of its securities; or

(2) the client knowingly waived the benefit of the rule set forth in the first paragraph or, where the client is a legal person or partnership, its shareholders or members unanimously waived such rule.

§8. Joint mandate

83. Except as otherwise provided in this subdivision, a lawyer must not act for clients in a joint mandate if they have conflicting interests.

84. Before acting for more than one client in a joint mandate, the lawyer must obtain their consent after having informed them that:

(1) he will act for more than one client in the same matter;

(2) no information received from one client regarding the matter will be confidential with respect to the other client; and

(3) if a dispute arises between them, he may have to cease acting for them in the matter.

85. If a dispute arises between clients in a joint mandate, the lawyer must inform them that, if they consent, he can advise them with respect to the dispute or refer them to another lawyer.

The lawyer must stop acting for his clients in the joint mandate if the dispute is not settled within a reasonable time.

86. A lawyer who acts regularly for a client must, before agreeing to act in a joint mandate for that client and another client, inform the other client of this fact and recommend that the other client obtain independent legal advice before giving him the joint mandate.

§9. Acting against former clients

87. A lawyer must not act against a former client in the same matter, in a related matter or in any other matter if, when acting for the former client, the lawyer obtained confidential information that may result in prejudice to that client or if knowledge of personal facts regarding the former client or his affairs would provide the new client with an undue advantage, unless the lawyer obtains the consent of his former client.

88. A lawyer must not act in a matter against a former client of another lawyer in the same firm if, when the other lawyer acted for the former client, he obtained confidential information relevant to this matter and the disclosure thereof could prejudice the former client in this matter.

However, a lawyer from the same firm may act in this matter for the client if the former client consents and if doing so is in the interests of justice, having regard to the following factors, in particular:

(1) the measures taken to ensure that no confidential information obtained by the former lawyer will be disclosed to him;

(2) the extent of the prejudice caused to one of the parties;

(3) the good faith of the parties;

(4) the availability of another lawyer with the requisite competence; and

(5) any other issue of public interest.

For the purpose of applying the second paragraph, the lawyers from the same firm must not, except where the former client consents, discuss the matter between themselves, and the lawyer of the former client must not participate in any manner in the performance of the other lawyer's mandate, discuss it with another person in the firm or disclose information concerning the former client.

§10. Change of firm

89. When a lawyer changes firm, his clients and former clients and those of his former firm about whom he obtained confidential information are considered to be former clients of the new firm and sections 87 and 88 apply, with the necessary modifications.

§11. Carrying on business with a client

90. A lawyer may not carry on business with his client, or with a person related to the client within the meaning of the Taxation Act (chapter I-3), except on terms and conditions that are fair and reasonable.

91. A lawyer may not borrow money from a client, or from a person related to the client within the meaning of the Taxation Act, except in the following cases:

(1) the client is a financial institution, insurance company, trust company or any similar enterprise whose business includes lending money to the public; or

(2) the client is a person with whom the lawyer does not deal at arm's length within the meaning of the Taxation Act, the client's interests are properly protected and independent legal advice regarding the matter was obtained.

§12. Suretyships and other security

92. A lawyer must not act as surety or otherwise provide security for a debt in respect of which a client is a borrower or lender.

However, a lawyer may act as surety or otherwise provide security in the following cases:

(1) the lender is a financial institution, insurance company, trust company or any similar enterprise whose business includes lending money to the public, and the lender is providing funds to the lawyer or the lawyer's spouse, parent, or child;

(2) he is doing so for the benefit of a non-profit organization of which he is a supporter or member, provided the following conditions have been met;

(a) the lawyer complies with sections 90 and 91; and

(b) the non-profit organization is represented by an independent lawyer;

(3) the lawyer holds an interest in a commercial enterprise with a client and the lender requires personal guarantees from all the partners or shareholders of the enterprise as a matter of course, provided the following conditions have been met:

(a) the lawyer complies with sections 90 and 91; and

(b) the lender and the partners or shareholders of the enterprise who are or were clients of the lawyer have independent legal representation.

93. A lawyer must not act as surety or otherwise deposit personal funds or give other valuable personal security for a person being prosecuted in a criminal or penal matter, nor act in a supervisory capacity to such person, except for family reasons.

DIVISION V **PRESERVATION OF MONIES AND** **OTHER PROPERTY**

94. A lawyer must hold in trust the money as well as the other property that a client or other person has entrusted to him. In particular, he must not lend or use the money or property for purposes other than those for which it was entrusted to him.

95. A lawyer may not endorse a cheque made to the order of a client except if he has received the latter's written authorization to that effect and provided the endorsement is made solely for deposit in a trust account in connection with a mandate for professional services.

96. A lawyer must not retain monies or property entrusted by a client, except where permitted by law.

97. A lawyer must account promptly for monies and property entrusted to him and deliver them to the client on request or, if applicable, at the end of the mandate.

98. A lawyer who engages in his professional activities within a firm must take reasonable measures to ensure compliance with the requirements of this division when property is entrusted to the firm.

DIVISION VI FEES AND DISBURSEMENTS

99. A lawyer must, before agreeing with the client to provide professional services, ensure that the client has all useful information regarding his financial terms and obtain his consent thereto, except if he has reason to believe that the client is already informed thereof.

During the course of the mandate, he must keep the client informed of circumstances that could entail significant changes to the anticipated cost of his professional services.

100. A lawyer must provide to his client, in a timely manner, all the explanations necessary for the client to understand the amount of the fees or the statement of fees and the terms and conditions of payment.

101. A lawyer must charge and accept fair and reasonable fees and disbursements.

The same applies to advances he asks the client to provide.

102. The fees are fair and reasonable if they are warranted by the circumstances and proportionate to the professional services rendered. In determining his fees, the lawyer must in particular take the following factors into account:

- (1) experience;
- (2) the time and effort required and devoted to the matter;
- (3) the difficulty of the matter;
- (4) the importance of the matter to the client;
- (5) the responsibility assumed;
- (6) the performance of unusual professional services or professional services requiring special skills or exceptional speed;
- (7) the result obtained; and
- (8) the fees prescribed by statute or regulation.

103. Other than legal interest, the only interest a lawyer may collect on outstanding accounts is interest agreed upon with the client in writing. The interest thus agreed upon must be at a reasonable rate.

104. A lawyer who practises in a firm must ensure that the firm uses separate accounting and billing for the fees and costs of professional services rendered by each lawyer. The invoice or statement of fees must describe the professional services rendered by each lawyer, except where a lump-sum payment has been agreed upon in writing with the client.

105. A lawyer cannot receive from a client, as payment for the lawyer's professional services, a participation or other interest in property or in an enterprise, other than a non-material interest in an enterprise listed on a recognized stock exchange referred to in the Securities Act (chapter V-1.1), except where the lawyer recommends that the client first obtain legal or accounting advice regarding the matter.

106. A lawyer must not pay, offer to pay or agree to pay to a person other than a lawyer any rebate, commission or other benefit relating to a mandate given to him by a client or in order to obtain a mandate.

107. A lawyer may share his fees only with a person who is a member of the Barreau, of another law society outside Québec, the firm within which he engages in his professional activities or another person with whom he is authorized to engage in his professional activities.

108. A lawyer must promptly inform his client if disbursements, fees, commissions, rebates, extrajudicial costs or other benefits are or will be paid to him by a third party with respect to the mandate the client gave him.

109. In any matter in which a lawyer collects extrajudicial fees, he must inform the client that judicial fees may be granted by a tribunal.

He must also enter into an agreement with the client specifying the manner in which these judicial fees will be taken into consideration when establishing the cost of the professional services.

110. If the syndic or other representative of the Barreau requests explanations or information from a lawyer regarding a mandate, the lawyer must not claim fees from the client in connection with this request.

CHAPTER III DUTIES TO THE ADMINISTRATION OF JUSTICE

DIVISION I GENERAL RULES

111. A lawyer is a servant of justice and must support the authority of the courts. He must not act in a manner which is detrimental to the administration of justice.

He must foster a relationship of trust between the public and the administration of justice.

112. A lawyer must act for a client resolutely and honourably, in compliance with the law, while treating the tribunal and all other participants in the justice system with candour, courtesy and respect.

When acting as prosecutor in a criminal or penal matter, the lawyer must act in the public interest and in the interest of the administration of justice and the fairness of the judicial process.

113. A lawyer must cooperate with all participants in the justice system so as to ensure the sound administration of justice.

He must act in accordance with the requirements of good faith and avoid all purely dilatory procedures, including resorting to a procedure with the sole purpose of harming another person.

DIVISION II DUTIES TO THE TRIBUNAL

114. When a lawyer's presence is required, he must attend or be represented before the tribunal, unless he is prevented from doing so for reasons beyond his control. In such a case, he must give the earliest possible notice thereof to his client, the court and the parties concerned.

115. A lawyer must not encourage a client, witness or other person to do or say anything which he could not do or say himself in respect of a judge, tribunal, member of a tribunal or any other participant in the justice system.

116. A lawyer must not mislead or attempt to mislead the tribunal.

117. A lawyer must not suppress evidence which he or the client is obliged to preserve, disclose or produce, or participate in the fabrication of evidence he should know is false.

Moreover, he must not directly or indirectly unduly retain, steal, conceal, falsify, mutilate or destroy an exhibit from the record of a tribunal or an item of evidence.

DIVISION III DUTIES TO A PARTY OR THE PARTY'S LAWYER

118. A lawyer must not act in such a manner as to mislead a party or the party's lawyer, or in such a manner as to abuse their good faith.

119. A lawyer must not communicate in a matter with a person whom he knows to be represented by a lawyer, except in the presence or with the consent of that lawyer or unless he is authorized to do so by law. In the event of an unsolicited or accidental communication, the lawyer must promptly inform the person's lawyer of the circumstances and content of the communication.

Subject to the first paragraph, a lawyer may seek information from any potential witness, but he must disclose the interests of the person for whom he is acting.

120. When a lawyer acts in a case pending before a tribunal, he must not communicate directly as regards the case, outside the tribunal, with the judge or a member of the tribunal, except:

(1) in writing, if he promptly gives a copy to the opposite party who has appeared or to his lawyer; or

(2) orally, after having given reasonable notice to the opposite party who has appeared or to his lawyer.

DIVISION IV DUTIES REGARDING WITNESSES

121. A lawyer must not, directly or indirectly, act in such a manner that allows a person to avoid a tribunal's order to appear.

Moreover, he must not knowingly permit a witness or party to present himself in a false or misleading manner or to impersonate another person.

122. A lawyer must not, directly or indirectly, pay or offer to pay compensation to a witness or offer the witness any other benefit which is conditional upon the content of his testimony or the outcome of the matter.

However, a lawyer may agree to pay:

(1) reasonable expenses incurred by a witness to appear or testify;

(2) reasonable compensation to a witness for loss of time in appearing or testifying; or

(3) reasonable fees for the professional services of an expert witness.

DIVISION V DUTIES REGARDING MEMBERS OF A JURY PANEL OR JURORS

123. A lawyer who acts in a criminal matter must not, before the trial, communicate with or cause another person to communicate with anyone that the lawyer knows to be on the jury panel for that trial.

124. The lawyer must promptly disclose to the judge or the lawyer of the other party any information to the effect that a juror or a person on a jury panel:

(1) has or may have an interest in the outcome of the case;

(2) knows or is connected in any manner with the presiding judge, any of the lawyers or any of the parties; or

(3) knows or is connected in any manner with any person who has appeared or is expected to appear as a witness.

125. A lawyer must promptly disclose to the tribunal any information that the lawyer believes reveals misconduct by a member of a jury panel or by a juror.

126. Except as permitted by law, a lawyer who acts in a matter must not communicate with or cause another person to communicate with any member of the jury during the trial.

127. A lawyer must not have any discussion after trial with a member of the jury about its deliberations.

CHAPTER IV DUTIES TO THE PROFESSION

DIVISION I GENERAL RULES

128. A lawyer must contribute to preserving the honour, dignity and reputation of his profession and to maintaining the public's confidence in the profession.

129. A lawyer must, to the extent it is possible for him, contribute to the development of education and information for the public relating to the field in which he practises.

130. A lawyer must, to the extent it is possible for him, assist in the development of his profession through the exchange of his knowledge and experience with other lawyers, students and articling students and through his participation in courses and professional training periods.

131. A lawyer must collaborate with other lawyers in the interests of clients and the sound administration of justice.

He must therefore avoid any unfair practice or any conduct towards another lawyer which could abuse the other lawyer's good faith or trust or criticize, in an unrestrained or unfounded manner, his competence or conduct, the quality of his services or his fees.

132. A lawyer must immediately inform the executive director of the Barreau when he knows of any impediment to the admission of a candidate to the practice of the profession of lawyer.

133. Subject to the lawyer's duty of confidentiality to a client, the lawyer must inform the syndic of the Barreau about the occurrence of any of the following situations:

(1) the unlawful custody or use of monies or other property held in trust;

(2) the termination of the practice of the profession;

(3) the inability to practise the profession;

(4) participation in an unlawful act when practising the profession;

(5) a health condition that could materially prejudice a client;

(6) conduct that raises a doubt as to another lawyer's honesty, loyalty or competence; or

(7) the performance of any act whose nature or seriousness is such that it could adversely affect the honour, dignity or reputation of the profession or the public's confidence in the profession.

134. A lawyer must personally and diligently answer all communications from a member of the office of the syndic of the Barreau as well as from any of the persons referred to in section 192 of the Professional Code. The lawyer must respond using the means of communication chosen by that person or go to the person's office if the person so requests.

He must also fulfil all undertakings given by him to these persons.

135. A lawyer who has been informed of an inquiry or a complaint regarding him must not communicate, directly or indirectly, with the person who is the source of the inquiry or who filed the complaint, unless he has the prior written permission of a syndic of the Barreau.

Moreover, he must not intimidate a person or retaliate or threaten to retaliate against the person because the person participated or cooperated or intends to participate or cooperate in such an inquiry or complaint or has reported or intends to report conduct contrary to this code, or because the person availed himself of a right or recourse set forth in a regulation adopted under the Professional Code or the Act respecting the Barreau du Québec.

136. A lawyer who engages in his professional activities within a partnership or joint-stock company within the meaning of the Regulation respecting the practice of the profession of advocate within a limited liability partnership or joint-stock company and in multidisciplinary (chapter B-1, r. 9) must cease to engage in his professional activities within the partnership or joint-stock company:

(1) if the representative of the partnership or joint-stock company or a director, an officer or an employee thereof is still performing his duties therein more than ten days after an executory decision ordering him to be struck off a roll for more than three months or revoking his permit; or

(2) if a shareholder or partner of the partnership or joint-stock company who has been struck off a roll for more than three months or had his permit revoked is still directly or indirectly exercising a voting right within such partnership or joint-stock company more than ten days after the effective date of the striking off or revocation, or has not entered into an agreement to place his shares or partnership units in escrow within 30 days following the aforementioned effective date.

137. A lawyer who is asked by the Barreau to sit on the professional inspection committee, the disciplinary council, the review committee constituted under section 123.3 of the Professional Code or a council of arbitration of accounts established pursuant to the Regulation respecting the conciliation and arbitration procedure for the accounts of advocates (chapter B-1, r. 17) cannot refuse the position unless he has reasonable grounds to do so.

DIVISION II INCOMPATIBLE FUNCTIONS

138. The following are incompatible with the practice of the profession of lawyer:

(1) the office of judge under the Courts of Justice Act (chapter T-16) and the office of municipal judge on a permanent or full-time basis;

(2) the office of legal stenographer; and

(3) the office of collection agent.

139. A lawyer may not engage in professional activities with respect to a matter in which he or a person who engages in his professional activities within the same firm acts as bailiff.

140. A lawyer who is also a police officer may act as a lawyer only for the police force to which he is attached. Moreover, he may not act as a prosecutor in criminal or penal matters.

141. A lawyer who has ceased to hold the office of judge must not, within 36 months of this cessation, plead in a matter brought before the tribunal of which he was a member.

A lawyer who has ceased to exercise an adjudicative function must not, within 12 months of this cessation, plead in a matter brought before the adjudicative body of which he was a member.

DIVISION III NAME OF FIRM, ADVERTISING AND USE OF THE GRAPHIC SYMBOL OF THE BARREAU

§1. *Name of firm*

142. A lawyer must not practise his profession under a name or designation that is not distinctive or nominative, that is misleading, deceptive or contrary to the honour, dignity or reputation of his profession or that is a numerical designation.

143. A lawyer who engages in his professional activities within a firm must take reasonable measures to ensure that every document produced within the practice of the profession of lawyer and originating from the firm is identified with the name of a lawyer.

§2. *Advertising*

144. In his advertising, a lawyer may not use or allow to be used an endorsement or statement of gratitude concerning him.

145. A lawyer may advertise fees charged for his services provided the following conditions are met:

(1) the advertising is sufficiently precise as to the nature and extent of the services offered for each fee quoted; and

(2) the advertising states whether other amounts, such as disbursements and taxes, will be charged in addition to the fee quoted.

146. A lawyer advertising lump-sum fees must:

- (1) establish fixed prices;
- (2) specify the nature and extent of the professional services included in the fees and, where applicable, any other services included therein;
- (3) indicate whether disbursements and taxes are included in the fees; and
- (4) indicate whether other professional services might be required which are not included in the fees.

The details and indications must be of such a nature as to adequately inform persons who have no particular knowledge of the field of law.

147. A lawyer must abide by the fees announced for a minimum period of 90 days after they are last advertised or published. However, during this time, he may agree with a client on a lower price than that announced.

148. A lawyer must retain a complete copy of any advertisement in its original form, for a period of 12 months after the date on which it is advertised or published for the last time.

149. A lawyer who knows or should know that the advertising of the firm within which he engages in his professional activities violates the rules set out in this division must take the necessary measures to put an end to such violation.

§3. *Graphic symbol of the Barreau*

150. A lawyer who reproduces the graphic symbol of the Barreau for advertising purposes must ensure that the symbol conforms to the original held by the executive director of the Barreau.

151. Where applicable, a lawyer must ensure that the firm within which he engages in his professional activities uses the symbol of the Barreau only if all the services offered by the firm are professional services rendered by lawyers or, if the firm also offers other professional services, provided the graphic symbol identifying each of the professional orders or organizations to which such persons belong is also used.

However, the graphic symbol of the Barreau may always be used in connection with the name of a lawyer.

152. Where a lawyer uses the graphic symbol of the Barreau, he must not suggest that such advertising emanates from the Barreau.

TITLE III FINAL PROVISIONS

153. This code replaces the Code of ethics of advocates (chapter B-1, r. 3).

154. This code shall come into force on the (*to be determined*) day following its publication in the *Gazette officielle du Québec*. (*or on a date to be determined by the Government*)

3231

Draft Regulation

Professional Code
(chapter C-26)

Chartered administrators — Diplomas giving access to permits — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends section 1.27 of the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders, which lists diplomas giving access to the permit of the Ordre des administrateurs agréés du Québec and institutions that issue them to add 3 diplomas to the list.

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

The draft Regulation will be submitted to the Office des professions du Québec and to the Ordre des administrateurs agréés du Québec for their opinion. The Office will seek the opinion of the Order and forward it with its own opinion to the Minister of Justice after consultation with the educational institutions concerned.

Further information may be obtained by contacting Nicolas Handfield, Director and Assistant Secretary, Direction des affaires juridiques, Ordre des administrateurs agréés du Québec, 910, rue Sherbrooke Ouest, bureau 100, Montréal (Québec) H3A 1G3; telephone: 514 499-0880, extension 235 or 1 800 465-0880; fax: 514 499-0892; email: nhandfield@adma.qc.ca