

Regulation to amend the Regulation respecting the psychotherapist's permit

Professional Code
(chapter C-26, s. 187.3.2)

1. The Regulation respecting the psychotherapist's permit (chapter C26, r. 222.1) is amended by inserting the following sections after section 8:

“**8.1.** The board of directors of the Ordre professionnel des psychologues du Québec issues a psychotherapist's permit to a person who applies therefor before 26 September 2015 and who, before the date of coming into force of section 187.1 of the Professional Code, holds a marriage and family therapist's permit issued by the Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec.

A person who, on the date of coming into force of section 187.1 of the Code, is registered in a training program in marital and family therapy giving access to the marriage and family therapist's permit issued by the Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec and who obtains a permit after that date is deemed to meet the condition set out in paragraph 1 of section 1.

8.2. The board of directors of the Ordre professionnel des psychologues du Québec issues a psychotherapist's permit to a holder of a permit issued by the Ordre professionnel des sexologues du Québec who applies therefor before 26 September 2015 and who, before the date of constitution of the Ordre professionnel des sexologues du Québec, has completed his or her master's studies in sexology at the Université du Québec à Montréal with a profile including theoretical and practical training in counseling or clinical sexology.”.

2. This Regulation comes into force on 26 March 2015.

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Gouvernement du Québec

O.C. 131-2015, 25 February 2015

Professional Code
(chapter C-26)

Physiotherapy — Practice of physiotherapy within a partnership or a joint-stock company

Regulation respecting the practice of physiotherapy within a partnership or a joint-stock company

WHEREAS, under paragraph *p* of section 94 of the Professional Code (chapter C-26), the board of directors of a professional order may, by regulation, authorize the members of the order to carry on their professional activities within a limited liability partnership or a joint-stock company constituted for that purpose and, as appropriate, determine the applicable terms and conditions and restrictions;

WHEREAS, under paragraphs *g* and *h* of section 93 of the Code, the board of directors of a professional order 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 a declaration to the order;

WHEREAS the board of directors of the Ordre professionnel de la physiothérapie du Québec made, on 27 September 2013, the Regulation respecting the practice of physiotherapy 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 being made by the board of directors;

WHEREAS, pursuant to section 95 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 Code, a regulation made by the board of directors of a professional order under paragraph *g* or *h* of section 93 must be transmitted for examination to the Office, which may approve it with or without amendment;

WHEREAS the first regulation made by the board of directors of a professional order under paragraph *p* of section 94 of the Code is subject to the approval of the Government;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting the practice of physiotherapy within a partnership or a joint-stock company was published in Part 2 of the *Gazette officielle du Québec* of 9 April 2014 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the Office has approved, on 10 November 2014, the Regulation, except sections 1, 2 and 5 and Divisions IV and V;

WHEREAS the Office has examined the Regulation and submitted it to the Government with its recommendation;

WHEREAS it is expedient to approve sections 1, 2 and 5 and Divisions IV and V of the Regulation with amendments;

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

THAT sections 1, 2 and 5 and Divisions IV and V of the Regulation respecting the practice of physiotherapy within a partnership or a joint-stock company, attached to this Order in Council, be approved.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation respecting the practice of physiotherapy within a partnership or a joint-stock company

Professional Code
(chapter C-26, s. 93, pars. *g* and *h*, and s. 94, par. *p*)

DIVISION I TERMS AND CONDITIONS OF PRACTICE

1. A member of the Ordre professionnel de la physiothérapie du Québec may carry on professional activities within a joint-stock company or a limited liability partnership within the meaning of Chapter VI.3 of the Professional Code (chapter C-26), if

(1) more than 50% of the voting rights attached to the shares of the partnership or joint-stock company are held by

(a) a member of the Order, a professional governed by the Professional Code or a professional governed by a regulatory body part of the Canadian Alliance of Physiotherapy Regulators or the Association of Canadian Occupational Therapy Regulatory Organizations;

(b) a joint-stock company where 100% of the voting rights attached to the shares are held by at least one person referred to in subparagraph *a*; or

(c) a trust whose trustees are persons referred to in subparagraph *a*;

(2) a majority of the directors of the board of directors of the joint-stock company, the partners or, where applicable, the directors appointed by the partners of the limited liability partnership are persons referred to in subparagraph *a* of paragraph 1;

(3) to constitute a quorum at a meeting of the directors of a partnership or joint-stock company, a majority of the persons present must be persons referred to in subparagraph *a* of paragraph 1;

(4) the conditions set out in this section appear in the articles of constitution of the joint-stock company or are stipulated in the contract constituting the limited liability partnership and that is also provided that the partnership or joint-stock company is constituted for the purposes of the carrying on professional activities; and

(5) the articles of constitution of the joint-stock company or the contract constituting the limited liability partnership must provide for the manner in which the shares are to be sent, in the event of the death, invalidity, striking off or bankruptcy of one of the persons referred to in subparagraph *a* of paragraph 1.

2. A member who wishes to practise within a partnership or joint-stock company must provide the secretary of the Order with:

(1) the declaration referred to in section 3 with the fees prescribed by the board of directors of the Order;

(2) a written document from a competent authority certifying that the partnership or joint-stock company complies with the professional liability coverage requirements of Division III;

(3) if the member practises within a joint-stock company, a written document from a competent authority certifying the existence of the joint-stock company;

(4) where applicable, a certified true copy of the declaration from the competent authority indicating that the general partnership has been continued as a limited liability partnership;

(5) a written document 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 maintains an establishment in Québec; and

(7) an irrevocable written authorization from the partnership or joint-stock company within which the member practises entitling a person, a committee, a disciplinary body or a tribunal referred to in section 192 of the Professional Code to require any person to produce a document mentioned in section 9, or a copy of such a document.

3. The member must also send to the secretary of the Order a sworn declaration duly made on the form provided by the Order and containing

(1) the name of the partnership or joint-stock company and any other names used in Québec by the partnership or joint-stock company within which the member practises and the business number assigned to it by the competent authority;

(2) the legal form of the partnership or joint-stock company;

(3) in the case of a joint-stock company, the address of the head office of the company and establishments in Québec, the name and home address of the directors and the name and home address of the officers, and the order or professional association of which they are members, if applicable;

(4) in the case of a limited liability partnership, the address of the establishments of the partnership in Québec, specifying the address of the principal establishment, the names and home addresses of the partners, the names and home addresses of the directors, and the order or professional association of which they are members, if applicable;

(5) the member's name, member number, status within the partnership or joint-stock company and professional activities carried on within the partnership or joint-stock company;

(6) an attestation certifying that the shares held and the rules of administration of the partnership or joint-stock company comply with the conditions set out in this Regulation.

4. Members must

(1) update the declaration referred to in section 3 and provide the declaration to the Order, accompanied by the fees prescribed by the board of directors of the Order, before 31 March of each year;

(2) inform the Order without delay of any change in the coverage under Division III or in the information provided in the declaration provided pursuant to section 3 that may affect compliance with the conditions set out in this Regulation.

5. A member immediately ceases to be authorized to practise within a partnership or joint-stock company if the member no longer complies with the conditions set out in this Regulation or in Chapter VI.3 of the Professional Code.

The member who is struck off the roll for more than 3 months or whose permit has been revoked may not, during the period of the striking off or revocation, directly or indirectly hold any share in the partnership or joint-stock company.

The member may also not be a director, officer or representative of the partnership or joint-stock company during that period.

DIVISION II **REPRESENTATIVE**

6. If two or more members practise within the same partnership or joint-stock company, a representative must be designated to act on behalf of all the members practising in the partnership or joint-stock company in order to comply with the terms and conditions provided in sections 3 and 4.

The representative must ensure the accuracy of the information provided to the Order.

The representative is also designated by the members practising within a partnership or joint-stock company to reply to requests made by the syndic, an inspector or any other representative of the Order and to provide, where applicable, the documents that the members are required to submit.

The representative must be a member of the Order who practises in Québec within the partnership or joint-stock company and be a partner or a director and shareholder with voting rights of the partnership or joint-stock company.

DIVISION III PROFESSIONAL LIABILITY COVERAGE

7. To be authorized to practise within a partnership or joint-stock company, members must furnish and maintain for that partnership or joint-stock company, by an insurance contract or by participation in group insurance contracted by the Order, security against the liability that the partnership or joint-stock company may incur as the result of a fault on the part of the members committed while carrying on his or her professional activities.

8. The security must include the following minimum conditions:

(1) an undertaking by the insurer to pay in lieu of the partnership or joint-stock company any sum that the partnership or joint-stock company may be legally bound to pay to a third person on a claim filed during the coverage period and arising from fault on the part of a member committed while carrying on his or her professional activities;

(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 costs and expenses of proceedings 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 that the security extends to all claims submitted in the 5 years following the coverage period during which a member of the partnership or joint-stock company dies, withdraws from the partnership or joint-stock company or ceases to be a member of the Order, in order to maintain coverage for the partnership or joint-stock company for fault on the part of the member in the practice of his or her profession;

(4) an amount of security of at least \$1,000,000 per claim, subject to a limit of \$3,000,000 for all claims filed against the partnership or joint-stock company during a coverage period not exceeding 12 months, regardless of the number of members in the partnership or joint-stock company;

(5) an undertaking by the insurer to provide the secretary of the Order with a 30-day notice prior to any cancellation or amendment to the insurance contract if the amendment affects a condition set out in this Regulation or to any non-renewal of the contract.

DIVISION IV ADDITIONAL INFORMATION

9. The documents that may be required pursuant to paragraph 7 of section 2 are the following:

(1) if the member practises within a joint-stock company:

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

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

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

(d) any shareholders' agreement and voting agreement and amendments;

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

(f) a list of the company's principal officers and their home addresses;

(2) if the member practises within a limited liability partnership:

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

(b) the partnership agreement and amendments;

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

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

(e) a complete and up-to-date list of the partnership's principal officers and their home addresses.

DIVISION V TRANSITIONAL AND FINAL

10. A member of the Order who practises within a joint-stock company constituted before 26 March 2015 must comply with this Regulation at the latest within 1 year following that date.

11. This Regulation comes into force on 26 March 2015.

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