

Draft Regulation

Professional Code
(chapter C-26)

Advocates

— Professional activities that may be engaged in by persons other than advocates

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the professional activities that may be engaged in by persons other than advocates, made by the board of directors of the Barreau du Québec and appearing below, is published as a draft and may be examined by the Office des professions du Québec then submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation mainly allows law students, subject to certain conditions, to give legal advice or consultations on legal matters in a legal clinic established by a professional training school established under the Act respecting the Barreau du Québec or by a university-level educational institution, or in a legal clinic recognized by such an institution, in order to increase the legal service offer in Québec.

The draft Regulation also prescribes the terms and conditions under which a person legally authorized to practise outside Québec the same profession as advocates may engage in certain activities reserved for advocates.

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

Further information on the draft Regulation may be obtained by contacting Mtre. André-Philippe Mallette, assistant secretary of the Order and attorney, legal affairs division, 445, boulevard Saint-Laurent, Montréal (Québec) H2Y 3T8; telephone: 1 800 361-8495, extension 5100; email: apmallette@barreau.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Roxanne Guévin, Secretary, Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3; email: secretariat@opq.gouv.qc.ca. The comments will be forwarded by the Office to the Minister of Higher Education and may also be sent to the professional order that made the Regulation and to interested persons, departments and bodies.

ROXANNE GUÉVIN
Secretary, Office des professions du Québec

Regulation respecting the professional activities that may be engaged in by persons other than advocates

Act respecting the Barreau du Québec
(chapter B-1, s. 128.1, 2nd par.)

Professional Code
(chapter C-26, s. 94, 1st par., subpar. h)

DIVISION I OBJECT

1. The object of this Regulation is to determine the terms and conditions according to which the following persons may engage in, as the case may be, the professional activities reserved for advocates or certain of those activities:

(1) a person who is registered in a study program leading to a diploma that meets the requirements for the permit issued by the Barreau du Québec and who earned 60 credits in that program;

(2) a person who holds a diploma that meets the requirements for the permit issued by the Barreau or whose diploma or training equivalence was recognized pursuant to the Regulation respecting the standards for equivalence of diplomas and training of the Barreau du Québec (chapter B-1, r. 16) and who is registered in a graduate study program in legal studies;

(3) a person who holds a diploma that meets the requirements for the permit issued by the Barreau or whose diploma or training equivalence was recognized pursuant to the Regulation respecting the standards for equivalence of diplomas and training of the Barreau du Québec and who is registered in the professional training program dispensed by the École du Barreau;

(4) a person who is legally authorized to practise, outside of Québec, the same profession as advocates.

DIVISION II APPLICABLE TERMS AND CONDITIONS

§1. *Practise within an established legal clinic or one recognized by a university-level educational institution*

2. A person referred to in paragraph 1 or 2 of section 1 may give legal advice and consultations on legal matters within an established legal clinic or one recognized by a university-level educational institution which grants a diploma that meets the requirements for the permit issued by the Barreau, provided

(1) the person has completed a course in ethics and professional conduct of a minimum duration of 3 hours that is recognized by the Barreau;

(2) the person engages in those activities under the close supervision and responsibility of a practising advocate referred to in section 3;

(3) the person communicates verbally with a client only in the presence of the supervising advocate or, in the case of a written communication, only after obtaining the supervising advocate's approval, except in the case of communications that are administrative in nature; and

(4) the person engages in those activities in compliance with the regulatory standards applicable to advocates relating to professional conduct, accounting and professional practice standards, with the necessary modifications.

3. An advocate may act as a supervisor under the following terms and conditions:

(1) the advocate has been entered on the Roll as a practising advocate for at least 5 years or was re-entered as such after being entered on the Roll as a retired advocate for less than 5 years;

(2) the advocate is covered under the professional liability insurance fund of the Barreau;

(3) the advocate keeps up the records he opens within a legal clinic or ensures that they are kept up by another practising advocate who complies with the terms and conditions provided for in this section and who is designated to do so by the university-level educational institution;

(4) the advocate is not the subject of a complaint in accordance with section 116 of the Professional Code (chapter C-26);

(5) the advocate is not the subject, nor was the subject, in the 5 years preceding the date when the supervision began, of a decision imposing

(a) a penalty pursuant to section 156 or 175 of the Professional Code;

(b) refresher training or a refresher course pursuant to section 55 of the Professional Code; or

(c) a striking off the Roll or a restriction or suspension of the right to engage in professional activities pursuant to subparagraph *a* of the first paragraph of section 51 or section 52.1, 55.0.1, 55.1 or 55.2 of the Professional Code.

An advocate who holds a special permit issued in accordance with the Regulation respecting the issuance of special permits of the Barreau du Québec (chapter B-1, r. 8) or a temporary restrictive permit issued in accordance with section 42.1 of the Professional Code may not act as a supervisor.

§2. *Practise within a legal clinic established by the École du Barreau*

4. A person referred to in paragraph 3 of section 1 may engage in the professional activities reserved for advocates within a legal clinic established by the École du Barreau, provided

(1) the person successfully completed the ethics and professional conduct examination provided for in the professional training program dispensed by the École du Barreau;

(2) the person engages in those activities under the close supervision and responsibility of a practising advocate referred to in section 3, with the necessary modifications; and

(3) the person engages in those activities in compliance with the regulatory standards applicable to advocates relating to professional conduct, accounting and professional practice standards, with the necessary modifications.

§3. *Practise regarding a case before an international arbitration tribunal*

5. A person referred to in paragraph 4 of section 1 may give advice and consultations on legal matters, provided

(1) the person acts as an advocate or counsel before an international arbitration tribunal;

(2) the person gives advice and consultations on legal matters regarding the case for which said person is acting as advocate or counsel before an international arbitration tribunal.

DIVISION III
FINAL

6. This Regulation replaces the Regulation respecting professional acts that may be performed by persons other than members of the Barreau du Québec (chapter B-1, r. 1).

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