

Gouvernement du Québec

O.C. 652-2022, 6 April 2022

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

Act to improve justice accessibility and efficiency,
in particular to address consequences
of the COVID-19 pandemic
(2020, chapter 29)

Professional Code
(chapter C-26)

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

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

WHEREAS the Act to improve justice accessibility and
efficiency, in particular to address consequences of the
COVID-19 pandemic (2020, chapter 29) was assented to
on 11 December 2020;

WHEREAS, under paragraph 1 of section 68 of the
Act, sections 5 to 7 of the Act come into force on the
date of coming into force of the first by-law made under
section 128.1 of the Act respecting the Barreau du Québec
(chapter B-1), enacted by section 6 of the Act;

WHEREAS, under the second paragraph of section 128.1
of the Act respecting the Barreau du Québec, enacted
by section 6 of the Act to improve justice accessibility
and efficiency, in particular to address consequences of
the COVID-19 pandemic, the board of directors of the
Barreau du Québec must determine, by by-law, from
among the regulatory standards applicable to advocates,
those standards applicable to students who may give legal
advice or consultations on legal matters for others as well
as the terms and conditions that apply to the advocates
supervising them, and the by-law may also prescribe addi-
tional terms and conditions according to which students
may perform such acts;

WHEREAS, under subparagraph *h* of the first paragraph
of section 94 of the Professional Code (chapter C-26), the
board of directors of a professional order may, by regu-
lation, determine, among the professional activities that
may be engaged in by members of the order, those that
may be engaged in by the persons or categories of persons
indicated in the regulation, and the terms and conditions
on which such persons may engage in such activities;

WHEREAS, in accordance with the third paragraph
of section 128.1 of the Act respecting the Barreau du
Québec, enacted by section 6 of the Act to improve
justice accessibility and efficiency, in particular to address
consequences of the COVID-19 pandemic, and with sub-
paragraph *h* of the first paragraph of section 94 of the
Professional Code, the board of directors of the Barreau
du Québec consulted the Ordre des notaires du Québec
before adopting the Regulation respecting the professional
activities that may be engaged in by persons other than
advocates on 20 May 2021;

WHEREAS, pursuant to section 95 of the Professional
Code, subject to sections 95.0.1 and 95.2 of the Code,
every regulation made by the board of directors of a pro-
fessional order under the Code or an Act constituting a
professional order must be transmitted to the Office des
professions du Québec for examination and be submitted,
with the recommendation of the Office, to the Government
which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of
the Regulations Act (chapter R-18.1), a draft Regulation
respecting the professional activities that may be engaged
in by persons other than advocates was published in
Part 2 of the *Gazette officielle du Québec* of 7 July 2021
with a notice that it could be examined by the Office then
submitted to the Government which may approve it, with
or without amendment, on the expiry of 45 days following
that publication;

WHEREAS, in accordance with section 95 of the
Professional Code, the Office examined the Regulation on
21 February 2022 and then submitted it to the Government
with its recommendation;

WHEREAS it is expedient to approve the Regulation with
amendments;

IT IS ORDERED, therefore, on the recommendation of the
Minister of Higher Education:

THAT the Regulation respecting the professional
activities that may be engaged in by persons other than
advocates, attached to this Order in Council, be approved.

YVES OUELLET
Clerk of the Conseil exécutif

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, subsec. 1, 2nd par.)

Act to improve justice accessibility and efficiency,
in particular to address consequences
of the COVID-19 pandemic
(2020, chapter 29, s. 6)

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 to 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 45 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 for the purpose of issuing such a permit has been recognized pursuant to a regulation under paragraphs *c* and *c.1* of section 93 of the Professional Code (chapter C-26) 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 for the purpose of issuing such a permit has been recognized pursuant to a regulation under paragraphs *c* and *c.1* of section 93 of the Professional Code 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. *Practice within a legal clinic established or recognized by a university-level educational institution*

2. A person referred to in paragraph 1 or 2 of section 1 may give legal advice or consultations on legal matters on behalf of others within a legal clinic established or recognized by a university-level educational institution that 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) except in the case of communications that are administrative in nature, the person communicates alone with a client only after obtaining the approval of the supervising advocate, who determines whether his or her presence is required given the complexity of the case or the nature of the legal matters involved;

(4) the person gives verbal advice on legal matters to a client only in the presence of the supervising advocate or, in the case of written advice on legal matters, only after obtaining the supervising advocate's approval; and

(5) the person engages in those activities in conformity 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 or she opens within a legal clinic or ensures that they are kept up by another practising advocate or by a notary who complies, as applicable, with the terms and conditions provided for in this section or in section 3 of the

Regulation respecting the professional activities that may be engaged in by persons other than notaries, approved by Order in Council 653-2022 dated 6 April 2022 and who is designated to do so by the university-level educational institution;

(4) the advocate is not the subject of a disciplinary complaint or a request in accordance with section 116 or 122.0.1 of the Professional Code (chapter C-26) or a proceeding for an offence punishable by a term of imprisonment of 5 years or more;

(5) the advocate is not the subject, nor was the subject, in the 5 years preceding the date on which the supervision began, of

(a) a decision or order rendered under the Professional Code, the Act respecting the Barreau du Québec (chapter B-1) or a regulation made for their application imposing a penalty, a striking off the Roll, a restriction or suspension of the right to engage in professional activities or conditions the advocate must meet in order to be allowed to continue to practise the profession, refresher courses, periods of refresher training, or any other requirement provided for in a regulation made under section 90 of the Professional Code;

(b) a decision finding the advocate guilty of an offence under the Professional Code, the Act respecting the Barreau du Québec or a regulation made for their application;

(c) a judicial decision described in subparagraph 1, 2, 5 or 6 of the first paragraph of section 45 of the Professional Code.

An advocate who holds a special permit issued in accordance with a regulation under subparagraph *r* of the first paragraph of section 94 of the Professional Code or a temporary restrictive permit issued in accordance with section 42.1 of the Professional Code may not act as a supervisor.

§2. *Practice 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 conformity with the regulatory standards applicable to advocates relating to professional conduct, accounting and professional practice standards, with the necessary modifications.

§3. *Practice 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 on behalf of another person, 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 the 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*.

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