

and skills is equivalent to the level attained by the holder of a diploma recognized by a regulation of the Government, made under the first paragraph of section 184 of the Professional Code (R.S.Q., c. C-26), that gives access to the permit issued by the Order;

(2) “training equivalence” means recognition that a candidate’s training has enabled the candidate to attain a level of knowledge and skills equivalent to the level attained by the holder of a diploma determined by a regulation of the Government, made under the first paragraph of section 184 of the Code, that gives access to the permit issued by the Order.”.

**2.** Section 5 is amended by replacing “the Bureau shall take all the following factors into consideration” in the second paragraph by “the following factors must be taken into account”.

**3.** Sections 8 to 10 are replaced by the following:

“**8.** The secretary of the Order must send the documents referred to in section 6 to a committee formed by the Bureau pursuant to paragraph 2 of section 86.0.1 of the Code which is to examine and decide equivalence applications. The committee is composed of persons who are not members of the Bureau.

In order to make a decision, the committee may require the candidate to come to an interview, to pass an examination, to complete a training period, or to meet any combination of those requirements.

**9.** The committee may make one of the following decisions:

- (1) grant the candidate’s diploma or training equivalence;
- (2) grant the candidate’s training equivalence in part; or
- (3) refuse to grant the candidate’s diploma or training equivalence.

Within 15 days of the decision, the committee is to send the decision to the candidate in writing by registered mail.

If the committee refuses to grant the equivalence applied for or grants the training equivalence in part, it must, at the same time, inform the candidate in writing of any programs of study, bridging programs, training periods or examinations which if successfully completed within the allotted time would enable the candidate to be granted the training equivalence. The committee must

also inform the candidate of the candidate’s right to apply for a review of the decision in accordance with section 10.

**10.** A candidate who is informed of the committee’s decision to refuse to grant the equivalence or to grant it in part may apply to the Bureau of the Order for a review.

The candidate may apply to the secretary in writing for a review within 30 days of receiving the decision.

The Bureau must examine the application for review at the first regular meeting following its receipt. It must, before making a decision, allow the candidate to make submissions at the meeting.

For that purpose, the secretary must inform the candidate of the date, time and place of the meeting where the application will be examined, by means of a written notice sent by registered mail at least 15 days before the date set for the meeting.

A candidate who wishes to make submissions in person at the meeting must notify the secretary at least 5 days before the date scheduled for the meeting. The candidate may, however, send written submissions to the secretary at any time before the date scheduled for the meeting.

The decision of the Bureau is final and must be sent to the candidate by registered mail within 30 days following the date of the meeting.”.

**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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Gouvernement du Québec

**O.C. 362-2008, 16 April 2008**

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

**Optometry  
— Practice of the profession of within a partnership or a company**

Regulation respecting the practice of the profession of optometry within a partnership or a company

WHEREAS, under paragraph *p* of section 94 of the Professional Code (R.S.Q., c. C-26), the Ordre des optométristes du Québec may make a regulation

respecting the practice of the profession of optometry within a partnership or a company and, under paragraphs *g* and *h* of section 93 of the Code, the Order must, by regulation, impose on its members the obligation to furnish and maintain security, on behalf of the partnership or company, against liabilities of the partnership or company arising from fault or negligence in the practice of the members' profession, and fix the conditions and procedure and, as appropriate, any fees applicable to the declaration made to the Order;

WHEREAS the Bureau of the Ordre des optométristes du Québec made the Regulation respecting the practice of the profession of optometry within a partnership or a 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 it was made by the Bureau of the Ordre des optométristes du Québec;

WHEREAS, pursuant to section 95 of the Professional Code and subject to sections 95.1 and 95.2 of the Code, every regulation made by the Bureau 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 Professional Code, a regulation made by the Bureau of a professional order under section 90 or 91, paragraph *d*, *g* or *h* of section 93, or paragraph *j*, *n* or *o* of section 94 of the Code must be transmitted for examination to the Office, which may approve it with or without amendment, and the same applies to any regulation under paragraph *p* of section 94 of the Code if it is not the first regulation made by the Bureau of an order under that paragraph;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 4 July 2007 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 examined the Regulation and made its recommendation;

WHEREAS the Office has approved, with amendments, Division II of the Regulation, containing sections 8 and 9, and paragraph 1 of section 11 of the Regulation;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation respecting the practice of the profession of optometry within a partnership or a company, the text of which is attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

## Regulation respecting the practice of the profession of optometry within a partnership or a company

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

### DIVISION I GENERAL PROVISIONS

**1.** An optometrist may, subject to the terms and conditions provided herein, carry on his professional activities within a limited liability partnership or a joint-stock company in the meaning of chapter VI.3 of the Professional Code (R.S.Q., c. C-26).

**2.** An optometrist may carry on his professional activities within a partnership or company providing optometric services if the following conditions are respected:

**1.** more than 50% of the shares are held by:

(a) the optometrists or persons legally authorized to practice this profession outside Quebec;

(b) legal entities, trusts or any other enterprise where the voting rights attached to the shares are held by one or more of the persons contemplated by subparagraph *a*;

(c) the persons, trusts or other enterprises contemplated by subparagraphs *a* and *b*;

**2.** a third party may not compel the persons, enterprises or trusts contemplated by paragraph 1 to repurchase the shares that it holds in the company;

**3.** more than 50% of the voting rights attached to the shares of the company are held by the persons, trusts or other enterprises contemplated by paragraph 1, and the other voting rights, where applicable, are held by:

(a) dispensing opticians or persons legally authorized to practice this profession outside Quebec;

(b) the legal entities, trusts or any other enterprise where the voting rights attached to the shares are held entirely by the persons contemplated by subparagraph *a*;

(c) the persons, trusts or other enterprises contemplated by subparagraphs *a* and *b*;

4. more than 50% of the partners or directors appointed by the partners to manage the business of the limited liability partnership and the board of directors of the joint-stock company are the persons contemplated by subparagraph *a* of paragraph 1, and the other persons, where applicable, are the persons contemplated by subparagraph *a* of paragraph 3;

The optometrist must ensure that these conditions are included, as appropriate, in the partnership agreement, articles of association, the shareholder agreement or any other document related to the constitution and operation of the partnership or company.

For the purposes of this section, a company providing optometric services is a company whose partnership or company name includes the titles, abbreviations or initials reserved for optometrists or a partnership or company within which an optometrist offers services including the examination or functional analysis of the eyes, assessment of visual disorders, orthoptics or prescription of ophthalmic lenses or medication.

**3.** In all other cases than those contemplated by section 2, an optometrist is authorized to carry on his professional activities in a partnership or company if the following conditions are met:

1. more than 50% of the shares of the partnership or company are held by:

(a) optometrists, dispensing opticians or persons legally authorized to practice these professions outside Quebec;

(b) legal entities, trusts or any other enterprise where the voting rights attached to the shares of the partnership or company are held entirely by one or more of the persons contemplated by subparagraph *a*;

(c) the persons, trusts or other enterprises contemplated by subparagraphs *a* and *b*;

2. a third party may not compel the persons, enterprises or trusts contemplated by paragraph 1 to repurchase the shares that it holds in the partnership or company;

3. 50% or more of the voting rights attached to the shares of the partnership or company are held by the persons, trusts or other enterprises contemplated by paragraph 1 of section 2 and the other voting rights, where applicable, are held by the persons, trusts or other enterprises contemplated by paragraph 3 of section 2;

4. 50% or more of the partners or directors appointed by the partners to manage the business of the limited liability partnership and the board of directors of the joint-stock company are the persons contemplated by subparagraph *a* of paragraph 1 of section 2, and other persons, where applicable, are the persons contemplated by subparagraph *a* of paragraph 3 of section 2.

The optometrist must ensure that these conditions are stipulated, as appropriate, in the partnership agreement, articles of association, shareholder agreement or any other document related to the constitution and operation of the partnership or company.

4. An optometrist must at all times ensure that the partnership or company allows him to comply with the provisions of the Professional Code, the Optometrists Act (R.S.Q., c. O-7) and the regulations adopted in accordance with these laws.

5. If he notices that one of the conditions prescribed in this Regulation or chapter VI.3 of the Professional Code is no longer met, the optometrist must, within 15 days, take the necessary measures to comply, failing which, he shall no longer be authorized to carry on his professional activities within the partnership or company.

6. The partnership or company name must not be a number name.

7. When an optometrist practices professional activities within a joint-stock company, the income resulting from professional services rendered by him within that company and on its behalf belongs to that company, unless it is otherwise agreed.

## **DIVISION II**

### **SECURITY AGAINST THE PROFESSIONAL FAULT OF PARTNERSHIP OR COMPANY MEMBERS**

8. To be authorized to carry on his professional activities in accordance with this Regulation, an optometrist who practices his professional activities within a partnership or company must provide and maintain on behalf of the partnership or company, either by means of an insurance or suretyship contract or by joining a group insurance plan, coverage for liabilities of the partnership

or company arising from the fault or negligence of an optometrist in the course of the practice of his professional activities within such partnership or company.

**9.** Such coverage must particularly provide the following minimum conditions:

**1.** an undertaking by the insurer or the surety to pay on behalf of the partnership or company, over and above the amount of coverage that the optometrist must provide pursuant to the Regulation respecting professional liability insurance of members of the Order des optométristes du Québec, taken by a decision of December 16, 1998, or any amount that the partnership or company may legally be liable to pay to a third party regarding a claim submitted during the period of coverage as a result of a fault or negligence of an optometrist in the course of the practice of his professional activities within the partnership or company, up to the amount of the coverage;

**2.** an undertaking by the insurer or the surety to hold the partnership or company harmless and to defend the partnership or company in any lawsuit launched against it and to pay, apart from the amounts covered, all the costs and expenses of the lawsuits launched against the partnership or company, including investigation and defense costs and interest on the amount of coverage;

**3.** an undertaking that this coverage shall extend to all claims submitted in the five years following the period of coverage during which one of the members of the partnership or company dies, leaves the partnership or company or ceases to be a member of the Order, in order to maintain a coverage for the partnership or company against the faults or negligence of a member in the practice of his professional activities within the partnership or company;

**4.** an undertaking that the amount of coverage shall be at least \$1,000,000 per claim and \$2,000,000 per year for all claims submitted against the partnership or company in the period of coverage of 12 months;

**5.** an undertaking by the insurer or the surety to give the secretary of the Order 30-day prior notice of intent to terminate or modify the insurance contract or surety when said modification concerns a condition prescribed in this Regulation;

**6.** an undertaking by the insurer or the surety to immediately notify the secretary of the Order when the insurance contract or surety is not renewed.

The suretyship contemplated by the section 8 must be obtained from a bank, a savings and credit union, a trust company or insurance company and guarantee that the

surety will provide the coverage in accordance with the conditions set out in this Regulation and pay, by waiving the benefits of division and discussion, on behalf of the partnership or company up to the amount of the suretyship.

### **DIVISION III DISCLOSURE OF INFORMATION**

**10.** Within 15 days of the continuance of a general partnership as a limited liability partnership, an optometrist practicing in said partnership must publish a notice in the locality in which the partnership has a place of business that informs his patients, in general terms, of the nature, scope and effects of the change of status particularly on his and the partnership's professional liability.

**11.** The optometrist who wants to carry on his professional activities within a partnership or company must first submit to the secretary of the Order:

**1.** the declaration prescribed in section 12, accompanied by the required fees corresponding to 20% of the amount of the annual membership dues fixed by the Bureau in accordance with paragraph k of the first subparagraph of section 86;

**2.** a certificate confirming that the partnership or company is secured in accordance with division II;

**3.** in the case of a joint-stock company, a copy of the articles of association, issued by a competent authority, certifying that the company exists;

**4.** written confirmation that the partnership or company is duly registered in Quebec;

**5.** an undertaking from the partnership or company in which he practices his professional activities to allow the persons, committees or tribunal mentioned in section 192 of the Professional Code to require any person to produce and obtain the information mentioned in section 15;

**6.** if applicable, a true copy of the declaration required under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45) indicating that the general partnership has become a limited liability partnership.

**7.** A statement under oath of office according to which none of the partners, shareholders or officers of the company or partnership have direct or indirect interest in a company that manufactures or sells ophthalmic lenses, frames, medication or other products linked to the practice of optometry.

**12.** The optometrist must make a declaration under professional oath on a form provided by the secretary of the Order that contains the following information:

1. the optometrist's name and membership number and his status within the partnership or company;

2. the principal and all other names used in Quebec, and the registration number given by Enterprise Registrar, of the partnership or company within which the optometrist practices his professional activities;

3. the legal form of the partnership or company and the fact that this partnership or company complies with the conditions prescribed in section 1 and, as applicable, section 2 or 3;

4. the head office address of the partnership or company and the addresses of its establishments in Quebec;

5. in the case of a limited liability partnership, the names and residential addresses of all partners domiciled in Quebec, as well as, where applicable, the names and residential addresses of the directors appointed by the partners to manage the partnership or company, whether the directors are domiciled in Quebec or not, and, in all cases, the orders or professional associations to which they belong, where applicable;

6. in the case of a joint-stock company, the names and residential addresses of the directors, officers and managers of the company and the orders or professional associations to which they belong, where applicable;

7. where applicable, the date on which the general partnership became a limited liability partnership.

**13.** Where more than one optometrist practices their professional activities within the same partnership or company, one respondent may make the declaration for all the optometrists in the partnership or company.

The respondent's declaration is deemed to be each optometrist's declaration. The optometrist however remains fully responsible for the accuracy of the information provided pursuant to paragraphs 1 and 2 of section 12.

The respondent must be an optometrist who is a partner, director, manager, officer or shareholder of the partnership or company.

**14.** To retain his right to carry on his professional activities in a partnership or company, an optometrist or respondent must:

1. update and provide, before March 31 of every year, the declaration contemplated by section 12;

2. promptly notify the secretary of the Order of any change in the surety prescribed in division II or in the information given in the declaration prescribed in section 12 that may violate the conditions prescribed in sections 2 and 3.

#### **DIVISION IV** **ACCESSIBILITY OF INFORMATION**

**15.** The documents that may be required from the partnership or company under paragraph 5 of section 11 are the following:

1. if the optometrist practices within a limited liability partnership:

(a) the partnership agreement as amended;

(b) the partnership registration and updates thereof;

(c) the names and residential addresses of the principal officers;

(d) the complete and updated register of partners.

2. if he practices within a joint-stock company:

(a) the complete and updated register of articles of association and by-laws of the company;

(b) the complete and updated register of securities;

(c) the complete and updated register of shareholders;

(d) the complete and updated register of directors;

(e) all shareholder agreements and voting agreements as amended;

(f) any agreement concerning a stock option with voting or any other rights, even if they are conditional, given to a person to have such shares issued to himself;

(g) the registration certificate of the companies and updates thereof;

(h) the names and residential addresses of the principal officers.

#### **SECTION V** **TRANSITIONAL**

**16.** The optometrist who carries on his professional activities within a joint-stock company formed before the date on which this Regulation came into force, at the latest in the year following this date, must comply with the requirements prescribed in this regulation.

**17.** This regulation comes into force on the fifteenth day after its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

**O.C. 363-2008, 16 April 2008**

Optometry Act  
(R.S.Q., c. O-7)

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

**Optometrists**  
— Code of ethics  
— Amendments

Regulation amending the Code of ethics of optometrists

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), the Bureau of a professional order must make, by regulation, a code of ethics governing the general and special duties of the professional towards the public, the clients and the profession, particularly the duty to discharge professional obligations with integrity;

WHEREAS the Bureau of the Ordre des optométristes du Québec made the Regulation amending the Code of ethics of optometrists;

WHEREAS, under section 95.3 of the Code, a draft of the Regulation was sent to every member of the Order at least 30 days before being made by the Bureau;

WHEREAS, pursuant to section 95 of the Code and subject to sections 95.1 and 95.2 of the Code, every regulation made by the Bureau 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 (R.S.Q., c. R-18.1), a draft of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 4 July 2007 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation amending the Code of ethics of optometrists, attached to this Order in Council, be approved.

GÉRARD BIBEAU,  
*Clerk of the Conseil exécutif*

**Regulation amending the Code of Ethics of optometrists\***

Optometry Act  
(R.S.Q., c. O-7)

Professional Code  
(R.S.Q., c. C-26, a. 87)

**1.** Section 14 of the Code of Ethics of optometrists is amended by adding, at the end, the following paragraphs:

“The optometrist must ensure that the Optometry Act (R.S.Q., c. O-7), the Professional Code (R.S.Q., c. C-26) and the regulations thereunder are respected by employees, students, trainees, shareholders, partners and all other persons he works with in the practice of the profession.

An optometrist who practices his professional activities within a partnership or company in the meaning of the Civil Code or a partnership or company contemplated by paragraph VI.3 of the Professional Code must ensure that the partnership or company respects the Optometry Act, the Professional Code and the regulations thereunder.

The duties and obligations that result from the Optometry Act, the Professional Code and the regulations thereunder are in no way undermined by the fact that an optometrist carries on his professional activities within a partnership or company.”.

\* The latest amendments to the Code of ethics of optometrists, approved by Order in Council 643-91 of May 8, 1991 (1991, *G.O.* 2, 2428), have been made by the regulation approved by Order in Council 24-2004 of January 14, 2004 (2004, *G.O.* 2, 913). For later amendments, see the *Tableau des modifications et Index sommaire*, Quebec Official Publisher, 2006, as amended on September 1<sup>st</sup>, 2007.