

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 1st, 2007.

2. Section 16 of this Code is amended by adding, at the end, the following paragraph:

“Similarly, he shall not falsely represent the competence of, or the effectiveness of the services generally ensured by, persons carrying on professional activities within the partnership or company.”.

3. Section 24 of this Code is amended by adding, at the end, the following sentences:

“He may not elude or attempt to elude, nor request that a client or another person renounce any recourse taken in a case of professional negligence on his part. Furthermore, he may not invoke the liability of the partnership or company within which he carries on his professional activities, or that of another person also practicing his activities in said partnership or company, as a ground for excluding or limiting his personal civil liability.”.

4. Section 30 of this Code is amended by inserting, after the word “personal,” the words “as well as that of the partnership or company in which he carries on his professional activities or in which he has interests.”.

5. This Code is amended by inserting, after section 30, the following:

“**30.1.** No optometrist may conclude any agreement that could jeopardize the independence, impartiality, objectivity or integrity required to practice his professional activities.”.

6. This Code is amended by inserting, after section 32, the following:

“**32.1.** An optometrist shall take prompt measures to ensure that information and documents relevant to professional secrecy are not disclosed to a partner, shareholder, director, manager, officer or employee of a partnership or company within which the optometrist practices his professional activities or in which he has an interest, where he becomes aware that the partner, shareholder, director, manager, officer or employee has a conflict of interest.

The following factors must be considered in assessing the efficacy of such measures:

- (1) size of the partnership or company;
- (2) precautions taken to prevent access to the optometrist’s file by the person having a conflict of interest;

- (3) instructions given to protect confidential information or documents related to the conflict of interest;

- (4) isolation, from the optometrist, of the person having a conflict of interest.”.

7. Section 33 of this Code is replaced by the following:

“**33.** An optometrist is in a conflict of interest if, in particular, he:

- (1) shares his professional income, in any form whatsoever, with a person, trust or undertaking, except for:

- (a) a person who is a member of the Ordre des optométristes du Québec;

- (b) a person, trust or undertaking contemplated in paragraph 1 of section 2 or paragraph 1 of section 3 of the Regulation respecting the practice of the profession of optometry within a partnership or a company approved by Order in Council no. 362-2008 dated 16 April 2008;

- (c) of a company in which he carries on his professional activities;

- (2) grants any commission, rebate, advantage or other consideration of a similar nature relating to the practice of optometry;

- (3) receives, in addition to the remuneration to which he is entitled, any commission, rebate, discount, advantage or other consideration of a similar nature from anyone, including a seller or manufacturer of ophthalmic lenses, frames, medication or other products linked to the practice of optometry, except for customary tokens of appreciation and gifts of small value;

- (4) receives a line of credit from a seller or manufacturer of ophthalmic lenses, frames, medication or other products linked to the practice of optometry, unless he has a written agreement including a declaration that the resulting conditions comply with the provisions of this Code and a clause that authorizes such agreement to be submitted to the Order upon request;

- (5) leases or uses the premises, equipment or other resources of anyone, including a seller or a manufacturer of ophthalmic lenses, frames, medication or other products linked to the practice of optometry, unless he has a written agreement with a declaration that the resulting conditions comply with the provisions of this Code and a clause that authorizes such agreement to be submitted to the Order upon request;

(6) practices optometry jointly with, in partnership with or on behalf of a person or corporation, unless that person or corporation is:

(a) an optometrist;

(b) a government, governmental or municipal organization, a university or an institution within the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2) or the Act respecting health services and social services for Cree Native Persons (R.S.Q., c. S-5);

(c) an undertaking retaining his services for the sole purpose of providing optometrical advice or services to its employees;

(d) a retailer that operates an optical department contemplated by subparagraph a in the fourth paragraph of section 25 of the Optometry Act when he is responsible for administration;

(e) a partnership or company contemplated by the Regulation respecting the practice of the profession of optometrist in a partnership or company.”

8. This Code is amended by inserting, after section 33, the following:

“**33.1.** Notwithstanding section 33, an optometrist is not in a conflict of interest if he accepts a discount from a seller for one of the following reasons:

(1) for prompt regular payment, when the discount is indicated on the invoice and complies with marketplace rules for discounts;

(2) due to the volume of products purchased other than medication, where the discount is indicated on the invoice or the account statement and complies with the market rules in similar situations”.

9. Section 37 of this Code is amended by replacing the words “where that revelation could cause a prejudice to that person,” by the words “except for the purposes of internal administration of the partnership or company in which he carries on his professional activities.”.

10. This Code is amended by inserting, after section 38, the following:

“**38.0.1** An optometrist must ensure that anyone with whom he engages in his professional activities does not disclose to a third party the confidential information of which he may have taken cognizance.”.

11. The title of division VII of this Code is replaced by the following:

“Accessibility and rectification of records and accessibility of prescriptions.”

12. Section 39 of this Code is replaced by the following:

“**39.** An optometrist must respond promptly, at the latest within 20 days of its receipt, to any request made by a patient to consult or obtain a copy of documents that concern the patient in any record made in his respect.”.

13. This Code is amended by inserting, after section 39, the following:

“**39.1.** An optometrist may charge the patient reasonable fees that do not exceed the cost of reproduction or transcription of the documents and the cost of transmitting a copy of them.

An optometrist who intends to charge such fees must inform the patient of the approximate amount to be paid before reproducing, transcribing or transmitting the information.

39.2. An optometrist must provide a patient or anyone designated by the patient, upon request, with all information that would allow him to obtain a benefit to which he may be entitled.

39.3. An optometrist must, at the written request of the patient and at the latest within 20 days of the date of such request, provide anyone designated by the patient with the relevant information in the optometric record that he holds or maintains in the patient’s respect.

39.4. An optometrist must respond promptly, at the latest within 20 days of its receipt, to any request made by a patient to have information that is inaccurate, incomplete, ambiguous, outdated or unjustified corrected or deleted in any document concerning the patient. He must also respect the patient’s right to make written comments in the record.

An optometrist must give the patient, free of charge, a duly dated copy of the document or part of the document filed in the record so that the patient may verify that the information has been corrected or deleted or, where applicable, give the patient an attestation stating that the patient’s written comments have been entered in the record.

39.5. On written request from the patient, an optometrist must forward a copy, free of charge, of the corrected information or an attestation stating that the information has been deleted or, where applicable, that the written comments have been filed in the record, to every person from whom the optometrist received the information that was the subject of the correction, deletion or comments, and to every person to whom the information was communicated.

39.6. An optometrist who denies a patient access to information contained in a record established in the patient's respect or who refuses to grant a request to correct or delete information must provide the patient with written justification explaining his refusal, enter the written justification in the record and inform the patient of his recourses.

39.7. An optometrist must respond promptly to any written request from a patient to have a document returned to the patient.”.

14. Section 51.01 of this Code is amended by the addition, at the end, of the following clause:

“No optometrist shall allow a partnership or company within which he carries on his professional activities to engage in, by any means whatsoever, advertising that is false, deceitful, incomplete or liable to be misleading.”.

15. Section 52 of this Code is amended by adding, at the end, the following paragraphs:

“9. failing to promptly notify the secretary of the Order where, pursuant to the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3), an optometrist or the partnership or company within which he carries on his professional activities has made an assignment of property for the benefit of his creditors, is the subject of a receiving order, or has made a proposal that has been rejected by his creditors or dismissed or annulled by the court;

10. carrying on his professional activities within, or having an interest in, a partnership or company whose name compromises the dignity of the optometrist profession or with a person who, to the optometrist's knowledge, acts in a manner that compromises the dignity of the optometrist profession;

11. carrying on his professional activities within, or having an interest in a partnership or company, where a partner, shareholder, director, manager, officer or employee of the partnership or company, has been suspended for more than 3 months or whose professional permit has been revoked, unless the partner, shareholder, director, manager, officer or employee:

(a) ceases to occupy the position of director, officer or manager within the company within 15 days of the date on which his suspension or the revocation of his permit takes effect;

(b) ceases to attend shareholder meetings and to exercise his voting right within 15 days of the date on which his suspension or the revocation of his permit takes effect;

(c) disposes of his voting shares or transfers them to a trustee within 15 days of the date on which his suspension or the revocation of his permit takes effect.”.

16. 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. 364-2008, 16 April 2008

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

Veterinary surgeons — Code of ethics — Amendments

Regulation to amend the Code of ethics of veterinary surgeons

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), the Bureau of the Ordre des médecins vétérinaires du Québec must make, by regulation, a code of ethics governing the general and special duties of the members of the Order towards the public, clients and the profession;

WHEREAS, under that provision, the Ordre des médecins vétérinaires du Québec made a Code of ethics of veterinary surgeons, approved by Order in Council 1149-93 dated 18 August 1993;

WHEREAS, under that provision, the Bureau of the Ordre des médecins vétérinaires du Québec made the Regulation to amend the Code of ethics of veterinary surgeons;

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 Bureau of the Ordre des médecins vétérinaires du Québec;