

REGULATION RESPECTING THE PRACTICE OF THE MEDICAL PROFESSION WITHIN A PARTNERSHIP OR A COMPANY

Medical Act

(R.S.Q., c. M-9, s. 3)

Professional Code

(R.S.Q., c. C-26, ss. 93, pars. *g* and *h* and 94, par. *p*)

DIVISION I

PURPOSE

1. A physician may, based upon the terms, conditions and restrictions set forth under this Regulation, practise his professional activities within a joint-stock company or a limited liability partnership within the meaning of Division VI.3 of the Professional Code (R.S.Q., c. C-26) if the following conditions are met:

- (1) all of the voting rights attached to the shares of the partnership or company are held by:
 - (a) at least 1 physician;
 - (b) by a legal entity, a trust or another company where all the voting rights attached to the shares, units or ownership interests are owned by at least one physician;
 - (c) or by a trust where at least 50% of the voting rights attached to the ownership interests are owned by at least one physician and at most 50% by a single one of the following professionals: a chartered administrator, a lawyer, a chartered professional accountant or a notary.
 - (d) or at once by the individuals, trusts or companies contemplated by sub-paragraphs (a), (b), and (c).
- (2) the only persons, apart from those contemplated by the first paragraph, who hold shares of the partnership or company are:
 - (a) physicians;
 - (b) the spouse, blood relatives or persons connected by marriage or a civil union with a physician who holds the rights contemplated by paragraph 1;
 - (c) legal entities, trusts or other companies where all of the voting rights attached to the shares, units or ownership interests are owned by those contemplated by sub-paragraphs (a) or (b);
 - (d) a trust where at least 50% of the voting rights attached to the ownership interests are owned by those contemplated by sub-paragraph (a) or (b) and at most 50% by any one of the following professionals: a chartered administrator, a lawyer, a chartered professional accountant or a notary;
 - e) or at once by a person, a company and a trust contemplated by sub-paragraphs (a), (b), (c) or (d).
- (3) the board of directors of the joint-stock company, as well as the partners and the directors appointed by the partners to manage the business of the limited liability partnership may only be physicians.

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The physician shall ensure that terms which comply with the conditions set out in the first paragraph are included in the articles of association of the joint-stock company or stipulated in the limited liability partnership agreement and that it is also provided in the said articles or agreement that this partnership or company is constituted for the purpose of carrying on professional activities.

O.C. 191-2007, s. 1; Decision 11-06-10, s. 1; S.Q. 2012, c. 11, s. 32.

2. If a physician is suspended for a period of more than three months or has his permit revoked, he may not, while the suspension or revocation is in force, directly or indirectly own any share or unit in a partnership or company.

Nor may he be a director, executive or representative of the partnership or company during this period.

O.C. 191-2007, s. 2; Decision 11-06-10, s. 2.

DIVISION II

OTHER TERMS AND CONDITIONS

3. The physician remits to the College, with the related fees, a declaration containing the following information:

(1) the partnership or company name as well as any other names used in Québec by every partnership or company within which he practises his profession and the business number that the competent authority has issued to them;

(2) the legal form of the partnership or company;

(3) his status within the partnership or company;

(4) the nature of activities carried on within the partnership or company;

(5) a copy of the irrevocable written authorization of the partnership or company within which he practises his profession allowing the persons, committees and tribunal mentioned in section 192 of the Professional Code (R.S.Q., c. C-26), to obtain from any person having the custody thereof any document referred to in section 15 or a copy thereof;

(6) a written confirmation from a competent authority attesting that the physician holds professional liability coverage in accordance with Division III on behalf of the partnership or company.

O.C. 191-2007, s. 3; Decision 11-06-10, s. 3.

4. In the event that the conditions stipulated in section 3 are not met, the physician is not authorized to practise his profession within the partnership or company.

O.C. 191-2007, s. 4.

5. At the request from the College, the physician must provide:

(1) in the event that he practises his profession within a joint-stock company, a written confirmation given by the competent authority certifying the existence of the company;

(2) a certified copy of the declaration given by the competent authority, indicating that the general partnership has been continued into a limited liability partnership;

(3) a written confirmation certifying that the partnership or company is duly registered in Québec.

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O.C. 191-2007, s. 5.

6. The physician must also respond to requests pursuant to this Regulation, made by the syndic, an assistant syndic, a corresponding syndic, an inspector, an investigator, a member of the professional inspection committee or another representative of the College and provide them, where applicable, with the requested documents.

O.C. 191-2007, s. 6.

7. Every year, when he pays his annual assessment, the physician must update the information contained in the declaration contemplated by section 3.

O.C. 191-2007, s. 7.

8. If he is informed that any of the conditions provided in this regulation or in Chapter VI.3 of the Professional Code are no longer met, the physician must, within 15 days of such notice, take the steps necessary to comply with them, and if he fails to do so within this time period, he ceases to be authorized to practice his professional activities within the joint-stock company or partnership.

The same applies if the joint-stock company within which he practices professional activities no longer complies with the laws, regulations and agreements regarding health services and social services or does not allow him to comply with them.

O.C. 191-2007, s. 8; Decision 11-06-10, s. 4.

9. The physician must notify the secretary in writing of any change in the information transmitted in his declaration that may contravene this Regulation. The secretary of the College must receive this notice within 30 days after the change is made.

He must in particular notify the College of the cancellation of the insurance coverage specified in Division III, of the dissolution, the assignment of assets, the bankruptcy or the voluntary or forced liquidation of the partnership or company or of any event that is likely to prevent him from pursuing his activities within the partnership or company.

O.C. 191-2007, s. 9.

10. When a physician practises professional activities within a joint-stock company, the income resulting from the professional services rendered by him within that company and on its behalf belongs to that company, unless otherwise agreed.

O.C. 191-2007, s. 10.

DIVISION III PROFESSIONAL LIABILITY COVERAGE

11. The physician practising his profession within a partnership or company must, in order to be authorized to practise his profession in accordance with this Regulation, provide and maintain on behalf of the partnership or company, either by means of an insurance contract or a surety ship or by joining a group insurance contracted by the College or by contributing to a professional liability insurance fund established in accordance with section 86.1 of the Professional Code (R.S.Q., c. C-26), coverage for liabilities of the partnership or company arising from the fault or negligence of the physicians in the course of the practice of their profession within such partnership or company.

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O.C. 191-2007, s. 11.

12. The following minimum conditions for such coverage shall be set out in a specific rider or contract:

(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 member must provide under the Regulation respecting professional liability insurance of physicians (c. M-9, r. 15) or of any other amount subscribed by the member if it is higher, up to the amount of the coverage, any amount that the partnership or company may legally be liable to pay to an injured third party regarding a claim submitted during the period of coverage as a result of the fault or negligence of the physician in the course of the practice of his profession. The insurer's obligation shall extend to all claims to which the physician's liability insurance coverage may not apply and resulting from a deliberate fault committed by that physician in the course of the practice of his profession;

(2) an undertaking by the insurer or the surety to hold the partnership or company harmless and to defend the 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 defence costs as well as interest on the amount of the coverage;

(3) an undertaking that this coverage shall extend to all claims submitted in the 5 years following the period of coverage during which a physician of the partnership or company dies, leaves the partnership or company or ceases to be entered on the roll of the Order, in order to maintain a coverage for the partnership or company against the faults or negligence of a physician in the practice of his profession while he was practising within the partnership or company;

(4) the amount of the coverage must be at least \$5,000,000 per claim and at least \$10,000,000 for the aggregate of claims submitted against the partnership or company during a period of coverage of 12 months;

(5) an undertaking by the insurer or the surety to give the secretary of the College 30-day prior notice of intent to terminate the coverage, to modify any of the conditions stipulated in this section or not to renew it.

O.C. 191-2007, s. 12; Decision 11-06-10, s. 5.

13. The surety ship is obtained from a bank, a savings and credit union, a trust or an insurance company which must be domiciled in Canada and hold and maintain sufficient assets in Québec to satisfy the liability coverage required under this Division.

The institution referred to in the first paragraph undertakes to provide the coverage in accordance with the conditions set out in this Division and must waive the benefit of division and discussion.

O.C. 191-2007, s. 13.

14. The physician is exempt from complying with the obligations under this Division provided he remits to the secretary a proof that the partnership or company is eligible to receive the assistance offered by the Canadian Medical Protective Association and by maintaining its eligibility regarding any liability that it may incur owing to fault or negligence committed by the physicians in the practice of their profession within that partnership or company.

O.C. 191-2007, s. 14.

DIVISION IV ADDITIONAL INFORMATION

15. The documents for which the physician is authorized by the partnership or company to disclose or to obtain a copy thereof in accordance with paragraph 5 of section 3 are the following:

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(1) if the physician practises his profession within a joint-stock company:

(a) the complete and updated register of the articles of association and by-laws of the company within which he practises his profession;

(b) the complete and updated share register of the company;

(c) the complete and updated register of directors of the company;

(d) any shareholders agreement and voting agreement, as amended;

(e) the company's updated declaration of registration;

(f) the name of the executive officers of the company and the address of their professional domicile;

(2) if the physician practises his profession within a limited liability partnership:

(a) the partnership's updated declaration of registration;

(b) the partnership agreement as amended;

(c) the complete and updated register of the partners of the partnership;

(d) if applicable, the complete and updated register of the directors of that partnership;

(e) the name of the executive officers of that partnership and the address of their professional domicile.

O.C. 191-2007, s. 15; Decision 11-06-10, s. 6.

16. A physician who practises his profession within a limited liability partnership or a joint-stock company within which only physicians practise, is authorized to include, in the name of the partnership or company or after such name, the terms "firm of professionals governed by the Professional Code" or the acronym "FPGPC".

O.C. 191-2007, s. 16.

17. A physician may, acting as a respondent on behalf of physicians practising within a partnership or company, satisfy the requirements of section 3, when a partnership or company within which they practise their profession has more than one physician. The respondent is then directed by these physicians to respond to inquiries made under this Regulation, by the syndic, an assistant syndic, a corresponding syndic, an inspector, an investigator, a member of the professional inspection committee or another representative of the College and to provide them, as the case may be, with the documents that the physicians are required to remit. The respondent must ensure that the information provided to the College is accurate.

O.C. 191-2007, s. 17.

18. *(Omitted).*

O.C. 191-2007, s. 18.

O.C. 191-2007, 2007 G.O. 2, 1132
Decision 11-06-11, 2011 G.O. 2 22-06-2011, 2276
Bill 61, S.Q. 2012, c. 11