

REGULATION RESPECTING PROFESSIONAL INSPECTION BY THE COLLÈGE DES MÉDECINS DU QUÉBEC

Medical Act

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

Professional Code

(R.S.Q., c. C-26, s. 90)

DIVISION I

PROFESSIONAL INSPECTION COMMITTEE

1. The Board of Directors appoints the following people as members of the Collège des médecins du Québec's professional inspection committee:

- (1) an elected director who is not on the executive committee, where applicable;
- (2) a director appointed by the Office des professions du Québec who is not on the executive committee;
- (3) 9 physicians who have been registered on the Roll of the Order for at least 10 years.

The Board of Directors may appoint substitute members.

A committee member cannot be a member of the Board of Directors or an officer of a legal person or of any other group of persons whose principal object is promoting the rights or defending the interests of members of the Order or of professionals in general.

The committee exercises the powers conferred on the Board of Directors under sections 55, 112 and 113 of the *Professional Code* (chapter C-26).

Decision OPQ 2019-286, s. 1.

2. The term of committee members is 2 years and is renewable. Committee members remain in office notwithstanding the expiry of their term until they are reappointed or replaced. A member may not serve more than 4 terms.

Decision OPQ 2019-286, s. 2.

3. A member against whom proceedings are instituted concerning the commission of an act involving collusion, corruption, malfeasance, breach of trust, fraud or influence peddling as well as any proceedings concerning improper gestures or remarks of a sexual nature or who has been the subject of proceedings for an offence punishable by a term of imprisonment of 5 years or more must, within 10 days of the day on which he is himself informed, notify the secretary of the committee.

Decision OPQ 2019-286, s. 3.

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4. A member is suspended from his duties if a complaint is filed against him by the syndic with the disciplinary council of the Order or if he is informed of an inspection relating to his professional competence. A member against whom the proceedings referred to in section 3 are instituted is also suspended from his duties.

The suspension remains in effect until a decision rendered with respect to the complaint becomes final, until the inspection procedure relating to his professional competence has been completed or, in cases where the suspension follows proceedings, until the prosecutor decides to stay or withdraw all charges in the proceedings or a until decision is rendered to acquit or to stay all charges in the proceedings.

Decision OPQ 2019-286, s. 4.

5. Any administrative decision made with respect to a committee member that has the effect of imposing one of the measures provided for in section 32 on him, a period of refresher training or a refresher course, restricting or suspending his right to engage in professional activities or his being struck off the Roll of the Order terminates his term from the date of notification of this decision. The same applies if the committee member is found guilty of an offence by the disciplinary council or the Professions Tribunal or if the disciplinary council orders his immediate provisional striking off the Roll or the immediate provisional restriction of his right to engage in professional activities.

Decision OPQ 2019-286, s. 5.

6. The elected director acts as committee chair. The committee designates one of its members to act as substitute chair when the chair is absent or unable to act.

Decision OPQ 2019-286, s. 6.

7. The Board of Directors appoints the secretary of the committee, who coordinates its activities.

Decision OPQ 2019-286, s. 7.

8. A quorum for the committee is 5 members.

Decision OPQ 2019-286, s. 8.

9. The committee holds its meetings at the date, time and location that it determines.

A member who does not attend the meeting is considered present if he participates by conference call or by using some other form of technology.

Members who participate in the meeting by conference call or by means of some other form of technology may vote by email or by any other means determined by the chair.

Decision OPQ 2019-286, s. 9.

10. The files, minutes, reports and other documents relating to inspections are kept at the Order's head office.

The secretary keeps a register in which he enters the name of any place of practice where a group practice inspection has been carried out in accordance with sections 25 to 27, the date of the inspection and the file number. The register indicates, for each place visited, the number of physicians concerned.

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Decision OPQ 2019-286, s. 10.

DIVISION II

PERSON RESPONSIBLE FOR PROFESSIONAL INSPECTION

11. The Board of Directors appoints the person responsible for professional inspection and the inspectors in accordance with section 90 of the *Professional Code* (chapter C-26).

This person exercises the powers conferred upon the professional inspection committee or upon one of its members under sections 55, 112 and 113 of the Code.

Decision OPQ 2019-286, s. 11.

DIVISION III

PROFESSIONAL INSPECTION FILE

12. The person responsible for professional inspection creates and maintains an up-to-date file for each physician who has been the subject of an inspection.

A file is also created for each place of practice where a group practice inspection has been carried out.

Decision OPQ 2019-286, s. 12.

13. The file contains all the documents and information relating to an inspection, namely, the questionnaires, the physician's observations, the inspection reports, the recommendations of the person responsible for professional inspection, the training period reports and the committee's decisions, where applicable.

Decision OPQ 2019-286, s. 13.

14. A physician may consult and obtain a copy of his professional inspection file for a reasonable fee.

Before the physician consults or is provided with a copy of his file, any information that would allow the person who prompted the inspection to be identified must be redacted.

Decision OPQ 2019-286, s. 14.

DIVISION IV

PROFESSIONAL INSPECTION

§1. General supervision of the practice of the profession

15. The person responsible for professional inspection supervises the practice of the profession in accordance with the general supervision program established by the committee and approved by the Board of Directors.

The Order makes available to the public, in particular on the Order's website, the program for the general supervision of the practice of the profession.

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Decision OPQ 2019-286, s. 15.

16. The person responsible for professional inspection periodically draws up the list of physicians who will be the subject of an inspection.

He designates the inspector and appoints the experts who may assist him, where applicable. Experts are selected based on their particular expertise.

Decision OPQ 2019-286, s. 16.

17. The inspection begins with notification to the physician, by the inspector, of a questionnaire. The physician returns the duly completed questionnaire and any documents required to the inspector within 21 days of the date of the notification.

Decision OPQ 2019-286, s. 17.

18. At least 15 days before the scheduled inspection date, the inspector notifies a notice in writing to the physician informing him of the date, location and time of the inspection.

In cases where notification of this notice could compromise the objective of the inspection, the inspection may be carried out without notice.

In cases where the physician practices in an institution within the meaning of the *Act respecting health services and social services* (chapter S-4.2) or the *Act respecting health services and social services for Cree Native persons* (chapter S-5), the inspector also notifies a notice in writing to the director of professional services within the same time period.

In the case of a group practice inspection, the inspector also notifies a notice in writing to the president of the council of physicians, dentists and pharmacists, the director of professional services, the head physician of the medical service, the physician in charge or the medical director, as the case may be, for information and posting purposes. This notice and the notice provided for in the first paragraph are notified at least 60 days before the scheduled inspection date.

Decision OPQ 2019-286, s. 18.

19. If the physician, for a serious reason, is unable to receive an inspector or an expert on the scheduled date, he must inform the inspector of this upon notification of the notice and arrange another date with him, which must be within 21 days of the date initially scheduled.

Decision OPQ 2019-286, s. 19.

20. An inspector, if required to do so, shows a photo identity card signed by the executive director that attests to his qualifications.

Decision OPQ 2019-286, s. 20.

21. The physician who is the subject of an inspection is present at the location of the inspection and makes himself available as required by an inspector or an expert. He provides access to his records and his office.

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In accordance with the rules regarding professional secrecy, the physician may be assisted by a person of his choice who acts as an observer.

Decision OPQ 2019-286, s. 21.

22. The inspector and the expert accompanying him, where applicable, may, as part of an inspection, review records and other documents held by the physician, conduct a structured oral interview, a guided interview or direct observation, or have the physician complete practice profile or competency assessment questionnaires or psychometric tests.

They may also use questionnaires intended for the medical director, director of professional services or department head of the physician's place of professional practice.

Decision OPQ 2019-286, s. 22.

23. When a record, register, medication, substance, apparatus or equipment concerned by an inspection is held by a third party, the physician, at the request of the person responsible for professional inspection, an inspector or an expert, authorizes this person to access it and, where applicable, make a copy of it at no charge.

Decision OPQ 2019-286, s. 23.

24. The inspector who carried out the inspection writes and sends a report to the person responsible for professional inspection within 21 days of completion of the inspection.

The report includes, in particular, a list of the records examined and his findings and conclusions.

Decision OPQ 2019-286, s. 24.

§2. General group practice inspection

25. Sections 19 to 24, with the necessary modifications, apply to a general group practice inspection.

Decision OPQ 2019-286, s. 25.

26. Following a general group practice inspection, the person responsible for professional inspection sends, where applicable, to the physicians concerned and, as the case may be, the president of the council of physicians, dentists and pharmacists, the head physician of the medical service, the physician in charge, the medical director, the director of professional services or the department head of the place of practice concerned appropriate comments and suggestions regarding the improvement of the quality of the physicians' professional practice.

Decision OPQ 2019-286, s. 26.

27. The person responsible for professional inspection may also require the physicians concerned to provide a report, in writing and within the time indicated, on the corrective measures taken to follow up on the comments and suggestions made pursuant to section 26. On receipt of this report, the person responsible for professional inspection

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may, where applicable, make new comments to the physicians concerned. He may also conduct a follow-up visit to verify the application and appropriateness of the corrective measures identified. Subdivision 1 applies, with the necessary modifications, to this follow-up visit.

Decision OPQ 2019-286, s. 27.

§3. Inspection of a physician's professional competence

28. An inspection of a physician's professional competence does not have to be preceded by an inspection pursuant to subdivision 1 or subdivision 2.

Decision OPQ 2019-286, s. 28.

29. When an inspection of professional competence follows an inspection, a copy of the inspection report provided for in section 24 is enclosed with the notice.

Decision OPQ 2019-286, s. 29.

30. Sections 17 to 24, with the necessary modifications, apply to an inspection carried out pursuant to this subdivision.

Decision OPQ 2019-286, s. 30.

DIVISION V

RECOMMENDATIONS OF THE PERSON RESPONSIBLE FOR PROFESSIONAL INSPECTION AND DECISION OF THE PROFESSIONAL INSPECTION COMMITTEE

31. When, after reviewing the inspection report, the person responsible for professional inspection does not intend to recommend that the committee take any of the measures provided for in section 55 or 113 of the *Professional Code* (chapter C-26) or in this regulation, he notifies the member concerned of this as soon as possible.

The person responsible for professional inspection may, at the same time, send the member comments regarding the enhancement or maintenance of the quality of his professional practice and, if he deems it appropriate:

- (1) ask the physician to make improvements, within the time indicated, to his professional practice, office keeping or record keeping;
- (2) ask the physician to participate, within the time indicated, in symposia, conferences, workshops, seminars, structured reading, tutoring programs or other complementary training activities;
- (3) ask the physician concerned to provide, within the time indicated, proof of improvement of the elements identified in the report or an assessment of knowledge integration;
- (4) ask an inspector to conduct a follow-up visit to the physician concerned in order to verify that the deficiencies identified in the report have been corrected after having notified a notice to the physician as provided for in section 18.

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The person responsible for professional inspection enters the relevant documents in the physician's record and, where applicable, the results of any actions taken in accordance with subparagraphs (2) to (4) of the second paragraph.

Decision OPQ 2019-286, s. 31.

32. When the person responsible for professional inspection intends to recommend that the committee impose one or more of the measures provided for in the second paragraph on the physician, he notifies a notice to the physician within 30 days of the date of receipt of the report provided for in section 24.

In addition to the measures provided for in sections 55 and 113 of the *Professional Code* (chapter C-26), the person responsible for professional inspection may recommend that the physician be required to fulfil one or more of the following obligations:

- (1) successfully complete a tutoring program, with or without direct observation;
- (2) participate in workshops organized by the Order;
- (3) do structured reading;
- (4) participate in an administrative follow-up program.

The person responsible for professional inspection may, in drawing up his recommendation, take into account an assessment in which failure of a period of refresher training, a refresher course or a tutoring program is noted.

The notice provided for in the first paragraph contains the reasons supporting the recommendations that the person responsible for professional inspection intends to make to the committee and informs the physician that he has 15 days from the date of notification of the notice to submit his observations.

If the physician concerned does not exercise his right to submit his observations or fails to submit them within the prescribed time limit, the person responsible for professional inspection proceeds without further notice.

Decision OPQ 2019-286, s. 32.

33. The person responsible for professional inspection notifies his reasoned recommendations to the physician and the secretary of the committee within 15 days of the expiry of the time limit provided for in the fourth paragraph of section 32.

Decision OPQ 2019-286, s. 33.

34. On receipt of the recommendations of the person responsible for professional inspection, the secretary of the committee notifies a notice to the physician informing him that he may submit his observations to the Committee within 15 days of the date of notification of the notice.

The notice indicates the date, time and location of the committee meeting.

If the physician concerned does not exercise his right to submit his observations or fails to submit them within the prescribed time limit, the committee proceeds without further notice

Decision OPQ 2019-286, s. 34.

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35. A reasoned decision is rendered by the committee by a majority of the members present within 15 days of the date of the conclusion of the meeting. In the event of a tie vote, the chair has a casting vote. Every member is required to vote or voice his opinion so that a decision may be made.

A member who finds himself in a situation where there is a conflict of interests regarding a matter on the meeting agenda withdraws for the duration of the physician's presentation of his observations and the deliberations.

The reasoned decision is notified to the physician without delay and sent to the person responsible for professional inspection.

Decision OPQ 2019-286, s. 35.

36. Where applicable, the person responsible for professional inspection ensures the committee's decision is followed up with the physician in the manner he deems appropriate.

Decision OPQ 2019-286, s. 36.

DIVISION VI

TRANSITIONAL, CONSEQUENTIAL AND FINAL PROVISIONS

37. This regulation replaces the *Regulation respecting the Professional Inspection Committee of the Collège des médecins du Québec* (chapter M-9, r.19).

Decision OPQ 2019-286, s. 37.

38. As of March 28, 2019, an inspection undertaken pursuant to the *Regulation respecting the Professional Inspection Committee of the Collège des médecins du Québec* (chapter M-9, r. 19) is carried out in accordance with these provisions.

Notwithstanding the first paragraph, if the professional inspection committee received the inspection report for review pursuant to section 21 of the *Regulation respecting the Professional Inspection Committee of the Collège des médecins du Québec* before March 28, 2019, sections 22 to 28 of this regulation continue to apply with respect to the inspection covered by the report.

Decision OPQ 2019-286, s. 38.

39. Subparagraph (5) of section 7 of the *Regulation respecting mandatory continuing education for physicians* ([2018] 150 G.O. 2, 7360) was amended by the insertion of the words "or the Professional Inspection Committee" after "Directors".

Decision OPQ 2019-286, s. 39.

Decision 22-02-2019, 2019 G.O. 2, 151.