

REGULATION RESPECTING PROFESSIONAL LIABILITY INSURANCE FOR MEMBERS OF THE ORDRE DES COMPTABLES AGRÉÉS DU QUÉBEC

Chartered Accountants Act
(R.S.Q., c. C-48)
Professional Code
(R.S.Q., c. C-26, s. 93, par. (d))

1. Each member of the Ordre des comptables agréés must subscribe to the group professional liability insurance contract entered into by the Ordre covering any liability the member may incur owing to fault or negligence committed in the practice of the profession. The Ordre shall make the contract accessible and the insurer shall issue a certificate of insurance to each member joining the plan.
2. The contract establishing the group professional liability insurance plan must contain the following minimal requirements:
 - 1° an amount of coverage during a 12-month period of coverage of at least \$1,000,000 per claim against an insured member practising alone and not less than \$2,000,000 per claim when the insured member employs at least one other insured member or when two or more insured members practise within the same partnership or company;
 - 2° an undertaking by the insurer to pay, on behalf of the insured, up to the amount of coverage, less any deductible that may not exceed 1% of the amount of coverage, any amount that the insured may legally be required to pay to a third party as damages in respect of a claim made during the period of coverage arising from fault or negligence on the part of the insured or his servants in the practice of the profession;
 - 3° an undertaking by the insurer to defend and hold the insured harmless in any legal action taken against him and to pay, in addition to the insurance amount and interest on this amount, all attendant costs and expenses, including defence costs;
 - 4° an undertaking by the insurer to extend the coverage to all claims made against the insured or his heirs for at least five years following the period of coverage during which the member ceases, for any reason, to practise the profession;
 - 5° an undertaking by the insurer to provide the Ordre with at least 120 days' notice of intent to terminate the contract or to amend one or more terms relating to a requirement set out in this section;
 - 6° an undertaking by the insurer to provide the Ordre with any necessary information requested by the Ordre to ensure the proper administration of the group insurance plan.

3. The group insurance contract may contain exclusions generally accepted in professional liability insurance. The contract may also exclude the activities of an insured member who acts as a director or a member of an audit committee of a partnership or company. However, no exception of acts committed under the influence of narcotics, sleeping pills, drugs or alcohol must be available against a claimant.

Moreover, the group plan insurer may, after reaching an agreement with the Ordre, deny participation in the plan to a member who practises within a partnership or company if the following conditions are met:

- 1^o the member's clientele or that of the members of the partnership or company within which he practises includes international companies or companies that make a distribution of their securities to the public in accordance with securities legislation applicable in Quebec or outside Quebec;
- 2^o the scope of the professional services rendered to such clientele in the areas of auditing, acquisitions, mergers or restructurings is significant.

4. A member who practises within a partnership or company and whose participation in the group professional liability insurance plan was denied pursuant to the last paragraph of section 3 must demonstrate to the Ordre that, under an insurance contract concluded by the partnership or company within which he practises or through an undertaking by the partnership or company, he holds coverage against any liability he may incur owing to fault or negligence committed in the practice of his profession, under terms and conditions at least equivalent to those set out in section 2. To this end, the member must send the Ordre without delay a sworn statement attesting that:

- (a) he applied for professional liability insurance with the insurer who entered into the group insurance contract with the Ordre and with the primary insurers who provide professional liability insurance to chartered accountants in view of obtaining coverage against professional liability under terms and conditions at least equivalent to those set out in section 2;
- (b) the above-mentioned insurers declined to provide such coverage;
- (c) their refusal is based on the reasons set out in the last paragraph of section 3 and is in no way motivated by the claims history of the member or of the partnership or company within which he practises.

The member must also provide a statement attesting that the capital held by the insurer or partnership or company providing the coverage contemplated in the first paragraph is sufficient to ensure payment of the coverage.

Each year between January 15 and March 15, the member must renew this statement as well as the sworn statement contemplated in the first paragraph.

These documents may be completed by a member mandated to do so by other members within the partnership or company. Each member is responsible for the accuracy of the information provided.

5. The member must notify the Ordre in writing without delay of any change respecting the coverage recognized by the Ordre under section 4.
6. This Regulation replaces the Ordre des comptables agréés du Québec (Professional Liability Insurance) Regulation, enacted by Order in Council No. 332-85 dated February 21, 1985.
7. This Regulation comes into force on April 1, 2008.