

chapter C-26, r. 81

Code of ethics of the members of the Ordre des conseillers en ressources humaines et en relations industrielles agréés du Québec

Professional Code
(chapter C-26, s. 87).

O.C. 381-98; O.C. 837-2003, s. 1.

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CHAPTER I

GENERAL

1. This Code determines, pursuant to section 87 of the Professional Code (chapter C-26), the duties that any member of the Ordre des conseillers en ressources humaines et en relations industrielles agréés du Québec must discharge, particularly during a mandate entrusted to him by a client.

It determines acts that are derogatory to the dignity of the profession, provisions to preserve the secrecy of confidential information that becomes known to a member of the Order in the practice of his profession, the conditions and procedure applicable to the exercise of the rights of access and correction provided for in sections 60.5 and 60.6 of the Professional Code as well as the conditions, obligations and prohibitions in respect of advertising by a member of the Order.

O.C. 381-98, s. 1.

CHAPTER II

DUTIES TOWARD CLIENTS, THE PROFESSION AND THE PUBLIC

DIVISION I

COMPETENCE AND INTEGRITY

2. A member shall discharge his professional obligations with competence and integrity.

He shall provide professional services of a high quality.

O.C. 381-98, s. 2.

3. A member shall practise his profession in keeping with generally recognized standards of practice and the rules of the profession.

He shall take the necessary means to maintain his knowledge up to date.

O.C. 381-98, s. 3.

4. A member shall bear in mind the limitations of his skills, knowledge and the means at his disposal.

He shall avoid, in particular:

(1) undertaking work for which he is not sufficiently prepared without obtaining the necessary assistance or information;

(2) accepting a mandate in respect of which he has not acquired or is unable to acquire, in the proper time, the necessary competence.

O.C. 381-98, s. 4.

5. In addition to the provision in section 54 of the Professional Code (chapter C-26), a member may not practise or perform certain professional acts under conditions or in situations which could impair the dignity of the profession or the quality of services he provides.

O.C. 381-98, s. 5.

6. A member shall, particularly in the performance of duties leading him to manage human resources, bear in mind:

- (1) the relative value of the results of the various evaluation tools he uses in the practice of his profession;
- (2) the necessary health and safety measures in the work environment in which he practises his profession;
- (3) the protection of the physical and mental health of the persons under his authority or supervision;
- (4) the importance of the measures for receiving and initiating the persons under his authority or supervision;
- (5) the importance of courses and programs for the advancement, training, development or promotion of the persons under his authority or supervision;
- (6) the confidentiality of the records of persons under his authority or supervision and of the confidential information concerning these persons and that becomes known to him in the practice of his profession.

O.C. 381-98, s. 6.

7. A member shall prevent the inadequate use and application by others of the tools and techniques he uses and of the interpretation of the information resulting therefrom.

O.C. 381-98, s. 7.

8. A member shall bear in mind the general effect which his research and work may have on society.

O.C. 381-98, s. 8.

9. A member shall promote any measure likely to improve the availability and the quality of the professional services provided by the members of the Order and particularly those of the field in which the member practises his profession.

He shall, in particular, promote any educational or informative measure to advise the public about those services.

He shall also, unless he has valid reasons to the contrary, do whatever is required to provide those educational and informative measures.

O.C. 381-98, s. 9.

DIVISION II

BEHAVIOUR

10. A member shall have an irreproachable behaviour.

He shall, in particular, act with courtesy, dignity, moderation and objectivity.

O.C. 381-98, s. 10.

11. A member shall show respect toward any commission of inquiry, body or court or its members.

A member shall not, directly or indirectly, distribute or publish comments or remarks he knows to be false or are overtly false, with respect to a commission of inquiry, a body or a court or one of its members.

A member shall not, directly or indirectly, comment publicly by any means whatsoever, any matter pending before a commission of inquiry, a body or a court and in which he or one of his partners or employees is a party.

O.C. 381-98, s. 11.

12. A member shall avoid any attitude or method which could harm the reputation of the profession and his proficiency to serve the public interest. He shall also avoid discriminatory, fraudulent or illegal practices and shall refuse to participate in such practices.

O.C. 381-98, s. 12.

13. A member shall not, in any case, be guided by greed.

O.C. 381-98, s. 13.

DIVISION III

IMPARTIALITY AND INDEPENDENCE

14. A member shall subordinate his personal interest to that of his client.

O.C. 381-98, s. 14.

15. A member shall act with impartiality and objectivity whenever persons other than clients request information from him.

O.C. 381-98, s. 15.

16. A member may represent a client, notwithstanding his personal opinion on the client's position in the matter.

O.C. 381-98, s. 16.

17. Generally, a member shall only act, in the same matter, for a party representing similar interests. If his professional duties require that he act otherwise, the member shall specify the nature of his duties or responsibilities and shall inform the parties concerned that he will cease to act if the situation becomes irreconcilable with his duty to be independent.

O.C. 381-98, s. 17.

18. A member is free to accept or to refuse a mandate.

Notwithstanding the foregoing, he shall not accept a number of mandates in excess of that which the interest of his clients or the respect of his professional obligations may require.

O.C. 381-98, s. 18.

19. A member shall safeguard his professional independence at all times. He shall, in particular:

(1) ignore any intervention by a third party which could influence the fulfilment of his professional obligations to the detriment of his client;

(2) avoid carrying out a task contrary to his conscience or to the principles governing the practice of his profession; or

(3) avoid any situation in which he would be in conflict of interest.

Without restricting the general meaning of subparagraph 3 of the first paragraph, a member is in conflict of interest when the interests in question are such that he might favour some of them over those of the client or whereby his judgment and loyalty towards the latter may be unfavourably affected.

O.C. 381-98, s. 19.

20. A member called upon to work with another person, in particular a member of the Order or a member of another professional order, shall preserve his professional independence.

O.C. 381-98, s. 20.

21. A member shall not receive, other than the remuneration to which he is entitled, any benefit, commission or rebate relative to the practice of his profession. Nor shall he pay, offer to pay or undertake to pay such benefit, commission or rebate.

O.C. 381-98, s. 21.

DIVISION IV

DILIGENCE AND AVAILABILITY

22. A member shall display reasonable availability and diligence.

O.C. 381-98, s. 22.

DIVISION V

FEES

23. A member shall charge fair and reasonable fees.

Fees are considered fair and reasonable if they are warranted by the circumstances and in proportion to the services provided.

O.C. 381-98, s. 23.

24. To determine the amount of his fees, a member shall, in particular, bear in mind the following factors:

- (1) his experience;
- (2) the time required to carry out the professional service;
- (3) the complexity and extent of the professional service;
- (4) the need to perform unusual professional services or services requiring exceptional celerity or competence; and
- (5) the degree of responsibility assumed.

O.C. 381-98, s. 24.

25. A member shall not request full payment of his fees in advance.

O.C. 381-98, s. 25.

26. A member may collect interest on an outstanding account of fees only after having notified his client. The interest thus charged must be at a reasonable rate.

O.C. 381-98, s. 26.

27. Before having recourse to legal proceedings, a member must have exhausted all the other means at his disposal for obtaining payment of his fees.

O.C. 381-98, s. 27.

28. A member entrusting the collection of his fees to another person must, as far as possible, ensure that the latter will act with tact and moderation.

O.C. 381-98, s. 28.

29. A member may share his fees with another person if the responsibilities and services are also shared.

O.C. 381-98, s. 29.

30. In payment of a professional service, a member shall receive fees from only one source, unless all the parties concerned explicitly agree otherwise. He shall accept payment of the fees only by his client.

O.C. 381-98, s. 30.

DIVISION VI

LIABILITY

31. A member shall have full civil liability. It is prohibited to insert in a contract of professional services any clause excluding, directly or indirectly, in whole or in part, his personal civil liability.

He may not sign a contract containing such a clause.

O.C. 381-98, s. 31.

DIVISION VII

ADDITIONAL DUTIES WHILE CARRYING OUT A MANDATE

32. A member shall identify himself to the client as a member of the Ordre des conseillers en ressources humaines et en relations industrielles agréés du Québec.

O.C. 381-98, s. 32.

33. A member shall try to establish a relationship of mutual trust between himself and the client.

To that end, he shall in particular:

- (1) refrain from practising his profession in an impersonal manner; and
- (2) respect the personal values and convictions of the client.

O.C. 381-98, s. 33.

34. A member shall refrain from intervening in the personal matters of the client on issues that are not relevant to the profession and that are not relevant to the reasons for which the client gave him the mandate.

O.C. 381-98, s. 34.

35. A member shall recognize at all times the client's right to consult another member of the Order, a member of another professional order or any other competent person.

O.C. 381-98, s. 35.

36. If the good of the client so requires, a member must, with the latter's authorization, consult another member of the Order, a member of another professional order or any other competent person or refer him to one of these persons.

O.C. 381-98, s. 36.

37. As soon as he ascertains that he is in conflict of interest, a member shall notify the client and request his authorization to continue carrying out the mandate.

O.C. 381-98, s. 37.

38. A member shall refrain from giving contradictory opinions or advice to a client. Before expressing an opinion or giving advice to a client, a member shall seek to obtain complete knowledge of the facts.

He shall, as soon as possible, inform the client of the scope of the mandate, the terms and conditions for carrying it out and obtain his consent to do so.

If, during the mandate, a new fact occurs that could alter the scope thereof or the terms and conditions for carrying it out, the member shall inform the client and obtain his consent as soon as possible.

O.C. 381-98, s. 38.

39. A member shall set out, for the client, in a complete and objective manner, the nature and scope of the problem as he sees it on the basis of the facts brought to his knowledge by the client.

He shall also inform the client of the inherent and foreseeable risks associated with a proposed solution to the problem.

O.C. 381-98, s. 39.

40. A member shall, where applicable, make the relevant recommendations to the client concerning the items listed in section 6.

O.C. 381-98, s. 40.

41. In addition to his opinion and advice, a member shall provide any explanation necessary for the client to evaluate and understand the professional services received.

O.C. 381-98, s. 41.

42. A member shall notify the client of the approximate and foreseeable cost of his professional services as regards disbursements and fees.

He shall also provide the client with any explanation necessary to understand his account of fees and the terms and conditions of payment.

O.C. 381-98, s. 42.

43. A member shall avoid performing or multiplying professional acts that are not justified by the nature of the mandate entrusted to him by the client.

O.C. 381-98, s. 43.

44. A member shall submit to his client any offer of settlement relating to the mandate entrusted to him by the client.

O.C. 381-98, s. 44.

45. A member shall upon the client's request, account for the progress of the mandate entrusted to him by the client.

O.C. 381-98, s. 45.

46. A member shall cease providing professional services to the client if the latter revokes his mandate.

O.C. 381-98, s. 46.

47. A member may not unilaterally terminate a mandate entrusted to him by a client, except for valid and reasonable grounds.

The following shall, in particular, constitute valid and reasonable grounds:

(1) the member is in conflict of interest or a situation in which his professional independence could be questioned;

(2) the client's confidence is lost;

(3) the client has been deceitful or failed to cooperate;

(4) the client has refused to pay the member's fees;

(5) the client has attempted to induce the member to commit a discriminatory, fraudulent or illegal act; and

(6) it is impossible for the member to communicate with the client or to obtain from him the elements the member considers necessary to carry out the mandate.

O.C. 381-98, s. 47.

48. A member who, for valid and reasonable grounds, wishes to unilaterally terminate a mandate shall give prior notice to that effect indicating when he will terminate the mandate.

He shall give that notice within a reasonable time and ensure, as far as possible, that it shall not be prejudicial to his client.

O.C. 381-98, s. 48.

49. A member shall appear in person or be represented at the time fixed for any proceeding relative to the practice of his profession unless he is prevented therefrom for good and sufficient reasons and has, where possible, given prior notice of his absence to his client and to the other parties involved.

O.C. 381-98, s. 49.

DIVISION VIII

ACTS DEROGATORY TO THE DIGNITY OF THE PROFESSION

50. In addition to the acts to which section 59 of the Professional Code (chapter C-26) applies, the act mentioned in section 59.1 of the Code and what may be determined pursuant to paragraph 1 of the second paragraph of section 152 of the Code, the following acts are derogatory to the dignity of the profession:

(1) communicating with a person who requested that an inquiry be held, without prior written permission of the syndic of the Order or the assistant syndic, where he is informed that he is the subject of an inquiry pursuant to section 122 of the Professional Code or where he has been served with a complaint in accordance with section 132 of the Code;

(2) advising or encouraging someone to commit a discriminatory, fraudulent or illegal act;

(3) refusing to counsel or to represent a person on the sole ground that the person requested, in respect of another member of the order, that an inquiry be held pursuant to section 122 of the Professional Code, that the person lodged a complaint against another member of the Order under section 128 of the Code or that the person filed a claim against another member of the Order;

(4) failing to notify the syndic of the Order that he has reasonable grounds to believe that another member of the Order contravenes the Professional Code or a related regulation made pursuant to the Code;

(5) drawing up a declaration or report he knows to be incomplete, without mention of any restriction, or that he knows to be false; and

(6) allowing a person not entered on the roll of the Order to use a title or initials reserved for the members of the Order or to make believe that he is a member of the Order, or not informing the secretary of the Order at the proper time that a person who is not entered on the roll of the Order uses a title or initials reserved for the members of the Order.

O.C. 381-98, s. 50.

DIVISION IX

PROVISIONS TO PRESERVE THE SECRECY OF CONFIDENTIAL INFORMATION

51. For the purposes of preserving the secrecy of confidential information brought to his knowledge in the practice of his profession, a member shall:

(1) refrain from using such information to the prejudice of his client or with a view to obtaining a direct or indirect benefit for himself or for another person;

(2) take the necessary measures to prevent his colleagues and the persons under his authority or supervision from disclosing or making use of such information that becomes known to them in the performance of their duties; and

(3) avoid holding or participating in indiscreet conversations concerning a client and the services provided to him.

O.C. 381-98, s. 51.

DIVISION IX.1

COMMUNICATION OF INFORMATION PROTECTED BY PROFESSIONAL SECRECY TO PROTECT INDIVIDUALS

O.C. 837-2003, s. 2.

51.1. A member who communicates information protected by professional secrecy in order to protect persons, pursuant to the third paragraph of section 60.4 of the Professional Code (chapter C-26), shall:

(1) warn without delay the person exposed to the danger, that person's representative or the persons who can come to that person's aid; and

(2) enter the following particulars in the client's record:

(a) the reasons supporting the decision to communicate the information, including the identity and contact information of the person who caused the member to communicate the information; and

(b) the nature of the communication, including the identity and contact information of the person to whom the information was communicated, specifying, as the case may be, that it was to the person exposed to the danger, to that person's representative or to the persons who can come to that person's aid.

O.C. 837-2003, s. 2.

DIVISION X

TERMS AND CONDITIONS OF THE EXERCISE OF THE RIGHTS OF ACCESS AND CORRECTION PROVIDED FOR IN SECTIONS 60.5 AND 60.6 OF THE PROFESSIONAL CODE AND OBLIGATION FOR A MEMBER TO GIVE DOCUMENTS TO A CLIENT

§ 1. — *General*

52. A member may require that an application referred to in section 54, 57 or 60 be made and the right be exercised at his place of business, during his regular working hours.

O.C. 381-98, s. 52.

53. If he fails to reply within 20 days of receiving an application to which section 54 or 57 applies, a member is deemed to have refused to grant it.

O.C. 381-98, s. 53.

§ 2. — *Terms and conditions of the exercise of the right of access provided for in section 60.5 of the Professional Code*

54. In addition to the particular rules prescribed by law, a member shall promptly follow up, at the latest within 20 days of its receipt, on any request made by a client whose purpose is:

- (1) to consult documents that concern him in any record made in his regard;
- (2) to obtain a copy of the documents that concern him in any record made in his regard.

O.C. 381-98, s. 54.

55. A member may only charge reasonable fees not exceeding the cost for reproducing or transcribing documents or the cost for forwarding a copy, in respect of an application to which paragraph 2 of section 54 applies.

A member requesting such fees shall, before proceeding with the copying, transcribing or sending of the information, inform the client of the approximate amount he will have to pay.

O.C. 381-98, s. 55.

56. A member who, pursuant to the second paragraph of section 60.5 of the Professional Code (chapter C-26), denies a client access to the information contained in a record made in his regard shall inform the client in writing that the disclosure would be likely to cause serious harm to the client or to a third party.

He must also, in the same document,

- (1) identify the serious harm to the client or to the third party concerned;
- (2) identify the third party concerned.

O.C. 381-98, s. 56.

§ 3. — Terms and conditions of the exercise of the right of correction provided for in section 60.6 of the Professional Code

57. In addition to the particular rules prescribed by law, a member shall promptly follow up, at the latest within 20 days of its receipt, on any request made by a client whose purpose is:

(1) to cause to be corrected any information that is inaccurate, incomplete or ambiguous with regard to the purpose for which it was collected, contained in a document concerning him in any record established in his respect;

(2) to cause to be deleted any information that is outdated or not justified by the object of the record that concerns him;

(3) to file in the record that concerns him the written comments that he prepared.

O.C. 381-98, s. 57.

58. A member who grants an application referred to in section 57 shall issue to the client, free of charge, a copy of the document or part of the document to allow the client to see for himself that the information was corrected or deleted or, as the case may be, an attestation that the written comments prepared by the client were filed in the record.

O.C. 381-98, s. 58.

59. Upon written request from the client, a member shall forward a copy, free of charge for the client, of corrected information or an attestation that the information was deleted or, as the case may be, that written comments were filed in the record to any person from whom the member received the information that was subject to the correction, deletion or comments and to any person to whom the information was provided.

O.C. 381-98, s. 59.

§ 4. — Obligation for the member to give the documents to the client

60. A member must promptly follow up on any written request made by a client, whose purpose is to take back a document entrusted to him by the client.

A member shall indicate in the client's record, where applicable, the reasons to support the client's application.

O.C. 381-98, s. 60.

DIVISION XI

CONDITIONS, OBLIGATIONS AND PROHIBITIONS IN RESPECT OF ADVERTISING

61. A member shall have his name and professional title appear in his advertisement.

O.C. 381-98, s. 61.

62. A member may not, by any means whatsoever, engage in or allow the use of advertising that is false, incomplete, deceptive or liable to mislead.

O.C. 381-98, s. 62.

63. A member who, in his advertising, claims to possess skills or specific qualities, particularly in respect of the effectiveness or scope of his services and of those generally ensured by other members of his profession or of his level of competence, shall be able to substantiate such claim.

A member who, in his advertising, ascribes particular advantages to a product or service or certain performance characteristics, claims that a pecuniary benefit will result from the acquisition or use of a product or service or claims that a product or service complies with determined standards shall also be able to substantiate such claims.

O.C. 381-98, s. 63.

64. A member may not, in his advertising, use nor allow the use of an endorsement or statement of gratitude concerning him, except awards for excellence and other prizes received in recognition of a contribution or an achievement the honour of which is shared by all members of the profession.

O.C. 381-98, s. 64.

65. A member may not resort to advertising practices likely to discredit or denigrate another professional, in particular another member of the Order or a member of another professional order.

O.C. 381-98, s. 65.

66. A member who advertises professional fees must do so in a manner easily understandable by the public and, in particular:

(1) maintain the amount of the fees in force for the period mentioned in the advertisement; that period must not be less than 90 days after the last authorized broadcast or publication;

(2) specify the services included in those fees.

However, a member may agree with a client on an amount lower than the one broadcast or published.

O.C. 381-98, s. 66.

67. In his advertising, a member may not, by any means whatsoever, lay more stress on a special price or discount than on the professional service offered.

O.C. 381-98, s. 67.

68. In the case of an advertisement relating to a special price or discount, a member must mention the period of validity of the price or discount, as the case may be. That period may not be less than 90 days.

O.C. 381-98, s. 68.

69. A member may not, by any means whatsoever, engage in or allow the use of any advertising intended for persons who may be emotionally or physically vulnerable because of the occurrence of a specific event.

O.C. 381-98, s. 69.

70. A member must keep a complete copy of every advertisement in its original form for 3 years following the date on which it was last authorized to be published or broadcast. The copy must be given to the syndic upon request.

O.C. 381-98, s. 70.

71. Where a member uses the graphic symbol of the Order in his advertisement, except on a professional card, he shall include the following warning:

“This advertisement does not originate from and does not commit the liability of the Ordre des conseillers en ressources humaines et en relations industrielles agréés du Québec”.

O.C. 381-98, s. 71.

DIVISION XII

THE MEMBER'S RELATIONS WITH THE ORDER AND THE PERSONS IN THE PRACTICE OF HIS PROFESSION

72. A member asked by the board of directors or executive committee of the Order to be a member of a professional inspection committee, a disciplinary council, a review committee constituted under section 123.3 of the Professional Code (chapter C-26) or a council for the arbitration of accounts made pursuant to the provisions of the Regulation made under section 88 of the Code, shall accept that duty unless he has reasonable grounds for refusing it.

O.C. 381-98, s. 72.

73. A member shall reply as soon as possible to any correspondence from the secretary of the Order, the syndic of the Order, where expedient from the assistant syndic, an expert appointed by the syndic, and from a member of the professional inspection committee, an investigator, an expert or an inspector of that committee.

O.C. 381-98, s. 73.

74. A member shall not, with respect to whomever is in relation with him in the practice of his profession, in particular another member of the Order or a member of another professional order, breach his trust, voluntarily mislead him, betray his good faith or use unfair practices.

He shall not take credit for work performed by another person, particularly by another member of the Order.

O.C. 381-98, s. 74.

DIVISION XIII

CONTRIBUTION TO THE DEVELOPMENT OF THE PROFESSION

75. A member shall, as far as he is able, contribute to the development of his profession by sharing his knowledge and experience with other members of the Order and students and by taking part in activities, courses and continuing training sessions organized for the members of the Order.

O.C. 381-98, s. 75.

DIVISION XIV

USING THE NAME OF THE MEMBER OF THE ORDER IN THE PARTNERSHIP NAME

76. A member may have his name in the partnership name only if the partnership name includes the names of other members of the Order who practise together.

A member may have his name appear in the partnership name including the expression “and partner” or any other expression having the same meaning only if another partner practises with him and only if the name of another partner who practises with him does not appear in the partnership name.

A member may have his name appear in the partnership name even if that name includes the name of a deceased or retired partner.

O.C. 381-98, s. 76.

77. A member who withdraws from a partnership must ensure that his name no longer appears in the partnership name or in any advertising of the partnership 1 year after his withdrawal, unless there is a written agreement to the contrary with the members whose names appear in the partnership name.

O.C. 381-98, s. 77.

DIVISION XV

REPRODUCTION OF THE GRAPHIC SYMBOL OF THE ORDER

78. A member who, for any purpose whatsoever, reproduces the graphic symbol of the Order shall ensure that it is identical to the original held by the secretary of the Order.

O.C. 381-98, s. 78.

CHAPTER III

FINAL

79. This Regulation replaces the Code of ethics of industrial relations counsellors (R.R.Q., 1981, c. C-26, r. 52).

O.C. 381-98, s. 79.

80. *(Omitted).*

O.C. 381-98, s. 80.

UPDATES

O.C. 381-98, 1998 G.O. 2, 1478

O.C. 837-2003, 2003 G.O. 2, 2716

S.Q. 2008, c. 11, s. 212

