

Bill 17

**An Act to amend the Professional Code with respect
to disciplinary justice**

Section 1

AMENDMENT:

In proposed section 59.1.1,

- (1) in the introductory clause, strike out “in the practice of his profession” and replace “that” by “the”;
- (2) replace “, influence peddling or fraud” in paragraph 1 by “or influence peddling”.

Adoptée

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Section 2

AMENDMENT:

Replace "15" in the second paragraph of proposed section 115.1 by "20".

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Section 2

AMENDMENT:

Strike out the second paragraph of proposed section 115.2.

Adopted

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Section 2

AMENDMENT:

Strike out "full-time" in proposed section 115.4.

Adoptée

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Section 2

AMENDMENT:

In proposed section 115.6,

- (1) strike out “full-time” in the first paragraph;
- (2) strike out the last paragraph.

Adopted

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Section 2

AMENDMENT:

Replace "standards of ethical conduct are observed" in paragraph 5 of proposed section 115.7 by
"the chairs observe standards of ethical conduct".

Adopted

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Section 2

AMENDMENT:

Replace "an expeditious" in paragraph 2 of proposed section 115.7 by "the expeditious nature of complaint processing and the".

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Section 2

AMENDMENT:

Strike out proposed section 115.8.

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Section 14.1

AMENDMENT:

Insert after section 14:

14.1. The Code is amended by inserting the following section after section 132:

"132.1. Complaints whose subject matter could suitably be combined, whether or not the same parties are involved, may be joined by order of the senior chair or the deputy senior chair, on the conditions they fix. The senior chair or the deputy senior chair may not, however, join complaints for which the disciplinary councils of different professional orders are responsible.

An order made under the first paragraph may be revoked by the chair designated to hear the complaints if, at the time of the proceeding, the chair believes that the interests of justice will be better served as a result. The chair's decision cannot be appealed."

Adopted

SAM 1
AM 9
s. 14.1 (132.1)

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Section 14.1

SUBAMENDMENT:

Replace “if, at the time of the proceeding, the chair” in the second paragraph of proposed section 132.1 by “if the chair”.

Adopté au

AM 10

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AMENDMENT:

Am 10 is withdrawn and becomes Am d.

Adoptée

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Section 2

AMENDMENT:

In proposed section 115.9,

- (1) insert “complaint processing and” after “nature of” in the first paragraph;
- (2) insert “the nature and” at the beginning of subparagraph 6 of the second paragraph;
- (3) replace “making of the decision” in subparagraph 7 of the second paragraph by “rendering of the decision on the conviction and, if applicable, the penalty”.

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Section 0.1

AMENDMENT:

Insert before section 1:

0.1. Section 16.1 of the Professional Code (chapter C-26) is amended by replacing “report mentioned in section 16.19” in the first paragraph by “reports mentioned in sections 16.19 and 115.9”.

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Section 2

AMENDMENT:

Insert the following subparagraph after subparagraph 6 of the second paragraph of proposed section 115.9:

- (6.1) the nature and the number of decisions appealed; and

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Section 2

AMENDMENT:

Insert "complaint processing and" after "improve" in proposed section 115.10.

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Section 4

AMENDMENT:

Replace proposed section 117 by:

“117. The members of a disciplinary council other than the chair are appointed by the board of directors of the order from among the order’s members. The board of directors shall fix the duration of their term, which must be at least three years.

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Section 4

SUBAMENDMENT:

Amend proposed section 117, as amended, by replacing "d'un conseil" in the French text by "du conseil".

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Section 4

AMENDMENT:

Replace “, the Québec Interprofessional Council and the Barreau du Québec” in proposed section 117.2 by “and the Québec Interprofessional Council”.

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Section 4

AMENDMENT:

Strike out "part-time chairs and" in the last paragraph of proposed section 117.3.

Adopted

AM 18
s. 4 (117.4)

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Section 4

AMENDMENT:

Strike out proposed section 117.4.

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Section 5.1

AMENDMENT:

Insert after section 5:

5.1. Section 118.2 of the Code is amended by replacing “désignés” in the French text by “nommés”.

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Section 6

AMENDMENT:

Replace proposed section 118.3 by:

“118.3. Where, being unable to act, a member is unable to continue with a hearing, whether it be the conviction hearing or the penalty hearing, the two remaining members, provided one is the chair, may validly proceed with the hearing and render a decision on the conviction and the penalty. The same applies in the event of the death of a member.

Adopté au

SAM 1
AM 20
s. 6 (118.3)

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Section 6

SUBAMENDMENT:

Strike out the last sentence of proposed section 118.3, as amended.

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Section 6

AMENDMENT:

Insert the following paragraph at the beginning of proposed section 118.4:

"118.4. Where a member is replaced in accordance with section 118.2, the two remaining members, provided one is the chair, may proceed with the hearing and validly render a decision on the conviction and the penalty.

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Section 6

AMENDMENT:

In proposed section 118.4, as amended,

- (1) replace the second paragraph by the following paragraph:

A chair who has been replaced may continue to hear a complaint, no matter what stage of the hearing had been reached, with the authorization of and for the length of time determined by the senior chair.

- (2) insert “, and on the parties” after “seized of the complaint” in the third paragraph;
- (3) strike out “on specified conditions” in the third paragraph.

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Section 6

AMENDMENT:

Strike out "absent or" in the first paragraph of proposed section 118.5.

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Section 6

AMENDMENT:

Strike out the comma after "mandat" in the first paragraph in the French text of proposed section 118.5.

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Section 6

AMENDMENT:

Replace "the notes and minutes of the hearing or on the stenographer's notes or the recording of the hearing, if any" in the second paragraph of proposed section 118.5 by "the evidence already filed".

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Section 6

AMENDMENT:

Amend proposed section 118.5

- (1) by inserting "the chair is dismissed, where" after "Where" in the first paragraph;
- (2) by replacing "without delay" in the first paragraph by "as soon as possible";
- (3) by adding the following paragraph at the end:

Where the decision on the conviction or the penalty was handed down at the hearing but not recorded in writing before a new disciplinary council chair was designated in accordance with the first paragraph, the senior chair, together with at least one other disciplinary council member, may sign the minutes of the proceeding. The decision is presumed to be in compliance with section 154 in such a case.

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Section 6

AMENDMENT:

Add at the end of section 6:

“118.6. Interlocutory decisions rendered before continuance of suit
remain valid.”

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Section 7

AMENDMENT:

Replace by:

7. Section 119 of the Code is repealed.

Adopted

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Section 11

AMENDMENT:

Withdraw.

Adopte au

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Section 13.1

AMENDMENT:

Insert after section 13:

13.1. Section 130 of the Code is amended by inserting “or 59.1.1” after “section 59.1” in paragraph 1.

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Section 17

AMENDMENT:

Amend proposed section 139

- (1) by inserting “the chair and” before “the secretary”;
- (2) by replacing “90” by “120”.

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Section 16

AMENDMENT:

Replace proposed section 138 by:

"138. A disciplinary council shall sit in divisions, each division consisting of three members, including the chair designated by the senior chair. The secretary of the disciplinary council shall, as soon as possible, choose from among the council members appointed by the board of directors the other two members who are to sit with the chair.

In assigning work to the chairs, the senior chair may take into account their specific knowledge and experience, the number of complaints referred to them and the special needs of certain professional orders."

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Section 19

AMENDMENT:

Insert "or more" after "one" in the last paragraph of proposed section 149.1.

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Section 20

AMENDMENT:

Add at the end:

(3) by replacing “revised by the chair of the disciplinary council” in the fifth paragraph by “revised by the senior chair or the deputy senior chair”;

(4) by replacing the last sentence of the fifth paragraph by the following sentence:
“The decision concerning the revision of the list is not subject to appeal.”

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Sections 20.1 and 20.2

AMENDMENT:

Add after section 20:

20.1. Section 159 of the Code is amended by replacing “without delay” in the first paragraph by “as soon as possible”.

20.2. Section 161 of the Code is amended by inserting “The secretary must send a copy of the petition to the senior chair as soon as possible.” after “restriction or suspension.” in the first paragraph.

Adapté ae

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Section 22

AMENDMENT:

In proposed section 184.3,

- (1) replace “, the Québec Interprofessional Council and the Barreau du Québec” by “and the Québec Interprofessional Council”.
- (2) insert “evidence and” after “rules of”.

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Section 22.1

AMENDMENT:

Insert after section 22:

22.1. Section 188.2.1 of the Code is amended

(1) by replacing “the code of ethics is contravened” by “during which the contravention continues”;

(2) by inserting “section 59.1, 59.1.1 or 59.2 or” after “contravene”.

Adopted

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Section 25

AMENDMENT:

Replace by:

25. The term of the disciplinary council chairs of professional orders, the substitute chairs and the replacement chair in office on *(insert the date preceding the date of coming into force of this section)* ends on *(insert the date of coming into force of this section)*.

A chair may, however, continue in office on the same conditions to conclude cases the chair has begun to hear but has not yet decided.

The decision on conviction and, if applicable, on the penalty must be rendered before *(insert the date that is six months after the date of coming into force of this section)*. Failure to observe that time limit causes the matter to be withdrawn from the chair unless the senior chair decides to extend the time limit.

If a matter is withdrawn from a chair or if a chair decides not to continue to exercise the functions of office, the senior chair must designate a new chair as soon as possible to hear the complaint, whatever stage the hearing has reached.

The rules set out in the second, third and fourth paragraphs of section 118.5 of the Professional Code (chapter C-26), as enacted by section 6, apply to the continuance of the hearing in such a case.

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Section 26

AMENDMENT:

- (1) Add the following sentence at the end of the first paragraph: "Failure to observe the prescribed time limit causes the matter to be withdrawn from the chair unless the senior chair decides to extend the time limit."
- (2) Strike out "third," in the second paragraph.

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Sections 26.1, 26.2 and 26.3

AMENDMENT:

Insert after section 26:

26.1. Where a disciplinary council chair had begun to hear a complaint before (*insert the date of coming into force of this section*) and, before or after that date and before the coming into force of section 6, the matter is withdrawn from that chair under the third paragraph of section 118.3 of the Professional Code and the new chair is designated before the decision on the conviction has been rendered, the disciplinary council may, without a new division being formed and with the consent of the parties, continue the proceeding and rely on the evidence already filed.

Where the chair is designated after the decision on the conviction is rendered, the disciplinary council continues the proceeding at the stage of the penalty hearing. The penalty hearing is governed by the same rules for evidence already filed as those set out in the first paragraph.

Where the decision on the conviction was handed down at the hearing but not recorded in writing before the matter was withdrawn from the chair, the replacement chair, together with at least one other disciplinary council member, may sign the minutes of the proceeding if it contains the reasons for the decision. The decision is presumed to be in compliance with section 154 of the Professional Code in such a case.

26.2. The first code of ethics established by the Government under section 117.2 of the Professional Code, as enacted by section 4, is adopted without consulting the Bureau des présidents des conseils de discipline.

26.3. The first rules of evidence and practice adopted by the Office des professions du Québec under section 184.3 of the Professional Code, as amended by section 22, are adopted without consulting the Bureau des présidents des conseils de discipline.

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Section 21

AMENDMENT:

Replace by:

21. Section 164 of the Code is amended

- (1) by striking out subparagraph 2 of the first paragraph;
- (2) by striking out the third paragraph;
- (3) by striking out “or the motion for leave to appeal, as the case may be” in the fourth paragraph;
- (4) by striking out “or the decision of the tribunal granting leave to appeal” in the fifth paragraph.

Adopted as

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Section 27

AMENDMENT:

Replace by:

27. The provisions of this Act come into force on the date or dates to be set by the Government, except section 1, section 2 to the extent that it concerns section 115.2 of the Professional Code, insofar as that section refers to the selection procedure for chairs, and sections 115.3 and 115.5 of the Code, section 4 to the extent that it concerns sections 117.2 and 117.3 of the Code, and sections 19, 21, 22, 22.1 and 26.1 to 26.3, which come into force on *(insert the date of assent to this Act)*.

Adopted