

**CONCORDIA UNIVERSITY
FACULTY OF ENGINEERING AND COMPUTER SCIENCE**

**ENGR 201
PROFESSIONAL PRACTICE AND RESPONSIBILITY**

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CHAPTER 2

THE LEGAL FRAMEWORK OF THE ENGINEERING PROFESSION

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TOPIC 1 : THE PROFESSIONAL CODE

Historic overview

- The birth of "Corporations" : trades organize themselves to control training (mostly through apprenticeship), membership, discipline
- The first professional corporations : legal and medical professions, architects, accountants

- Professional laws : the practice of certain professions is restricted to members of professional organizations.
- 1970 : The Castonguay-Nepveu Commission publishes its report "Professions and Society"
- July 6, 1973 : Bill 250 is adopted, the Professional Code is born; it will fully come into force six months later (February 1, 1974).
- The professional system remains largely based on the principle that professions shall be autonomous and self-governing, but the government redefines and harmonizes the structure of the system and establishes surveillance and control mechanisms to make sure that the professional orders meet their obligations and responsibilities. The rights and obligations of professionals are better defined. The public also gains rights and recourses. A Professions Tribunal, common to all professions, is established.
- It has been amended often since, although some changes were only administrative in nature: 1974, 1975, 1977, 1982, 1983, 1986, 1988 (discipline becomes public), 1990 (rules respecting advertising and representation by professionals), 1994 (major review), 1995 (the OPQ will be financed by professionals), 1999, 2000, 2001 (practice within a limited liability partnership or corporation becomes possible), 2002, 2004, 2006, 2007, 2008 (major review which became effective October 15, 2008) and just recently in 2009.

Professional Code : principles

- The system exists to protect the public
- Professions remain self-governing WITHIN LIMITS
- Administrative mechanisms and certain regulations are standardized
- All regulations are public
- The «public» has certain rights in the management of professional orders, disciplinary matters, information and access rights, conciliation and arbitration of accounts, etc.
- Specific requirements apply to advertising, derogatory acts, liability insurance, in-trust accounts, practice within a corporation or society
- Title abuse and illegal practice by non-professionals are violations of the public interest and prohibited as such.

Professional system in Quebec

- Two kinds of professional orders :
 - Exclusive (s. 31-34)
 - With reserved titles (s. 35-39) and some reserved acts (s. 37.2 etc.)
- External bodies :
 - Office des professions du Québec (s. 3-16.8)
 - Interprofessional Council (s. 17-22) (established in 1965)
 - Professions Tribunal (s. 162-177.1)
- Political structure of an Order :
 - The Board of directors and its directors (s. 61-95.4)
 - The President (s. 63, 64, 76, 80, 81)
 - The Executive Committee (s. 96-100)
 - The Secretary (s. 62)
 - General Meetings (s. 102-106)
- Activities of an Order : Controlling who becomes a member
 - Qualifications
 - Acceptable diplomas
 - Equivalences
 - Additional requirements
 - Training period
 - Restricted practice
 - Criminal or other disciplinary condemnations (s. 45- 45.2)
- Activities of an Order : Controlling its members' practice
 - Qualifications : professional inspection (below)
 - Ethics and discipline (below)
 - Liability insurance (s. 93 d))
 - Criminal or other disciplinary condemnations (s. 55-55.5)
 - Mental and physical ability to practice : medical control (s. 48-53)
- Inspection (s. 90 and 109 - 115)
 - Professional Inspection Committee
 - Members
 - Inspectors

- Experts
- Inspections
- Recommendations (general / member)
- Regulation and program

- Discipline (s. 116 - 161.1)
 - Disciplinary Council (s. 116)
 - Syndic, assistant syndics, corresponding syndics and experts (s. 121)
 - Review Committee (s. 123.3)
 - Conciliation (s. 123.6)

- Disciplinary procedure
 - Complaint (s. 126)
 - Provisional striking off the Role (s. 130)
 - Trial (s. 137 - 149)
 - Penalties (s. 150 - 161.1)
 - Appeals (s. 162 - 177.1)
 - Publication (s. 179 - 182)

- Activities of an Order : Setting standards on...
 - Records, books, registers (s. 91)
 - Medications, poisons, substances, apparatus, equipment (s. 91)
 - Procedures
 - Consulting rooms and offices
 - Classes of specialization
 - Refresher training or courses

- Activities of an Order : Others
 - Professional liability insurance or fund (by regulation)
 - Carrying on of professional activities within a limited liability partnership or a joint-stock company (s. 187.11 to 187.20)
 - Conciliation and arbitration of fees
 - Provisional custody of records

- Activities of an Order : Controlling illegal practices
 - Exclusive acts (s. 32)
 - Reserved titles (s. 32, 36, 58)
 - Fraud in obtaining a permit or certificate (s. 56)

- Certain activities specific to a profession (in the Engineers Act, for exemple)
- Activities of an Order : Governance
 - Administration
 - Roll
 - Internal rules and regulations
 - Elections
 - Finances
 - Ad hoc Committees
 - Publications
 - External affairs
 - Access to documents and protection of personal information (s. 108.1 to 108.11)

TOPIC 2 : THE ENGINEERS ACT

Historic overview

- 1887 : the Canadian Society for Civil Engineers (CSCE) is created
- 1898 : a provincial law restricts the practice of engineering in Québec to the members of the CSCE
- 1918 : the CSCE becomes the Engineering Institute of Canada (EIC)
- Feb. 14, 1920 : Bill 162
 - The bill was drafted by a committee of the Montreal and Quebec City sections of EIC
 - Birth of the Corporation of professional engineers of Québec / Corporation des ingénieurs professionnels du Québec
 - 514 members
- May 27, 1920 : First general meeting of the Corporation : Albert R. Décary is elected as the first president (he will be until he resigns in March 1939). Annual membership fee set to 10\$, with a 3\$ rebate for renewals.

- July 22, 1922 : the Corporation adopts a tariff of minimum fees.
- March 26, 1924 : a code of conduct called « Code d'étiquette » is enacted.
- January 1, 1926 : the Corporation has 1028 members.
- December 10, 1932 : the Engineer's Seal is adopted by the government of Québec
- 1948 : Mrs. E.R. Watson Linney, a graduate of McGill University in electrical engineering, becomes the first female member of the Corporation
- March 1949 : Bill 200 grants the protection of the professional engineer's title to the Corporation
- April 24, 1954 : the Corporation welcomes its 5000th member, Nina Hall.
- June 1962 : the Corporation welcomes its 10000th member, Réjean Cloutier.
- Sept. 1964 : Bill 98 is the new Engineers Act.
 - The word " professional " is removed from the Corporation's name.
- June 1970 : Canadian citizenship no longer is a membership requirement. French-speaking members outnumber english-speaking members for the first time.
- Feb. 1, 1974 : Bill 260 becomes law
 - The Engineers Act is harmonized with the Professional Code
 - The Corporation becomes the Ordre des ingénieurs du Québec
- March 31, 1991 : the Ordre numbers 33 764 members.
- Oct. 15, 1994 : the Professional Code and many professional laws are amended
- March 31, 1996 : the Ordre numbers 41 584 members...

The Engineers Act...

- Creates the Ordre des Ingénieurs (s. 6)
- Defines the field of practice of an engineer (s. 2)
- Defines the acts which constitute the practice of the engineering profession (s. 3)
- Reserves certain non-member's rights (s. 5)
- Defines illegal practice and other offences (s. 22)
- Defines which plans and specifications must be signed and sealed by an engineer (s. 24, 25)
- Reserves the title and certain words (s. 26)

TOPIC 3 : RULES AND REGULATIONS CONCERNING ENGINEERING

In Québec, rules and regulations are adopted under the authority of two provincial acts :

- the Professional Code
- the Engineers Act

Regulation respecting professional liability insurance for the members of the Ordre des ingénieurs du Québec

((1995) 127 G.O. II, 5324 (French edition)) [c. I-9, r.1.1.1]

Regulation respecting other terms and conditions for permits to be issued by the Ordre des ingénieurs du Québec

((2002) 134 G.O. II, 6242) [c. I-9, r.1.2]

Regulation respecting the cessation of practice of a member of the Ordre des ingénieurs du Québec

((1994) 126 G.O. II, 683) [c. I-9, r.2.1]

Code of ethics of engineers

(R.Q., c. I-9, r.3)

Regulation respecting the professional inspection committee of the Ordre des ingénieurs du Québec

((1991) 123 G.O. II, 3226) [c. I-9, r.3.1]

Regulation respecting the standards for equivalence of diplomas and training for the issue of a permit by the Ordre des ingénieurs du Québec

((2002) 134 G.O. II, 2133) [c. I-9, r.7.2]

Regulation respecting the procedure for conciliation and arbitration of accounts of engineers

(R.Q., c. I-9, r.8)

Regulation respecting advertising by engineers

(Revoked 02/09/19)

Regulation respecting refresher training periods of engineers

(R.Q., c. I-9, r.12)

Regulation respecting the keeping of records and consulting offices by engineers

(R.Q., c. I-9, r.14)

TOPIC 4: OTHER LEGAL CONSTRAINTS

- Other provincial laws and regulations
- Federal laws and regulations
- Municipal, territorial and other local regulations
- "Common Law" (jurisprudence)
- Laws and regulations in force wherever the engineer practices
- And also...
 - Rules of the Art
 - Recognized practices
 - Standards and Codes

CONCLUSION

- Professional orders are to be dedicated to protecting the public, not their members
 - Professions and professionals operate in a highly regulated environment
 - The professional system operates under a blend of self-regulation and government control
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REQUIRED READING

Professional Code (R.S.Q., c. C-26), sections 2 to 108 and 188 to the end
<http://www.oiq.qc.ca/>

Engineers Act (R.S.Q., c. I-9)
<http://www.oiq.qc.ca/>

SUGGESTED READING

Code of ethics of engineers (c. I-9, r.3)
<http://www.oiq.qc.ca/>

Other regulations that are on the OIQ web site
