

PROFESSIONAL LIABILITY INSURANCE

A new regulation and a new group plan for private practice

Here's news that many members of the OIQ will appreciate: as of April 1st 2013, a revised version of the *Regulation respecting professional liability insurance for members of the Ordre des ingénieurs du Québec* (unofficial translation) will come into force. Consequently, all members in private practice, on an occasional basis or not, will find advantages tailored to their needs!

As part of the revision process of this *Regulation*, the OIQ began consulting its members in June 2012. The new *Regulation* offers a positive response to concerns voiced by the OIQ and its members, such as continued protection in bankruptcy situations or when members stop practising, the difficulty for some members to find insurance in line with regulatory requirements or the necessity of offering protection regardless of one's field of practice.

The *Regulation* respecting professional liability insurance requires that members in private practice contract additional insurance to cover the risks associated with their practice. Now, by insuring themselves with the OIQ's broker, they will be sure to find insurance that meets the *Regulation's* requirements.

A GLANCE AT WHAT'S NEW

As is currently the case, every member must be covered by the basic group plan. However, members in private practice (for example, those who practise consulting engineering) will have to enrol in the supplementary plan for private practice with the OIQ's broker, Dale Parizeau Morris Mackenzie. Thus, they will be covered by insurance which fully meets the requirements under the *Regulation* and the *Professional Code*.

In addition, the OIQ chose a broker who allowed for the smoothest transition possible in the interest of its members, specifically with respect to premiums. Strength in numbers made it possible to negotiate beneficial terms for members. Members who must enrol in the supplementary plan will be particularly interested in the additional coverage for five (5) subsequent years. In fact, insurance under the supplementary plan will offer coverage, included in the premium, against any professional liability claim brought against a member for services rendered for a period of five (5) years subsequent to the time the services were rendered.

As such, when a member retires or changes jobs, or should a member's employer declare bankruptcy, the member's acts will remain covered for a period of five (5) years, without having to pay

an additional premium, for the five (5) years following the moment he or she leaves private practice, as was often the case. Both members and the public will benefit from this added protection! Let us reiterate that the obligation to maintain coverage for a period of five (5) years following the last professional act is prescribed by the *Professional Code*.

Furthermore, minimum amounts of coverage relating to private practice have been doubled in order to better reflect the reality of today's engineering practice: the new *Regulation* prescribes a minimum of \$500,000 per claim and \$1,000,000 for all claims arising during the course of the period covered or that have arisen prior to the coverage

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period but for which a claim is submitted during the period covered. If an insurance contract is entered into by a member or by a company for members whom it employs or who are its directors, officers, shareholders or partners, the minimum amounts of coverage are \$1,000,000 per claim and \$2,000,000 for all claims.

Members who practise in areas that are difficult to insure will also get something out of it. The new group plan covers all members, whatever their field of practice, including those who were part of a distinct class under the previous regulation (railway, nuclear, automobile and aeronautical industries; naval architecture; asbestos removal and rehabilitation of contaminated sites). Members who occasionally engage in private practice will also benefit since the \$2,000 limit per project is abolished under the revised *Regulation*. The mandatory plan covers members who practise alone and for their own account in private practice (whether it be their main employment or not) and whose total fees are lesser or equal to \$10,000 for all projects carried out during a year.

Finally, the new group plan offers various other advantages to all members of the OIQ, namely worldwide and estate protection.

HOW TO ENROL?

We have already stated that the revised group plan is intended for all members of the OIQ*. As of April 1, 2013, members in private practice are required to enrol in the "Supplementary professional liability group plan for members in private practice", in addition to the group plan. This obligation is stipulated at section 93 d) of the *Professional Code* and section 3 of the new *Regulation*.

Members who already hold another insurance policy can wait until the renewal date of their current policy before enrolling in the OIQ's supplementary group plan, but will have to do so no later than twelve (12) months after the *Regulation* comes into force.

The obligation to contract insurance rests with the members. They can enrol in the supplementary group plan themselves or they can do so through their employer. In both cases, it will be important to contact the OIQ's exclusive insurance broker a few weeks before their current insurance expires since some contracts are complex and it may take several weeks to gather and analyze information.

Contact information for the OIQ's broker:

Dale Parizeau Morris

Mackenzie Inc., 3400 De Maisonneuve Boulevard West, Suite 700, Montréal, H3Z 0A5; Telephone: 514 282-1112.

For more information: www.oiq.qc.ca/Documents/DAP/assurances/FAQ-projet-revision-reglement-arp.pdf

* It is possible to be exempted from certain conditions. See section 5 of the new *Regulation respecting professional liability insurance for members of the Ordre des ingénieurs du Québec*.

Definition of private practice

"Is in private practice a member who renders professional services for his own account or for the account of another member, a partnership or a legal person to clients who are not his employer." (Unofficial translation)

Section 3 (2), *Regulation respecting professional liability insurance for members of the Ordre des ingénieurs du Québec*
Examples:

Are usually considered to be in private practice: members who work for a consulting engineering firm as well as all members who provide professional engineering services to an external clientele. Here are a few examples: consultants on their own account, building and other inspectors, members who work in an analytical laboratory, a university employee who provides services to clients of the university, or any other expert who provides an opinion relating to work which falls within the member's field of practice for external clients.