

# PROFESSIONAL LIABILITY INSURANCE

## What is private practice?

**Each year, when you complete your annual registration with the Ordre des ingénieurs du Québec (hereafter the “Ordre”), you must indicate whether you practise or have practised engineering in private practice in Québec. Why does the Ordre ask this question? Among other things, it is to ensure that engineers in private practice are covered by professional liability insurance. But what exactly constitutes private practice?**

Private practice is a notion used with respect to professional liability insurance. Compared to general practice, private practice puts engineers at a greater risk of being subjected to legal action, for which the amounts claimed can be quite high. In Québec, roughly one in five engineers practises in private practice.

A member who provides professional services related to one or a number of engineering fields to an external clientele, for his or her own account or for an employer is said to be in private practice. Here are a few examples of engineers working in private practice:

- those who are employed by a consulting engineering company;
- those who provide professional engineering services to an external clientele, such as:
  - independent consultants;
  - building inspectors and others;
  - engineers who inspect or modify vehicles;
  - engineers who work in an analytical laboratory;
  - all experts who provide opinions relating to works that, given their nature, fall within the purview of the engineer’s field of practice.

Consequently, it is a misconception to think that only engineers who are self-employed are in private practice. Similarly, it is wrong to think that engineers who work for a company are never in private practice. The type of activity (or that of the employer in cases where engineers work for a consulting engineering company) must also be taken into consideration. If you want to determine whether you are in private practice, you can ask yourself these two questions:

- Is my work engineering work? Sections 2 and 3 of the Engineers Act, which describe the engineers’ fields of practice and acts that are reserved for engineers, will point you in the right direction (see the sidebar).
- If so, does this work constitute a professional service intended for an external clientele? Generally, professional services are spelled out in an engineering document given to the engineer’s or the employer’s client, such

as a report, opinion, recommendation, plan, estimate, specifications, analysis, drawing, etc.

### GROUP OR INDIVIDUAL INSURANCE

Every Québec engineer must have proper professional liability insurance (PLI) in line with the level of risk they face in their practice. Pursuant to the *Regulation respecting professional liability insurance for members of the Ordre des ingénieurs du Québec* (unofficial translation), all members must enroll in the group professional liability insurance plan and pay the premiums upon their annual registration.

This PLI offers a maximum coverage of \$100,000 per occurrence and \$250,000 per project for engineers in general practice and those occasionally in private practice. Occasional private practice, sometimes called moonlighting, relates to engineers who work alone and for their own account, outside their main employment or to retired engineers who provide professional services, for fees totalling less than \$2,000 per project and \$10,000 per year.

Engineers in private practice must also hold individual PLI in compliance with the regulation respecting professional liability insurance. Consequently, engineers who practise alone must have insurance offering a minimum coverage of \$250,000 per occurrence and \$500,000 for all occurrences combined. For a company or a group of engineers, coverage must be respectively \$500,000 and \$1,000,000. Members are bound by this obligation for five years following the last act performed in private practice 1.

A member or the company he or she works for can hold an additional PLI policy as long as it protects the member’s personal professional responsibility. As such, most engineering consulting firms contract a liability insurance policy which covers all engineers under their employment. As a result, those engineers do not have to hold individual PLI. In any case, each year, engineers in private practice employed by a firm (or another type of corporation) must ensure that their current employer has adequate coverage for their employees. They must also make sure that actions taken in private practice during the last five years are still fully covered.

### GROUP OR INDIVIDUAL INSURANCE?

Given the foregoing, you are probably wondering if your practice is private or general in nature. There are situations which are not as clearly defined as that of consulting engineering firms.

For example, an engineer who works for a contractor specialized in ventilation is more likely in general practice, even if he prepares and signs plans, because he carries out his work for his employer who, in turn, provides the final product. In such a case, the greater part of the risk is generally covered by the contractor's liability insurance and the Ordre's group PLI offers the member professional liability coverage for up to \$100,000 per occurrence. However, it is recommended that members contract additional professional liability insurance if they are exposed to claims exceeding \$100,000.

Another example: an engineer engaged in general practice within a manufacturing business is in private practice when he accepts personal mandates, even if the work involved is similar in both instances. In this case, the engineer must contract individual PLI. In short, engineers who do consultation work in construction must hold additional professional liability insurance if they practise in a field of practice reserved for engineers.

You wish to get informed advice as to your type of practice and the insurance you should have? **Call 514 845-6141, extension 2467.**

Whether one is in private or general practice, professional liability insurance is of the utmost importance and could lead to a member being stricken off the roll if he or she is not adequately insured. For the public's protection as well as your own, see to it!

1. For more information on the minimum requirements relating to individual PLI, see section 8 of the Regulation respecting professional liability insurance for members of the Ordre des ingénieurs du Québec (unofficial translation).

## Are you in private practice?

When completing your annual registration with the Ordre des ingénieurs du Québec, you will have to provide information relating to your professional liability insurance: insurer's name, policy number and its expiry date. Save time... be prepared and have this information on hand.