

HOW TO PROTECT THE PUBLIC?

Quebec's Professional Regulatory System

Presentation before
Osteopathic International Alliance
Montreal Annual Conference

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September 26, 2015



Conseil interprofessionnel du Québec

Outline

- What is a professional order?
- How do we protect the public?
- How to become a regulated profession or a professional order?
- The case of osteopathy

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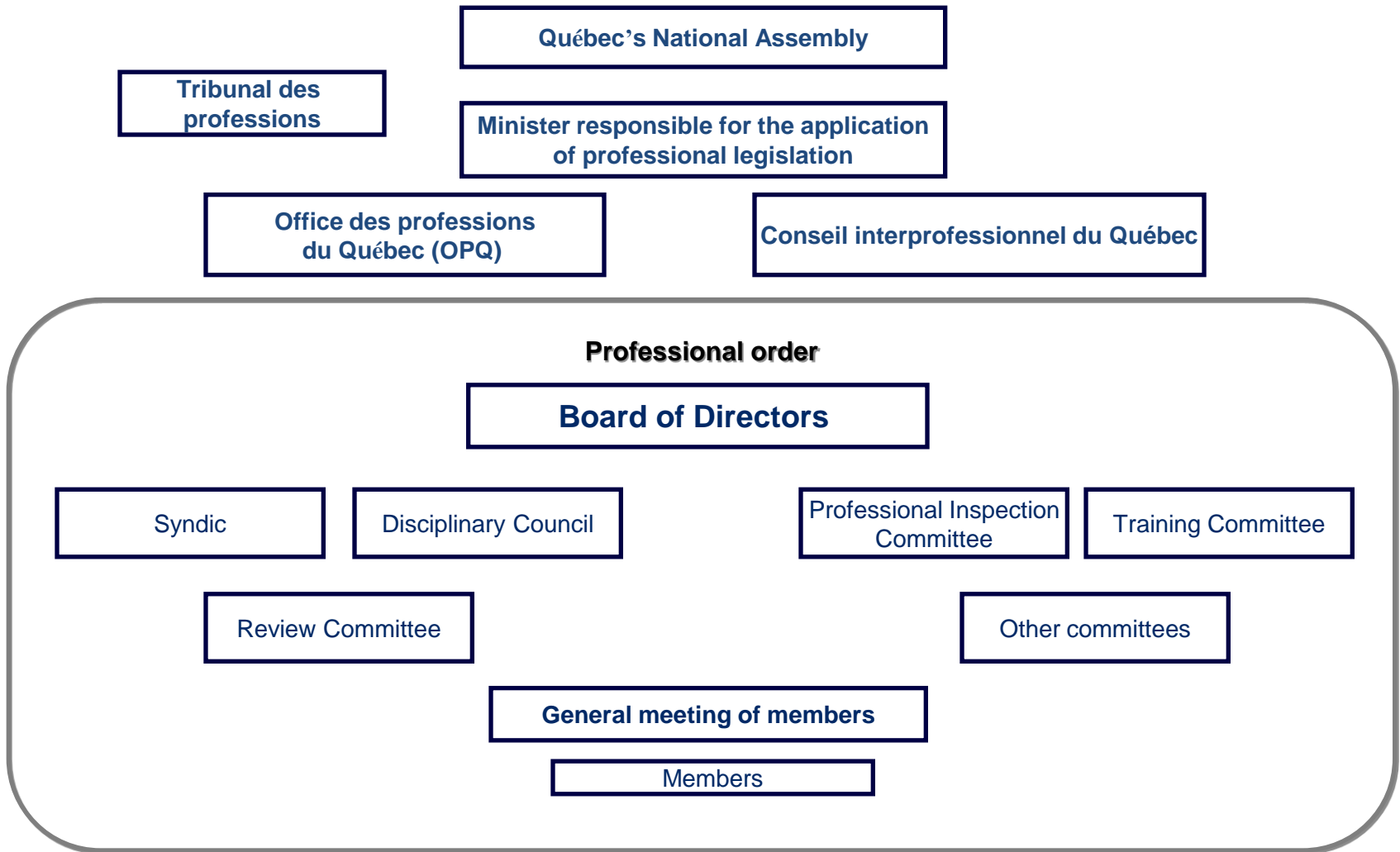
What is a professional order?

The professional system in Québec

What are we referring to?

- Professional Code
 - Framework law governing the professional system
- 54 regulated professions
- 46 professional orders
- 378,000 individuals practise a regulated profession in Québec - 1 out of 12 workers

Institutional framework



Why regulate a profession?

- Inadequacy of usual measures of protecting the public
 - given the risk of serious prejudice
- Preventive approach to protect the public
 - supervision of competence and integrity

Why regulate a profession?

Possible Government responses

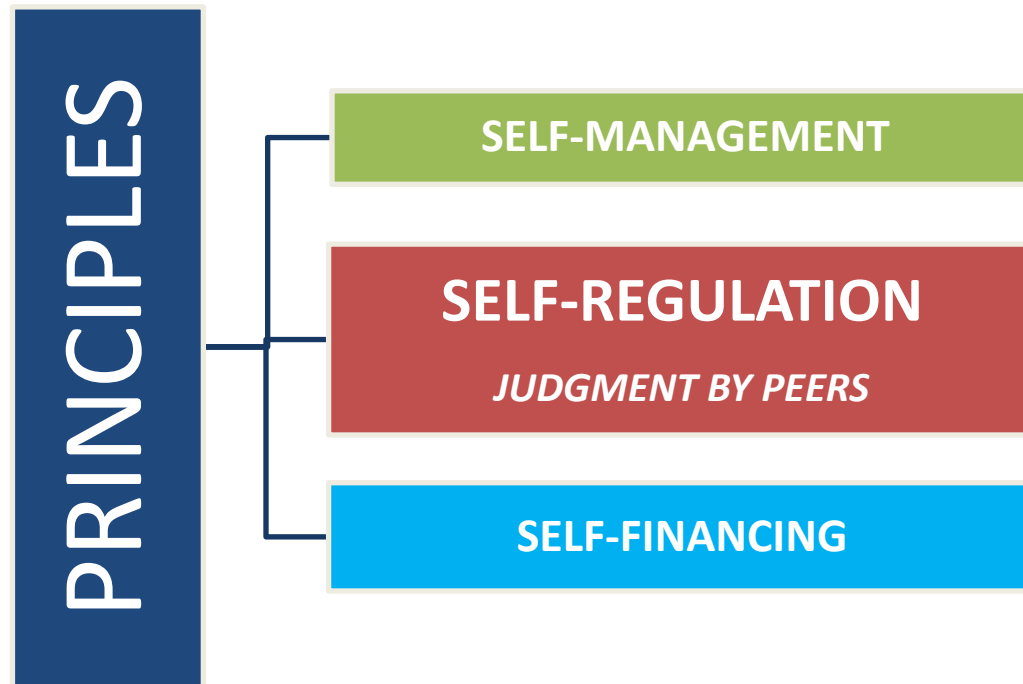
- Government
 - regulates its own operations

or

 - delegates the capacity to regulate their activities to practitioners

This is known as *Self-regulation*

Delegation of professional regulation to practitioners



Function of a professional order

Professional Code, art. 23

“ **The principal function** of each order shall be to ensure the **protection of the public.**”

For this purpose it must in particular “ **supervise the practice** of the profession **by its members.**”

Function (cont.)

Professional Code, art. 12

“ The function of the Office shall be to see that each order ensures the protection of the public. For that purpose, the Office may, in particular, in collaboration with each order, monitor the operation of the various mechanisms established within the order... .”

A professional order is not . . .

- an association !
 - Leaders, even elected officers
 - do not “ represent ” the members
 - Accountability :
 - up (the Government) rather than down (members)

Definitions of a professional order

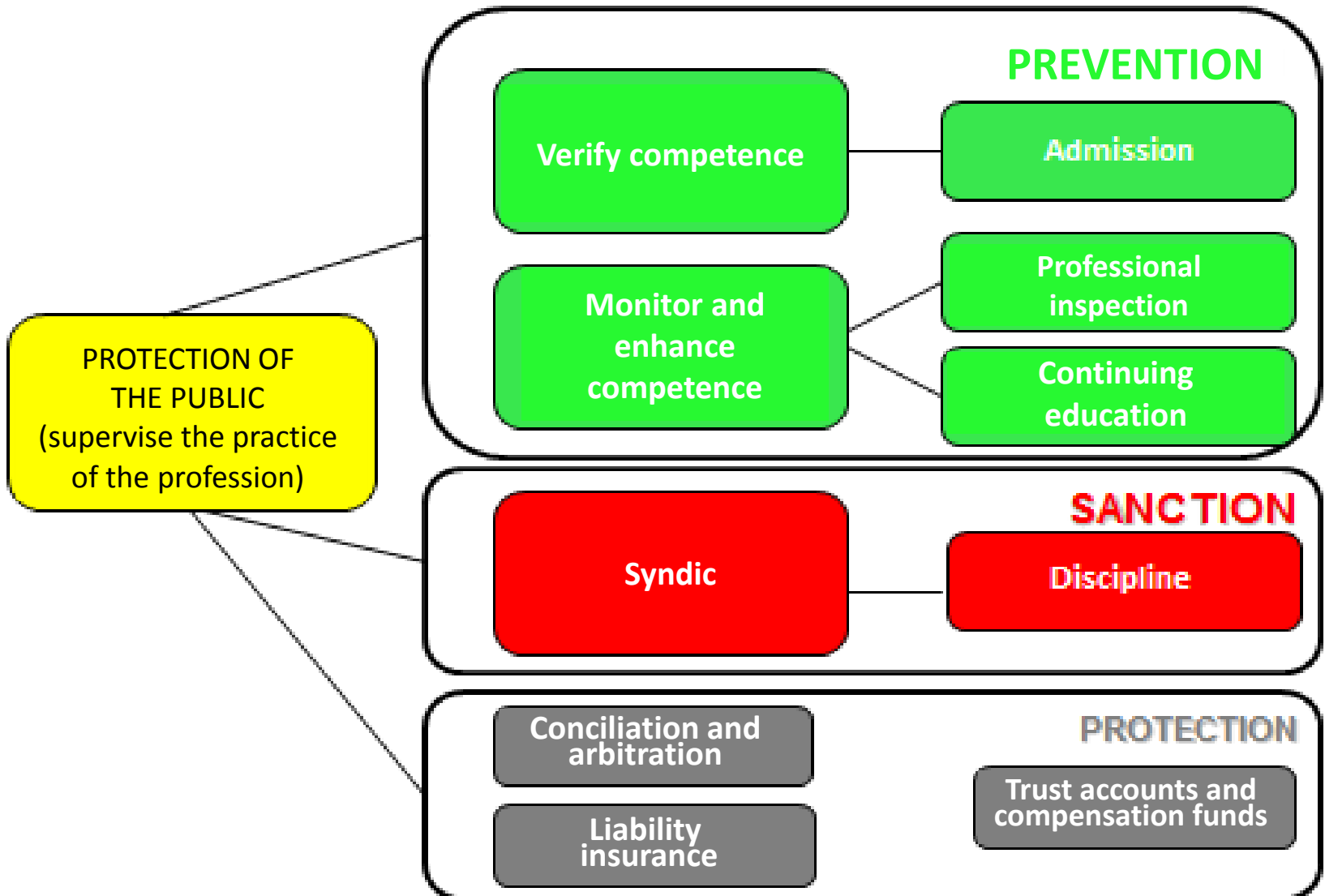
- “ Government-appointed body vested with the power to determine the access to and practice of a profession to ensure the competent and ethical execution of the at-risk activities inherent in it ”
- “ Composed of members of the profession, who ensure its operation by means of an elective procedure ”
- “ Subject to oversight by the Office des professions and the government, the profession formulates its own regulations and manages its own self-financing and self-discipline procedures ”

Ref.: Office des professions du Québec

How does an Order protect the public?

Supervising the practice of a profession through self-regulation

- An Order is responsible for
 - **adopting** and **applying standards** to supervise the practice of the profession
 - **verifying** the competence/integrity of candidates to the profession
 - **monitoring** and **enhancing** members' competency throughout their professional lives
 - **punishing** offences committed by members



Regulatory power

- Standards are determined by the Order
 - government-delegated power : supervision of the practice of a profession
- Adopted by the Board of Directors
- Approved by the government

Admission

- Objective
 - verify competence/integrity of candidates to the profession
- Conditions
 - recognized diploma or equivalent training
 - may be additional conditions (training period, examination, professional training)
 - knowing of French language
- Issuance of permit and entry on the Roll

Professional Inspection

- Objective : ensure that competence and integrity are maintained throughout the member's professional life
- Mechanisms
 - committee
 - plan general monitoring program
 - conduct verifications (visits or other means) of competence
- Decision
 - if applicable, require a member to complete a training period/refresher training or limit his or her right to practise

Continuing Education

- Objective : enhance competence and integrity
- Mechanisms
 - deontological obligation (code of ethics)
 - continuing Education program (compliance period - hrs/year)
 - mandatory Continuing Education (for many Orders)
- Decision
 - strike the member from the Roll

Discipline

- Objectives
 - punish violations of the *Professional Code* and regulations
 - prevent recidivism
- Mechanisms
 - code of Ethics
 - syndic
 - disciplinary Council
 - review Committee

Discipline (cont.)

- Sanction
 - reprimand
 - fine
 - striking the member from the Roll
 - revocation
 - limitation of right to practise

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Application to create a new profession or a professional order

Application

- By the Minister
- By a petitioner group
- The application must :
 - “ Show that serious, relatively frequent prejudice is being caused directly as a result of the intervention of the individuals in question;
 - provide conclusive proof, supported by reliable and confirmed data ”

Ref : *La mise en place d'un ordre professionnel*,
Office des professions du Québec

Osteopathy, round 1

- First application: 1992
 - request of one group
 - report from Office des professions
 - Office is favorable

Demonstrate the need to regulate the profession

- Factors to consider (art. 25 PC)
 - **the seriousness of the prejudice** that could be suffered if the activities were not supervised by an order
 - **the knowledge** required to engage in the activities
 - **difficulty the public** would have in assessing these activities

Demonstrate the need to regulate the profession

- Factors (cont.)
 - the degree of **independence** enjoyed by individuals who would practice these activities
 - the **personal** nature of the relationships between professionals and those who call on their services and the special trust which the latter must place in them
 - the **confidential** character of the information

Decision

- What is decided
 - on the Minister's recommendation
 - to regulate a profession?
 - to create an Order?
 - or incorporate the new profession into an existing Order
- Who decides?
 - The government

Osteopathy, round 2

- 1992 Office is favorable
- 2008 Office launched an expert committee
- 2013 Office launched a consulting committee
- 2014 Office in favor of a professional order
- 201? creation of the order

ORDRE DE



PROTÉGER

www.ordredeproteger.com

Conseil interprofessionnel du Québec

www.professions-quebec.org

Office des professions du Québec

www.opq.gouv.qc.ca

An Order is a hybrid organization

- Independent character
 - Elected directors
 - Adopt and apply standards
 - Financed by members
- Public character: accountability
 - Created by the government
 - Central role of the Board vs. meeting of members
 - The government approves standards
 - Oversight by the Office des professions (OPQ)
 - Responsibility of the Minister (Justice)

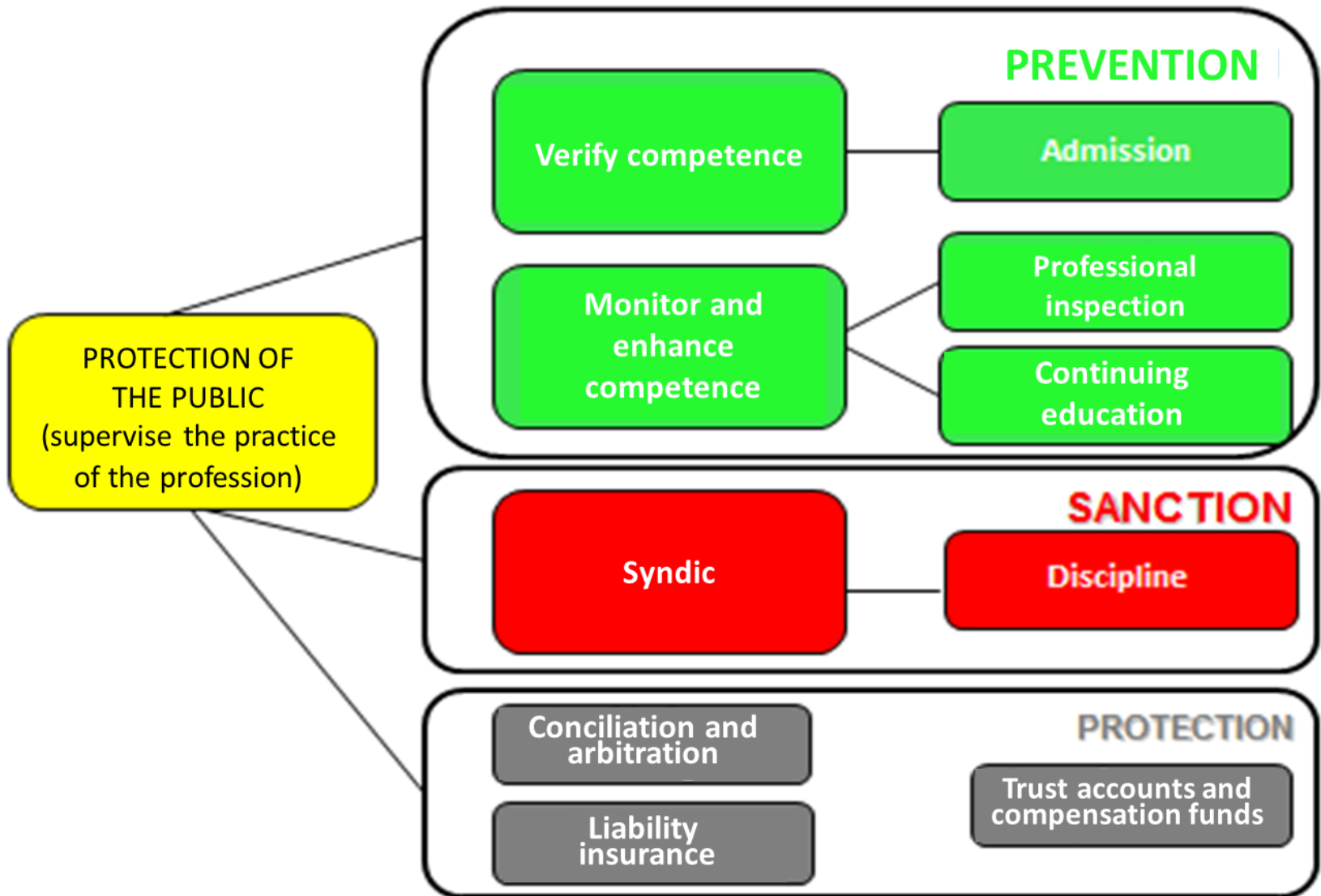
Who exercises this responsibility?

- Board of Directors

“shall have the general administration of the affairs of the order and shall see to the application of this Code . . .” (section 62 *Professional Code*)

- adopting and amending regulations
- the general meeting has little power

Responsibilities of the Board



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Who are the other stakeholders in the professional system?

Minister responsible for the application of professional legislation

- Minister of Justice
- Sponsors draft legislation
- Head of the Office des professions (OPQ)
- Intervention in problematic situations

Office des professions du Québec

- Five members appointed by the government
- Monitors the professional orders
- Prepares draft legislation and some draft regulations
- Leads consultations concerning the creation of a profession or an order and makes a recommendation to the Minister
- Comments on and approves certain draft regulations for the Orders

Québec Interprofessional Council

- Compulsory association of the Orders
- Collective voice on issues of common concern
- Consulting function
 - policy direction, draft legislation, regulations, constitution of an order, creation of a profession
 - appoints certain leaders of the OPQ
 - budget estimates and financing for the OPQ

Professions Tribunal

- 3 judges of the Court of Québec
- Appeals decisions related to discipline or admission