Implementation of the Act to amend the Act respecting health services and social services and other legislative provisions (2005, c.32) (Bill 83)

Guidelines for establishing users committees and residents committees in health and social service institutions

February 2006
Preamble

During the first sitting of the National Assembly’s Committee on Social Affairs dealing with detailed study of Bill 83, Minister Philippe Couillard set out a number of elements that serve as points of reference for understanding the legislation.

The provisions of Bill 83 as a whole may be broken down into four main topics—governance, the circulation of information, the quality of services and the certification of private residences. Accessibility, continuity and service quality are the cement firmly binding them.

The main objectives underlying the bill are as follows:

- harmonize the Act respecting health services and social services following the establishment of the integrated networks of services and the health and social service centres, as well as the integrated university health networks;
- improve the quality of services offered in the network by proposing a set of measures to facilitate recourse by users to the complaint examination procedure, encourage user participation in, and contribution to, users’ and in-patients’ committees and heighten oversight of the quality of services throughout the network;
- establish a new legal framework with a view to facilitating, in keeping with privacy protection rules, recourse to the new information technologies that make information useful to the network’s intervening parties and service producers accessible and available in a timely fashion.

A number of provisions of the bill concern users directly:

- As regards governance, the composition of boards of directors has been reviewed, in order to, among other things, [TRANSLATION] “ensure proper representation of the population, users and the various groups of people who intervene in the health and social services sector”. When the next boards of directors are appointed, in the fall of 2006, each will have two representatives from the institution’s users’ committee.

- As regards the complaint examination procedure:

  - The functions of the local and regional service quality and complaints commissioners are refocused on respect for the rights of users and user satisfaction, leaving aspects related to the improvement of the quality of services mainly to the watchdog committees to be set up by the boards of directors of the institutions and by those of the agencies.
• The commissioners will obligatorily answer to their respective boards of directors and must exercise their functions exclusively.
• Their power to intervene is clarified and strengthened in order to give them more authority in certain situations not involving a complaint.
• Their mandate has also been adjusted to take into consideration the new reality of mandatory certification of residences for the elderly, the services of which can henceforth be the subject of a complaint to the regional commissioner.
• Changes are made to the institutions’ review committees. They provide that a review committee will be established for each local authority and that it can review the decisions of a medical examiner of any institution on the territory of the local health and social services network served by the local authority. However, an exception allows a review committee to be set up by an institution other than a local authority.
• The mandate of the Centres d’assistance et d’accompagnement aux plaintes (CAAP) (complaint assistance and accompaniment centres) is broadened to enable them, upon request, to assist and accompany users whose complaints have been referred to an institution’s Council of Physicians, Dentists and Pharmacists.
• The Health Services Ombudsman can now receive complaints orally.
• The Health Services Ombudsman is now responsible to the Public Protector, who is appointed by the National Assembly.

✓ Organizational changes are made:

• A quality division is created at the MSSS.
• Regional cooperation panels bringing together the various players involved in promoting, defending and protecting user rights are established.
• Watchdog committees answerable to the board of directors are set up in all institutions and agencies.
• A users’ committee is created in each institution.
• An in-patients’ committee is set up in each in-patient facility of an institution.

It is both the addition and the combination of all these measures that will improve the level of satisfaction of users and respect for their rights.
Users of services

Users are the reason for the health and social services plan established by the *Act respecting health services and social services*.

Section 1 defines the purpose of the plan:

The health services and social services plan established by this Act aims to maintain and improve the physical, mental and social capacity of persons to act in their community and to carry out the roles they intend to assume in a manner which is acceptable to themselves and to the groups to which they belong.

Paragraphs 1 to 7 identify the objectives pursued.

Section 2 indicates that the organizational structure for services that is set up to achieve the Act’s objectives is intended, among other things, “to foster effective and efficient provision of health services and social services and respect for the rights of the users of such services”.

Section 3 gives the guidelines for applying the Act:

(1) the person requiring services is the reason for the very existence of those services;

(2) respect for the user and recognition of his rights and freedoms must inspire every act performed in his regard;

(3) the user must be treated, in every intervention, with courtesy, fairness and understanding, and with respect for his dignity, autonomy, needs and safety;

(4) the user must, as far as possible, play an active role in the care and services which concern him;

(5) the user must be encouraged, through the provision of adequate information, to use services in a judicious manner.

A “user” is a natural person who uses (or used) the health or social services dispensed by an institution.
• The executive director of an institution must encourage the proper operation of the users’ committee and the in-patients’ committees of his or her institution and promote their importance to users and staff.

• The opinion of the users’ committee must be taken into consideration, particularly in regard to the main orientations for the organization of services.

• Note that, when the users’ committee is set up, the board of directors must inform users that the users’ committee will designate two people to sit on the institution’s board of directors, and that one of the two people will be designated to sit on the institution’s watchdog committee.

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**Users’ committee.**
209. (s. 100)
Each institution must set up a committee for the users of its services and, in the case of a public institution or of a private institution which is a party to an agreement under section 475, allocate to it the special budget provided for that purpose in its operating budget or, in the case of a private institution which is not a party to an agreement, the amount paid for that purpose by the Minister.

**NOTE**
An institution can have only one users’ committee.

It is the responsibility of the board of directors of an institution to ensure that all the necessary arrangements are made for the creation of a committee for the users of the institution’s services, according to transparent and democratic rules that encourage the participation of users or their representatives.

It is also the responsibility of the board of directors to allocate to the users’ committee of its institution the special budget provided for that purpose in the institution’s operating budget.

The amounts granted to users’ committees in the former institutions must be preserved until the general budget guidelines are clarified by the MSSS (before the start of the 2006-2007 fiscal year).

If the institution operates a centre offering in-patient services, it must set up an in-patients’ committee in each of the centre’s facilities.

An institution’s board of directors is responsible for ensuring that all necessary steps are taken to set up an in-patients’ committee in each facility where services are offered to in-patients, according to transparent and democratic rules that encourage the participation of residents or their representatives.

The “centre’s facilities” are those indicated on the institution’s permit.
**SECTION OF THE BILL**

**Composition.**
The users’ committee is composed of at least five members elected by the users of the institution and of a representative designated by and from among the in-patients’ committees set up under the second paragraph.

A “user” is a natural person who uses (or used) the health or social services dispensed by an institution.

The institution is obliged to take [TRANSLATION] “reasonable means” to let all users of its services know that the institution must set up a users’ committee and that they can be members of the committee, and to inform them of the procedure to follow to become a member. To that end, the publication of a notice in the local newspaper of the territory served by the institution can be an effective means of reaching users. The notice must indicate the following, in particular:

- the institution, each of its facilities and the territory served;
- the role and functions of the users’ committee;
- that any person receiving or having received health or social services dispensed by the institution in any of its facilities, or his or her representative, can be a member of the users’ committee;
- the procedure whereby a person indicates to the institution’s general management that he or she is interested in being a member of the users’ committee;
- that at least five members must be elected.

If five or fewer people have shown interest in being members of the users’ committee, they become members of the committee by acclamation. If more than five have shown interest, users are invited to elect at least five members.

The general management of the institution must ensure that all those elected and the representatives of each of the in-patients’ committees are called to an initial meeting.

It must also ensure that appropriate means are provided to support and facilitate start-up of the users’ committee.

**NOTE**
The users’ committees that existed in the institution cannot be preserved; there can be only one users’ committee in an institution. However, the men and women who sat on those users’ committees can continue to be involved by being elected to the new users’ committee or one of the in-patients’ committees of the institution.
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<td>The majority of the members must be users. However, if it is not possible to have a majority of users on the committee, the users may elect another person of their choice, provided that the person does not work for the institution or practise a profession in a centre operated by the institution.</td>
<td>➢ Volunteers are included in the expression “another person”.</td>
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<td>An in-patients’ committee is composed of at least three members elected by the in-patients of the facility in conformity with the conditions set out in the fourth paragraph.</td>
<td>➢ The procedure for constituting an in-patients’ committee in each facility offering services to in-patients may vary in order to take into consideration the special features of each facility. But at all times, transparent and democratic rules encouraging the participation of in-patients or their representatives are mandatory.</td>
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<td>➢ Each in-patients’ committee designates a representative who will automatically be part of the users’ committee.</td>
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<td><strong>Term of office.</strong> 209.1. (s. 101) The term of office of the members of the users’ committee and the members of an in-patients’ committee may not exceed three years.</td>
<td>➢ The term of office may not exceed three years. In addition, a person may seek a new term of office and obtain it if re-elected.</td>
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<td><strong>Exclusion.</strong> 210. (s. 102) No person under curatorship may be a member of a users’ committee or an in-patients’ committee.</td>
<td>➢ A representative of a user under curatorship may be a member of the committee.</td>
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<td>➢ That provision does not prohibit a minor from being a member of a users’ committee or an in-patients’ committee. However, as a general rule, a minor under 14 years of age must be represented.</td>
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| **Duties of the executive director.**  
211. (s. 103)  
The executive director of the institution must foster the proper functioning of the users’ committee and of any in-patients’ committee and inform, in writing, every user of the existence of the committees. | ➢ One way for the executive director to fulfil his or her obligation to “inform, in writing, every user of the existence of the committees” is to:  
• place in a visible location at all the strategic points of the institution’s facilities (foyer, waiting room, etc.) a poster giving useful information about the existence of the committees in the institution, their roles and functions, as well as how to obtain more information and get in touch with the representatives of the committees;  
• reproduce that information in the material given to users. |
| **Facilities and records.**  
*He must make a room available for the committees’ activities and make it possible for their records to be kept confidential.* | ➢ A users’ committee or in-patients’ committee must have an appropriate room for its activities, as well as filing cabinets and other equipment for keeping its records confidential.  
➢ Even though the legislation does not require the committee to have a room equipped and set aside solely for its own use, the executive director should try to meet the committee’s needs in that regard. |
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<td>The functions of the users’ committee are</td>
<td>The institution’s local service quality and complaints commissioner should establish a relationship of trust and collaboration with the users’ committee (and the in-patients’ committees as regards functions 1 to 3), particularly in connection with his or her own functions as they relate to the following:</td>
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<td>(1) to inform users of their rights and obligations;</td>
<td>• the distribution of information on the rights and obligations of users … the promotion of the complaint examination procedure … (subparagraph 2 of the second paragraph of section 33);</td>
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<td>(2) to foster the improvement of the quality of the living conditions of users and assess the degree of satisfaction of users with regard to the services obtained from the institution;</td>
<td>• the provision of assistance for a user who requires it in formulating his or her complaint … (subparagraph 3 of the second paragraph of section 33);</td>
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<td>(3) to defend the common rights and interests of users or, at the request of a user, his rights and interests as a user before the institution or any competent authority;</td>
<td>• action on the commissioner’s own initiative when apprised of facts and when there are reasonable grounds to believe that the rights of a user or group of users are not being enforced (subparagraph 7 of paragraph 2 of section 33);</td>
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<td>(4) to accompany and assist a user, on request, in any action he undertakes, including the filing of a complaint in accordance with Divisions I, II and III of Chapter III of Title II of this Act or the Act respecting the Health and Social Services Ombudsman (chapter P-31.1).</td>
<td>• advice on any matter within the commissioner’s purview that is submitted by … the users’ committee (subparagraph 8 of the second paragraph of section 33).</td>
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<td>(5) to ensure the proper operation of each of the in-patients’ committees, if applicable, and see that they have the resources necessary to exercise their functions.</td>
<td>➢ “[A]ssess the degree of satisfaction of users with regard to the services obtained from the institution” does not mean that the users’ committee is responsible for conducting the surveys of client satisfaction provided for in certain certification procedures.</td>
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<td>➢ The users’ committee uses the budget attributed to it by the institution in order to acquire the resources required for the exercise of its functions (Financing the services of a resourceful person is one of the possibilities open to the users’ committee).</td>
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| (5) (cont.)       | ➢ The budget of the users’ committee must not be used to finance items that are the responsibility of the institution.  
➢ The users’ committee is responsible for ensuring, through its own budget, that each in-patients’ committee has the resources required to exercise its functions. |

**Rules and report.**

*In addition, the users’ committee must adopt operating rules, submit an annual report of its activities to the board of directors and, on request, transmit a copy of that report to the agency.*

➢ The users’ committee establishes its operating rules, as well as those of the in-patients’ committees.  
➢ The activity report of the users’ committee must, among other things:
  - be linked to the functions of the users’ committee;  
  - incorporate the reports of the users’ committee;  
  - report on the use made of the budget attributed by the institution.  
➢ The watchdog committee must receive and analyse the report submitted to the board of directors by the users’ committee and make recommendations to the board on the action to be taken.

**Functions. 212.1. (s. 105)**

*An in-patients’ committee must exercise the functions set out in subparagraphs 1 to 3 of the first paragraph of section 212 for the users residing in the facility, and report to the users’ committee.*

➢ The report of each in-patients’ committee is incorporated into the report of the users’ committee.
**SECTION OF THE BILL** | **GUIDELINES**
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**Transitional and final provisions. (s. 314)**<br>An institution must take the necessary measures to ensure its compliance with section 209 of the Act respecting health services and social services, amended by section 100 of this Act, and with section 209.1 of that Act, enacted by section 101 of this Act, not later than 28 February 2006 or at any later date determined by the Government. | Users’ committees and in-patients’ committees must be established by February 28, 2006.

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**MEASURES CONCERNING INFORMATION AND TRAINING**

Systematically and continuously informing users and staff about the role and functions of users’ committees and in-patients’ committees is one of the crucial ingredients in enabling the committees to play their roles effectively in the institutions.

To that end, it is indicated in the 2005-2010 action plan, entitled *Un défi de solidarité, les services aux aînés en perte d’autonomie* (a solidarity challenge, services for the elderly who are losing their autonomy), that the MSSS must [TRANSLATION] “prepare and disseminate terms of reference for the functions of users’ committees and plan an information and awareness campaign for the women and men sitting on the committees”, the whole for the spring of 2006 (page 40, measure 3.1.5).

Adjustments will be made to what was planned, in order to allow use of the terms of reference by all the institutions and take into consideration the new reality of in-patients’ committees.

Once the first information and awareness campaign is over, it will be up to each agency to agree, with the institutions on its territory, on the conditions for ensuring continuity.