



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 113
(2002, chapter 71)

**An Act to amend the Act respecting
health services and social services as
regards the safe provision of health
services and social services**

**Introduced 14 June 2002
Passage in principle 17 October 2002
Passage 19 December 2002
Assented to 19 December 2002**

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EXPLANATORY NOTES

This bill makes amendments to the Act respecting health services and social services as regards the safe provision of health services and social services.

It provides that a user has the right to be informed of any accident having occurred during the provision of services that has potential consequences for the user's state of health or welfare. Furthermore, any person working in an institution will be under obligation to report any incident or accident as soon as possible after becoming aware of it.

Every institution will be required to form a risk management committee, responsible for seeking, developing and promoting means to ensure the safety of users and to reduce the incidence of adverse effects and accidents related to the provision of health services and social services.

In addition, the board of directors of every institution will be required to make rules concerning disclosure of all necessary information to the user when an accident occurs, and to establish support measures to be made available to the user as well as measures to prevent the recurrence of such an accident.

Finally, the bill makes regional boards responsible, in their region, for ensuring users the safe provision of health services and social services.

Bill 113

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AS REGARDS THE SAFE PROVISION OF HEALTH SERVICES AND SOCIAL SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 2 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by inserting the following paragraph after paragraph 8 :

“(8.1) to ensure users the safe provision of health services and social services ;”.

2. Section 3 of the said Act is amended by replacing “and needs” in the second line of paragraph 3 by “, needs and safety”.

3. Section 5 of the said Act is amended by inserting “and safe” after “personalized” in the first line.

4. Section 8 of the said Act is amended by adding the following paragraphs at the end :

“The user is also entitled to be informed, as soon as possible, of any accident having occurred during the provision of services that has actual or potential consequences for the user’s state of health or welfare and of the measures taken to correct the consequences suffered, if any, or to prevent such an accident from recurring.

For the purposes of this section and sections 183.2, 233.1, 235.1 and 431 and unless the context indicates otherwise,

“accident” means an action or situation where a risk event occurs which has or could have consequences for the state of health or welfare of the user, a personnel member, a professional involved or a third person.”

5. Section 100 of the said Act is amended by inserting “safe,” after “provision of” in the first line.

6. The said Act is amended by inserting the following section after section 107 :

“107.1. Every institution must have the health services and social services it provides accredited by a recognized accreditation body.

On receiving a response concerning the accreditation, the institution shall send to the Minister, the regional board and the various professional orders concerned that have members practising in a centre operated by the institution, a condensed report containing the recommendations relating to accreditation and specifying the validity period of the accreditation.”

7. Section 172 of the said Act is amended by inserting “, safety” after “quality” in paragraph 1.

8. Section 182 of the said Act, amended by section 46 of chapter 43 of the statutes of 2001, is again amended by inserting “183.1,” after “173.”

9. The said Act is amended by inserting the following sections after section 183:

“183.1. The organization plan of an institution must also provide for the creation of a risk and quality management committee.

The number of members of that committee and the rules governing its functioning shall be determined by by-law of the board of directors of the institution.

The composition of the committee shall ensure a balanced representation of the employees of the institution, of users, of the persons practising in a centre operated by the institution and, if applicable, of the persons who, under a service contract, provide services to users on behalf of the institution. The executive director or the person the executive director designates shall be *ex officio* a member of the committee.

“183.2. The functions of the committee include seeking, developing and promoting ways to

(1) identify and analyze incident or accident risks to ensure the safety of users;

(2) make sure that support is provided to the victim and the close relatives of the victim; and

(3) establish a monitoring system including the creation of a local register of incidents and accidents for the purpose of analyzing the causes of incidents and accidents, and recommend to the board of directors of the institution measures to prevent such incidents and accidents from recurring and any appropriate control measures.

For the purposes of this section and sections 233.1, 235.1 and 431 and unless the context indicates otherwise,

“incident” means an action or situation that does not have consequences for the state of health or welfare of a user, a personnel member, a professional involved or a third person, but the outcome of which is unusual and could have had consequences under different circumstances.

“183.3. The answers given by a person in the course of risk management activities, including any information or document supplied in good faith by the person in response to a request of a risk and quality manager or a risk and quality management committee may not be used or be admitted as evidence against the person or against any other person in a judicial proceeding or a proceeding before a person or body exercising adjudicative functions.

Notwithstanding any inconsistent provision, a risk and quality manager or a member of a risk and quality management committee may not be compelled to make a deposition in a judicial proceeding or a proceeding before a person or body exercising adjudicative functions concerning any confidential information obtained in the exercise of his or her functions, or to produce a document containing such information, except to confirm its confidential nature.

Nothing contained in a risk and quality management record, including the conclusions with reasons and any related recommendations, may be construed as a declaration, recognition or extrajudicial admission of professional, administrative or other misconduct capable of establishing the civil liability of a party in a judicial proceeding.

“183.4. Notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), the records and minutes of a risk and quality management committee are confidential.

No person may have access to the minutes of a risk and quality management committee except the members of the committee, the representatives of accreditation bodies in the exercise of functions pertaining to the accreditation of the health services and social services provided by institutions or the representatives of a professional order in the exercise of the functions assigned to them by law.”

10. The said Act is amended by inserting the following section after section 233 :

“233.1. Any employee of an institution, any person practising in a centre operated by an institution, any person undergoing training in such a centre or any person who, under a service contract, provides services to users on behalf of an institution must, as soon as possible after becoming aware of any incident or accident, report it to the executive director of the institution or to a person designated by the executive director. Such incidents or accidents shall be reported in the form provided for such purposes, which shall be filed in the user’s record.

The executive director of the institution or the person designated by the executive director shall report, in non-nominative form, all reported incidents or accidents to the regional board at agreed intervals or whenever the board so requires.”

11. The said Act is amended by inserting the following section after section 235 :

“235.1. The board of directors of an institution shall, by by-law, establish rules to be followed, on the occurrence of an accident, so that all the necessary information is disclosed to the user, to the representative of an incapable user of full age or, in the event of the user’s death, to the persons referred to in the first paragraph of section 23.

The board of directors shall also establish, in the same manner, support measures, including the appropriate care, to be made available to such a user, such a representative or such persons and measures to prevent such an accident from recurring.”

12. Section 278 of the said Act is amended by inserting “, including activities related to risk and quality management,” after “activities”.

13. Section 340 of the said Act, amended by section 48 of chapter 24 of the statutes of 2001, is again amended by inserting the following subparagraph after subparagraph 1 of the second paragraph :

“(1.1) ensuring the safe provision of health services and social services to users;”.

14. Section 391 of the said Act is amended

(1) by inserting “, including activities related to risk and quality management,” after “activities” in the fourth line of the second paragraph ;

(2) by inserting “, including activities related to risk and quality management,” after “activities” in the first line of the fourth paragraph.

15. Section 431 of the said Act, amended by section 82 of chapter 24 of the statutes of 2001 and by section 164 of chapter 60 of the statutes of 2001, is again amended by inserting the following paragraphs after paragraph 6 :

“(6.1) take measures to ensure users the safe provision of health services and social services ;

“(6.2) from the content of the local registers referred to in section 183.2, establish and maintain a national register of incidents and accidents having occurred during the provision of health services and social services for the purpose of monitoring and analyzing the causes of incidents and accidents, ensuring that measures are taken to prevent such incidents and accidents from

recurring and ensuring that control measures are implemented, where appropriate;”.

16. Section 532 of the said Act is amended by adding the following paragraph:

“The provisions of the first paragraph do not apply to a person who fails to report an incident or accident as provided for in section 233.1.”

17. An institution has three years from 19 December 2002 to apply for the first accreditation of the health services and social services it provides, pursuant to section 107.1 of the Act respecting health services and social services.

18. The provisions of this Act come into force on 19 December 2002, except subparagraph 6.2 of section 431 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), introduced by section 15, which comes into force on the date to be fixed by the Government.