

chapter L-6.3

ACT TO COMBAT MALTREATMENT OF SENIORS AND OTHER PERSONS OF FULL AGE IN VULNERABLE SITUATIONS

AS Québec society places value on the well-being of persons and respect for their fundamental rights;

AS, despite existing legislative and administrative measures to combat maltreatment, persons are still falling victim to it, particularly persons in vulnerable situations;

AS Québec has one of the world’s populations most impacted by aging and certain seniors are in vulnerable situations;

AS maltreatment is unacceptable and the State deems it essential to intervene in order to reinforce existing measures to combat maltreatment of persons in vulnerable situations, in a manner that protects their interests and autonomy;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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CHAPTER I

OBJECTS AND DEFINITIONS

2017, c. 10, c. I.

1. This Act provides measures to combat maltreatment of seniors and other persons of full age in vulnerable situations, such as requiring every institution to adopt and implement a policy to combat maltreatment of such persons, facilitating the reporting of cases of maltreatment and establishing an intervention process with respect to maltreatment of seniors and other persons of full age in vulnerable situations.

2017, c. 10, s. 1.

2. For the purposes of this Act,

(1) “local service quality and complaints commissioner” : means a local service quality and complaints commissioner appointed under section 30 of the Act respecting health services and social services (chapter S-4.2) or the person designated by the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (chapter S-5);

(2) “institution” : means an institution within the meaning of the Act respecting health services and social services or the Cree Board of Health and Social Services of James Bay;

(3) “maltreatment” : means a single or repeated act, or a lack of appropriate action, that occurs in a relationship where there is an expectation of trust, and that intentionally or unintentionally causes harm or distress to a person;

(4) “person in a vulnerable situation” : means a person of full age whose ability to request or obtain assistance is temporarily or permanently limited because of factors such as a restraint, limitation, illness, disease, injury, impairment or handicap, which may be physical, cognitive or psychological in nature;

(5) “person working for the institution” : means a physician, dentist, midwife, personnel member, medical resident, trainee, volunteer or other natural person who provides services directly to a person on behalf of the institution; and

(6) “private seniors’ residence” : means a private seniors’ residence within the meaning of section 346.0.1 of the Act respecting health services and social services.

2017, c. 10, s. 2.

CHAPTER II

ANTI-MALTREATMENT POLICY

2017, c. 10, c. II.

DIVISION I

POLICY ADOPTION AND IMPLEMENTATION

2017, c. 10, Div. I.

3. Every institution must adopt a policy to combat maltreatment of persons in vulnerable situations who receive health services and social services, whether services provided in a facility maintained by the institution or in-home services.

The purpose of the policy is, in particular, to establish measures to prevent and combat maltreatment of such persons, whether at the hands of a person working for the institution or of any other person, and to support them in any steps taken to end it.

The president and executive director or the executive director of the institution, as applicable, or the person designated by the president and executive director or the executive director, sees to the implementation of the policy.

The policy must include

- (1) the person responsible for implementing the policy and their contact information;
- (2) the measures put in place to prevent maltreatment of persons in vulnerable situations who receive health services and social services, such as awareness, information and training activities;
- (3) the procedure allowing such persons who believe they are victims of maltreatment to file a complaint with the local service quality and complaints commissioner;
- (4) the procedure allowing any other person, including a person who does not work for the institution, to report to the local service quality and complaints commissioner any alleged case of maltreatment of a person in a vulnerable situation who receives health services and social services;
- (5) the support measures available to help a person file a complaint or report of maltreatment;
- (6) the measures put in place by the local service quality and complaints commissioner to preserve the confidentiality of any information that would allow the person reporting a case of maltreatment to be identified;
- (7) the sanctions, in particular disciplinary sanctions, that could be applied in cases of maltreatment; and
- (8) the required follow-up in response to any complaint or report of maltreatment and the time limit for carrying it out.

The time limits for processing complaints or reports concerning cases of maltreatment must vary according to the seriousness of each case.

If the institution is a private institution, a complaint or a report concerning a case of maltreatment must be filed with the competent local service quality and complaints commissioner of the integrated health and social services centre, in accordance with section 50.1 of the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2). In such a case, the measures referred to in subparagraph 6 and the follow-up requirements referred to in subparagraph 8 of the fourth paragraph of this section are those stated in the integrated centre's policy.

2017, c. 10, s. 3; 2020, c. 24, s. 6.

4. The policy must specify the adaptations required, if any, when it is implemented by

- (1) an intermediate or family-type resource governed by the Act respecting health services and social services (chapter S-4.2) or any other body, partnership or person the institution calls on for the provision of its services, in particular by an agreement under section 108 or 108.1 of the Act respecting health services and social services or section 124 of the Act respecting health services and social services for Cree Native persons (chapter S-5); or
- (2) a private seniors' residence.

2017, c. 10, s. 4.

DIVISION II

DISSEMINATION OF THE POLICY

2017, c. 10, Div. II.

5. The institution must publicly display its policy in the facilities it maintains and publish it on its website. It must also, by any other means it determines, make its policy known to users covered by the policy, including those who receive in-home services, and their close family members.

2017, c. 10, s. 5.

6. The person responsible for implementing the policy must inform the persons working for the institution of the policy's content and, more specifically, of the prevention measures put in place and the possibility of reporting cases of maltreatment to the local service quality and complaints commissioner.

An integrated health and social services centre established by the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2) and a local authority within the meaning of the Act respecting health services and social services (chapter S-4.2) must also each make its policy known to the health and social services providers working in the territory served by the centre or authority, namely, the groups of professionals, the community organizations within the meaning of section 334 of the Act respecting health services and social services, and the social economy enterprises and private resources, and to the key players in the other sectors of activity that have an impact on health services and social services.

2017, c. 10, s. 6.

DIVISION III

POLICY REVIEW

2017, c. 10, Div. III.

7. The institution must review its policy at least every five years.

2017, c. 10, s. 7.

DIVISION IV

IMPLEMENTATION OF POLICY BY OTHER SERVICE PROVIDERS

2017, c. 10, Div. IV.

8. Any intermediate resource or family-type resource that receives users of full age must implement the anti-maltreatment policy of the institution that uses the resource's services. The same applies to any other body, partnership or person the institution calls on for the provision of services.

Any such resource, body, partnership or person must make its policy known to the users covered by the policy, their close family members and the persons working for the resource, body, partnership or person.

2017, c. 10, s. 8.

9. Any operator of a private seniors' residence must implement the anti-maltreatment policy of the integrated health and social services centre or the local authority, as applicable, in the territory where the residence is situated.

The operator must make the policy known to the residents, their close family members and the persons working for the residence.

2017, c. 10, s. 9.

DIVISION V

CONFIDENTIALITY, PROTECTION AGAINST REPRISAL AND IMMUNITY FROM PROCEEDINGS

2017, c. 10, Div. V.

10. The local service quality and complaints commissioner must take all necessary measures to preserve the confidentiality of any information that would allow a person who has reported maltreatment to be identified, unless the person consents to being identified. The commissioner may however communicate the identity of that person to the police force concerned.

2017, c. 10, s. 10.

11. Reprisals are prohibited against a person who, in good faith and within the scope of the policy provided for in this chapter, reports maltreatment or cooperates in the examination of a report or complaint of maltreatment, as are threats of reprisal against a person to dissuade them from reporting maltreatment or cooperating in the examination of a report or complaint made within the scope of the policy provided for in this chapter.

The demotion, suspension, termination of employment or transfer of a person working for the institution or any disciplinary or other measure that adversely affects the employment or working conditions of such a person is presumed to be a reprisal. Transferring a user or resident, breaking their lease, or prohibiting or restricting visits to users or residents is also presumed to be a reprisal.

2017, c. 10, s. 11.

12. No proceedings may be brought against a person who, in good faith, has reported maltreatment or cooperated in the examination of a report, whatever the conclusions issued following its examination.

2017, c. 10, s. 12.

DIVISION VI

ADOPTION OF A POLICY BY OTHER BODIES OR RESOURCES

2017, c. 10, Div. VI.

13. The Government may, by regulation, require any body, resource or category of bodies or resources it designates to adopt a policy to combat maltreatment of persons in vulnerable situations and, in such a case, specify the necessary adaptations.

2017, c. 10, s. 13.

DIVISION VII

REPORTING

2017, c. 10, Div. VII.

14. The local service quality and complaints commissioner must, in the summary of the commissioner's activities, include a section dealing specifically with complaints and reports the commissioner has received

concerning cases of maltreatment of persons in vulnerable situations, without compromising the confidentiality of maltreatment records, including the identity of the persons concerned by a complaint or report of maltreatment.

In the case of a local commissioner of an integrated health and social services centre, the information included in the summary of the commissioner's activities must be presented in such a manner that the information concerning the integrated centre may be distinguished from that concerning the private institution facilities located in the integrated centre's territory.

2017, c. 10, s. 14; 2020, c. 24, s. 7.

15. The Minister of Health and Social Services reports annually on the application of this chapter in a report the Minister tables in the National Assembly within four months of the end of the fiscal year or, if the Assembly is not sitting, within 15 days of resumption. The report is also published on the website of the Minister's department.

2017, c. 10, s. 15.

CHAPTER III

QUÉBEC-WIDE FRAMEWORK AGREEMENT TO COMBAT MALTREATMENT

2017, c. 10, c. III.

16. The Minister responsible for Seniors, in concert with the actors from the sectors concerned, is responsible for combatting maltreatment of seniors, in particular by ensuring the complementarity and effectiveness of actions undertaken to prevent, identify and combat such maltreatment.

2017, c. 10, s. 16.

17. The Minister enters into a Québec-wide framework agreement concerning maltreatment of seniors with the Minister of Public Security, the Minister of Justice, the Minister of Health and Social Services, the Director of Criminal and Penal Prosecutions, the Autorité des marchés financiers, the Commission des droits de la personne et des droits de la jeunesse, the Public Curator and any other department or body considered useful.

The framework agreement must, among other things, stipulate the parties' obligation to make sure an intervention process is established in each region that takes into account the different regional realities.

The framework agreement must also provide that it may be applied, with the necessary adaptations, to any person of full age in a vulnerable situation.

2017, c. 10, s. 17.

18. Any person who has reasonable cause to believe that a person concerned by an intervention process is a victim of maltreatment may report the case to any of the persons authorized to receive such reports under the intervention process.

2017, c. 10, s. 18.

19. Sections 10 to 12 apply, with the necessary modifications, to persons who, under this chapter, report maltreatment, receive a report of maltreatment or cooperate in the examination of such a report.

2017, c. 10, s. 19.

20. The Minister responsible for Seniors reports annually on the application of this chapter in a report the Minister tables in the National Assembly within four months of the end of the fiscal year or, if the Assembly

is not sitting, within 15 days of resumption. The report is also published on the website of the Minister's department.

2017, c. 10, s. 20.

CHAPTER IV

OBLIGATION TO REPORT CERTAIN CASES OF MALTREATMENT

2017, c. 10, c. IV.

21. Any health services and social services provider or any professional within the meaning of the Professional Code (chapter C-26) who has reasonable grounds to believe that a person of full age is a victim of a single or repeated act, or a lack of appropriate action, that seriously undermines the physical or psychological integrity of the person must report it immediately if

(1) the person is lodged in a facility maintained by an institution operating a residential and long-term care centre within the meaning of the Act respecting health services and social services (chapter S-4.2); or

(2) the person is under tutorship or curatorship, or is a person for whom a protection mandate has been homologated.

The report is filed with the competent local service quality and complaints commissioner if the person receives services from an institution or, in any other case, with a police force, to be handled in accordance with Chapter II or Chapter III, as applicable.

This section even applies to persons bound by professional secrecy, except lawyers and notaries who receive information about such a case in the exercise of their profession.

2017, c. 10, s. 21; 2020, c. 24, s. 8.

22. The Government may, by regulation, determine that the obligation to report maltreatment provided for in section 21 applies in the case of other persons receiving health services and social services.

2017, c. 10, s. 22.

CHAPTER V

AMENDING PROVISIONS

2017, c. 10, c. V.

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

23. *(Amendment integrated into c. A-2.1, s. 59.1).*

2017, c. 10, s. 23.

TAX ADMINISTRATION ACT

24. *(Amendment integrated into c. A-6.002, s. 69.0.0.11).*

2017, c. 10, s. 24.

ACT RESPECTING THE BARREAU DU QUÉBEC

25. *(Amendment integrated into c. B-1, s. 131).*

2017, c. 10, s. 25.

PROFESSIONAL CODE

26. *(Amendment integrated into c. C-26, s. 60.4).*

2017, c. 10, s. 26.

ACT RESPECTING LABOUR STANDARDS

27. *(Amendment integrated into c. N-1.1, s. 3.1).*

2017, c. 10, s. 27.

28. *(Amendment integrated into c. N-1.1, s. 122).*

2017, c. 10, s. 28.

NOTARIES ACT

29. *(Amendment integrated into c. N-3, s. 14.1).*

2017, c. 10, s. 29.

ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION

30. *(Amendment integrated into c. P-9.0001, s. 102).*

2017, c. 10, s. 30.

YOUTH PROTECTION ACT

31. *(Amendment integrated into c. P-34.1, s. 72.8).*

2017, c. 10, s. 31.

ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

32. *(Amendment integrated into c. P-39.1, s. 18.1).*

2017, c. 10, s. 32.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

33. *(Amendment integrated into c. S-4.2, s. 19.0.1).*

2017, c. 10, s. 33.

34. *(Amendment integrated into c. S-4.2, s. 33).*

2017, c. 10, s. 34.

35. *(Amendment integrated into c. S-4.2, s. 505).*

2017, c. 10, s. 35.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

36. *(Amendment integrated into c. S-5, s. 7).*

2017, c. 10, s. 36.

37. *(Amendment integrated into c. S-5, s. 18).*

2017, c. 10, s. 37.

CHAPTER VI

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

2017, c. 10, c. VI.

38. Every institution must adopt its anti-maltreatment policy, described in section 3, not later than 30 November 2018.

2017, c. 10, s. 38.

39. Despite section 7, the first review of the policy to combat maltreatment of persons in vulnerable situations who receive health services and social services must be carried out not later than 30 May 2020.

2017, c. 10, s. 39.

40. The Minister responsible for Seniors is responsible for the administration of this Act, except Chapter II and section 38, which are under the responsibility of the Minister of Health and Social Services.

2017, c. 10, s. 40.



The Minister Responsible for Seniors and Informal Caregivers exercises the functions of the Minister responsible for Seniors provided for in this Act. Order in Council 1322-2018 dated 31 October 2018, (2018) 150 G.O. 2 (French), 7427.

41. *(Omitted).*

2017, c. 10, s. 41.