



CONSEIL POUR LA PROTECTION DES MALADES

HANDICAP VIE DIGNITÉ



THE FUNCTIONS OF USERS' COMMITTEES

**ASSESS THE DEGREE OF USERS' SATISFACTION
CONCERNING THE SERVICES OBTAINED FROM THE
INSTITUTION**

**ACCOMPANY AND ASSIST, ON REQUEST, A USER FILING
A COMPLAINT**¹

¹ This document is an adapted summary and update of a presentation made by the law firm Ménard Martin on November 16, 2022; the content of this document is subject to the final version of Bill 15, which is yet to be adopted.



GENERAL OUTLINE

1. **History**
2. **Functions of users' and residents' committees**
3. **Assessing users' satisfaction**
4. **Users' rights**
5. **Filing a complaint**
6. **Accompaniment and assistance**
7. **Changes in Bill 15**



COMMITTEES IN THE LAW

1. History

- a. 1982: the creation of “beneficiaries’ committees” following representations by the late Claude Brunet, founder of the Conseil pour la Protection des Malades.
- b. 1992: users' committees have a new role: promoting and improving the quality of users' living conditions.
- c. 2005: Residents' committees were set up.



**THE ONLY ONES
USERS' AND RESIDENTS' COMMITTEES ARE THE ONLY BODY TO WHICH THE MINISTER OF HEALTH HAS
ENTRUSTED THE ROLE OF GUARDIAN OF USERS' RIGHTS IN QUEBEC'S HEALTHCARE NETWORK²**

For our present purposes, the word user means any person receiving care in a healthcare facility or from any location part of the public healthcare network³. The complaint examination procedure is otherwise limited to users concerning events occurring in a public health care facility, a private facility under an agreement, or a private facility (intermediate and family-type resources, private seniors' residences).

² Ministère de la santé et des services sociaux, *Reference Framework for Users' Committees*, 2018, page 1.

³ *Health Insurance Act* (c. A -29, s.1 g): "insured person": a resident or temporary resident of Québec who is duly registered with the Board; Bill 15, s. 2 par. 3.



2. The functions of Users' and Residents' Committees

(s. 209 ARHSS; s. 143 ff. Bill 15)

- At least seven members will make up the new user committee of a given institution, elected by this institution's users. A representative designated from each of the institution's resident committees will also be a member.
- A users' committee will have the following mandate (s. 212 ARHSS; s. 149 Bill 15):

1° Informing users of their rights and obligations;



2° Help improve the quality of users' living conditions and assess the level of user satisfaction with the services at the institution. **REPEALED**

- Assigned to the Institution Council;
- **REPLACED BY: Participate** in evaluating their (users) level of satisfaction with the services obtained from the institution (s. 149, par. 1 b, Bill 15).

3° Defend users' collective rights and interests or, upon request, the rights and interests of an individual user, before the institution or any competent authority.



4° Accompany and assist users, upon request, in any actions they undertake, including filing a complaint.

- New function entrusted to a residents' committee (s. 149, Bill 15)

5° Ensuring, where necessary, that each resident's committee functions correctly and has the resources it needs to carry out its duties.

- resource persons are increasingly intervening at the request of users or their families and, in so doing, are transforming the role of committees and resource persons into a parallel complaint procedure, something complaint commissioners don't seem to mind.



- The users' committee must also enact its bylaws and submit an annual progress report to the Board of Directors, with a copy to the CIUSSS or CISSS on request.
- Users' committees can use their budget to hire the services of a resource person. The resource person may come from outside or be referred by the facility, depending on the institution's rules and practices. Resource persons must work exclusively for the committee and act discretely while performing their duties.
- The duties and functions of the resource person may vary, from clerical procedures to representation or intervention mandates, depending on what is agreed upon with the committee and the institutional practices.



- Residents' committees (s. 212.1 ARHSS; s. 146 Bill 15) comprise at least three persons FROM AMONG THE VOLUNTEERS AND PEOPLE WORKING IN THE FACILITY.
- Committees should work in partnership with management⁴ but are not subordinate. Only a functional, non-hierarchical link exists between the Administration and the committees.
- Committees can thus publicize their existence and the services they offer and, provided they respect their mandate and the Act, can communicate their contact information to users in the institution and the community.

⁴ *Reference Framework for Users' Committees*, 2018, page 3.



- With no legal personality, the committees must have a place to meet and keep their records in complete confidentiality.
- Among other things, users' committees must enjoy the independence required to defend patients' rights.
- Institutions must promote their appropriate functioning, grant them an operating budget, and allow them to use the premises and keep files (s. 209, 211 ARHSS, section 151 Bill 15):
 - 0,040 % of the institution's overall recurrent budget,
 - Minimum \$6 000
 - Additional \$1 000 per residents' committee



- Committees may open their bank account.
- Ineligible expense :
 - Purchase of goods for users
 - Financing of activities unrelated to their mandate.
- Bill 15 ends the CUCIs (integrated center users' committees) everywhere and replaces them with a territorial users' committee attached to each new territorial Santé Québec constituted under this Bill.
- The new users' and residents' committees will be able to determine their composition (s. 145 Bill 15).



- Healthcare workers who also act as family caregivers for a resident can run for election and join a committee, provided they do not work in the same facility where they wish to be elected (s. 147 Bill 15).
- Users' committees, which had no reserved seat in any decision-making body or influence in Bill 15 original draft, have made several advances, thanks to the CPM's tenacious demands :
 - Three seats on the National Users' Committee,
 - One seat on the Institution Council (s. 107 Bill 15),
 - One seat on the Vigilance (Watchdog) Committee (s. 122 Bill 15),
 - **Possibly** one seat on the Risk Management Committee.



3. Assessing user satisfaction

- **Evaluate the level of user satisfaction** with the services at the institution;
 - Important role assigned to user committees by the Act (s. 212 par. 2 ARHSS, but repealed by Bill 15 (s. 117a & 119)
 - **REPLACED BY: Participate in evaluating their (users) level of satisfaction** with the services obtained from the institution (s. 149, par. 1b, Bill 15).
- Help improve the quality of the users' living conditions.



- The assessment is carried out both with users of the institution and residents of the various types of facilities and resources attached to it.
- The assessment of user satisfaction by the institution needs to be supported by experts.
- The institution assesses user satisfaction with the users or with family members or caregivers and legal representatives, if users are incapacitated (s 11 & 12 ARHSS; s. 13 Bill 15).



4. USERS' RIGHTS

Rights	Sections of ARHSS	Sections of Bill 15	Other legislation
Right to be informed	s. 3 par. 5 & 4	s. 5 & 9	
Right to access services	s. 5 & 13	s. 6	
Right to choose the professional or the institution	s. 6 & 13	s. 7	
Every person is entitled to receive the care required by one's condition	s. 7	s. 8	



Right of access to one's record and its confidentiality	s. 11, 17 & ff.		<i>An Act Respecting Health and Social Services Information (R-22.1 s. 5, 12, 17, 32, 34, 35.</i> Revocation of s. 17 to 28 of ARHSS (s. 238 Bill 15) Omission in the proposed legislation : - Transfer of a user's record from one institution to another?
Right to life, personal security & integrity, and freedom	s. 3 par. 2		<i>Charter of Human Rights and Freedoms, s. 1</i> <i>Canadian Charter of Rights and Freedoms, s. 7</i>

Right to respect and dignity	s.3 par. 2 & 3	s.322, 324 par. 2	<i>Charter of Human Rights and Freedoms, s. 4</i> <i>Canadian Charter of Rights and Freedoms, s. 7</i>
Right to consent to care or refuse treatment	s. 9	s. 10	
Right to participate in one's intervention plan or individualized service plan	s. 10	s. 11, 328, 329, 330	
Right to participate in decisions about one's health	s. 3 par. 4 & 10	s. 11	
Right to accommodation	s. 14	s. 2 & 3	

Right to receive urgent care	s. 7	s. 8	
Right to receive appropriate care and services	s. 5	s. 322, 324	
Right to be informed, as soon as possible, of any accident having occurred during the provision of services	s. 8	s. 9 par. 2	
Right to report any alleged case of maltreatment of a senior or of a person in a vulnerable situation			<i>Act to combat maltreatment of seniors and other persons of full age in vulnerable situations, LRQ, c. L-6.3, s. 3 par. 3.4</i>

Right to file a complaint in situations of maltreatment	s.29 ff.		<i>Act to combat maltreatment of seniors and other persons of full age in vulnerable situations, LRQ, c. L-6.3s. 2, 3 par. 3.3 & 21.1</i>
Right to file a criminal complaint against the abuser		s. 522 ff.	<i>An Act to strengthen the fight against maltreatment of seniors and other persons of full age in vulnerable situations, L.Q. 2022 c. 6, s. 14 (amended s. 21.1 of an Act to combat maltreatment (1-888-489-2287; since 11-07-2023)</i>
Right to obtain services in the English language	s. 15	s. 348 ff.	

Right to have a representative	s. 12 & 212 par. 4	s. 12 & 13	
Right to seek legal redress			Civil Code & Code of Civil Procedure
Right to file a complaint	s. 34	s. 572 ff	
Right to be accompanied and assisted	s. 11, 33 par. 3	s. 12, 13, 35, 149	



5. Filing a complaint

Sections 29 to 76.14 of ARHSS (s. 572 ff of Bill 15) define the complaint examination procedure.

Each and every institution must enact its own examination procedure policy.

S. 34 (s. 572 ff. Bill 15) describes how to lodge a complaint:

- In writing or verbally.
- By the user, the user's spouse, the holder of parental authority, the user's legal representative, any person who demonstrates a particular interest in the user who is of full age and incapacitated, or the user's heirs (s. 12 ARHSS, s. 13 Bill 15).



- To the Complaints Commissioner or his delegate.
- Regarding the health or social services the user received or ought to have received, including maltreatment issues.
- Concerning any act or omission committed by any member of the institution's staff, by a professional working there and referred to in the ARHSS and other laws.
- The law determines a slightly different procedure in cases of a complaint against a physician, pharmacist, dentist or resident.



- o Other possible options for recourse through the professional association involved.

- Definition of abuse :

- o a single or repeated act, or a lack of appropriate action, that occurs in a relationship with an expectation of trust, and intentionally or unintentionally causes harm or distress to a person⁵.

- o Multiple examples.

- o When handling complaints, commissioners observe inevitable setbacks.

⁵ Act to combat maltreatment of seniors and other persons of full age in vulnerable situations, c. L-6.3, s. 2 par. 3

- In many cases, before filing a complaint, a user, his or her representative, and a management representative can agree on how to resolve the issue at hand.
- The complainants who are dissatisfied with the Complaints Commissioner's response may appeal to the Québec Ombudsman for a review.



6. Accompaniment and assistance by the Users' or Residents' Committees

- A critical function assigned by the Act (s. 212 par. 4 ARHSS) to users' committees and extended to residents' committees in the future.
- Accompany and assist users, upon request, in any actions they undertake, including filing a complaint.
- Any users' or residents' committee member can provide accompaniment or assistance.
- As mentioned earlier, the user committee resource person is increasingly intervening on behalf of users.
- These interventions are not as such complaints but can, on certain occasions, help resolve issues reported by users.



7. Novelties in Bill 15 worth of mention

The new National Users' Committee (s. 67 ff)

1°	Promote the best practices developed by users' committees in exercising the functions entrusted to them by this Act.
2°	Support committees in carrying out their mandate.
3°	Make recommendations to Santé Québec's board of directors to improve the quality of users' living conditions or their level of satisfaction with the services obtained.
3.1°	Give the Minister its opinion, at the Minister's request, on Santé Québec's national program on the quality of services referred to in s. 65 of the Bill.



4° Give the Minister its opinion, at the Minister's request, on possible solutions to the problems faced by users.

5° Perform any other function entrusted to it by Santé Québec's Board of Directors or the Minister.

- The CPM will have a seat on this new national committee.

New: The National Complaints Commissioner, s. 600 ff. Bill 15

Section 605:

- sees to the adequate and optimal application of the provisions of this Part and to the processing of reports of maltreatment made within the scope of the anti-maltreatment policy adopted under the *Act to combat maltreatment of seniors and other persons of full age in vulnerable situations*.
- fosters concerted action between complaints commissioners and medical examiners and the sharing of good practices applicable in exercising their functions.



- Ensure that commissioners and medical examiners receive training relevant to their duties.
- Recommend any measure to Santé Québec that may improve the application of the provisions in the first paragraph.
- Define the procedure for examining complaints received by a local complaints commissioner. This procedure may stipulate any measure complementary to those applied within Santé Québec to processing complaints.



THANK YOU

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Appendix: a detailed list of users' rights

