

Regulations and other acts

Gouvernement du Québec

O.C. 408-2008, 23 April 2008

An Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1)

Distribution of information and protection of personal information

Regulation respecting the distribution of information and the protection of personal information

WHEREAS, under section 155 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1) and under sections 16.1 and 63.2, introduced by sections 9 and 34 of the Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information and other legislative provisions (chapter 22 of the Statutes of 2006), the Government may, by regulation, prescribe information distribution rules and rules for the protection of personal information;

WHEREAS, in accordance with section 156 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1), an opinion of the Commission d'accès à l'information on the text of the draft of the Regulation respecting the distribution of information and the protection of personal information was obtained on 15 June 2007;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* on 14 November 2007 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Canadian Intergovernmental Affairs, Aboriginal Affairs, Francophones within Canada, the Reform of Democratic Institutions and Access to Information:

THAT the Regulation respecting the distribution of information and the protection of personal information, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting the distribution of information and the protection of personal information

An Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1, ss. 16.1, 63.2 and 155; 2006, c. 22, ss. 9 and 34)

DIVISION I SCOPE

1. This Regulation applies to a public body referred to in section 3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1), except the Lieutenant-Governor, the National Assembly, persons designated by the Assembly to an office under its jurisdiction and public bodies referred to in sections 5 to 7 of the Act. It does not apply to professional orders.

DIVISION II PERSONS RESPONSIBLE

§1. *Deputy Minister or chief executive officer of a public body*

2. The Deputy Minister or the chief executive officer of a public body must

(1) oversee the implementation of the responsibilities and obligations assigned by this Regulation to the public body under his or her responsibility;

(2) set up and be responsible for a committee on access to information and the protection of personal information; that committee is to be composed of the person in charge of access to information and the protection of personal information and, where applicable, the person responsible for information security and the person responsible for document management; the function of the committee is to support the Deputy Minister or the chief executive officer of the public body

in the performance of his or her duties and obligations and, for that purpose, the committee may retain the services of any other person whose expertise is necessary for the performance of its function;

(3) see that staff members and management staff or officers of the public body are made aware of and receive training on the obligations and procedures concerning access to information and the protection of personal information;

(4) include in the annual management report or report of activities a report attesting to the distribution of the documents referred to in Division III and giving an account of

(a) the nature and number of requests for access received, the time taken to process them, the provisions of the Act justifying the refusal of certain requests, the number of requests for access granted, partially granted or refused, the number of requests for access that were the subject of reasonable accommodation and the number of requests that were the subject of an application for review by the Commission d'accès à l'information; and

(b) the activities relating to access to information and the protection of personal information that were carried out within the public body.

§2. Deputy Minister under the Minister responsible

3. The Deputy Minister working under the Minister responsible for the administration of the Act must

(1) set up a network of persons in charge of access to documents and the protection of personal information held by public bodies;

(2) provide the support necessary for the carrying out of the network's activities; and

(3) see to the setting up of a training program on access to information and the protection of personal information for the persons in charge of access to documents and the protection of personal information, and ensure that a program is also available to deputy ministers, assistant and associate deputy ministers, and to chief executive officers of the Government agencies referred to in section 4 of the Act.

DIVISION III DISTRIBUTION OF DOCUMENTS OR INFORMATION

4. A public body must distribute the following documents and information through a website, insofar as the information has been made accessible by law:

(1) the organization chart;

(2) the names and titles of the management staff or officers, excluding managers in categories 6 to 10 covered by Directive No. 630 concerning the classification and management of senior staff positions and their holders, made by Conseil du trésor decision 198195 dated 30 April 2002, or according to the necessary modifications if the Directive does not apply to the management staff or officers;

(3) the name of the person in charge of access to documents and the protection of personal information and that person's contact information;

(4) the document classification plan required under the second paragraph of section 16 of the Act or, as the case may be, the classification list required by the first paragraph of that section;

(5) an inventory of its personal information files established under section 76 of the Act;

(6) the register established under section 67.3 of the Act;

(7) the studies, research or statistical reports produced by or for the public body, whose distribution is of interest for the purposes of public information;

(8) the documents sent under a request for access, whose distribution is of interest for the purposes of public information;

(9) the public registers expressly required by law for which the public body is responsible;

(10) a description of the services offered and programs implemented by the public body, and the related forms;

(11) the statutes, regulations, codes of ethics, directives, policies and other documents of a similar nature administered by the public body and used by it to render decisions concerning the rights of citizens;

(12) the draft regulations published in the *Gazette officielle du Québec* under section 8 of the Regulations Act (R.S.Q., c. R-18.1) for which the public body is responsible;

(13) the information pertaining to the contracts entered into by the public body and referred to in section 22 of the Act respecting contracting by public bodies, enacted by chapter 29 of the Statutes of 2006;

(14) a list of its financial commitments sent to the Comptroller of Finance and forwarded by the Comptroller to the National Assembly, in accordance with paragraph 7.1 of section 5 of Directive No. 4-80 concerning requests for commitment certification, certain commitments of \$25,000 or more and payment orders, made by Conseil du trésor decision 128500 dated 26 August 1980; and

(15) the documents produced and tabled by the public body, in accordance with the Standing Orders of the National Assembly, for the purposes of a public meeting of the National Assembly or one of its committees or subcommittees, including those included in the list established under section 58 of the Standing Orders.

The documents or information referred to in subparagraphs 1 to 9 must be accessible directly on the website of the public body and those referred to in the subsequent subparagraphs may be accessible through a hyperlink to another website.

Despite the foregoing, a public body is not required to distribute the documents listed in subparagraphs 7, 14 and 15 of the first paragraph produced before 29 November 2009.

A public body is also not required to distribute the documents referred to in subparagraph 8 sent before 29 November 2009.

A public body holding a register referred to in subparagraph 9 is not required to distribute the information filed in the register before 29 November 2009.

5. A public body must promptly distribute a document or information referred to in section 4 through a website and leave it there for as long as it is up-to-date, or until it acquires the status of a semi-active document according to its retention schedule.

6. A public body that makes reasoned decisions in the exercise of adjudicative functions must send the decisions to the Société québécoise d'information juridique, which must distribute them, in accordance with the by-law made under section 21 of the Act respecting the Société québécoise d'information juridique (R.S.Q., c. S-20), through its website on which the decisions of the courts, administrative tribunals and other bodies are published.

Despite the foregoing, a public body is not required to send the decisions made before 29 November 2009.

DIVISION IV **MEASURES TO PROTECT PERSONAL INFORMATION**

§1. Information or electronic service system

7. A public body must inform the committee referred to in section 2 of projects to acquire, develop or overhaul an information or electronic service system that collects, uses, keeps, releases or destroys personal information.

The committee is to suggest, from among those projects, those that must be monitored by special measures to protect personal information. The measures include

(1) the appointment of a person in charge of the implementation of the measures to protect personal information, for each project;

(2) the assessment, at the project's preliminary study stage, of the risks of a breach in the protection of personal information;

(3) measures to protect personal information for the time required to carry out the project and measures to preserve that protection during the use, maintenance, modification or evolution of the information or electronic service system;

(4) a description of the requirements regarding the protection of personal information set out in the specifications or the contract pertaining to the project, unless the contract is performed by another public body;

(5) a description of the responsibilities of the persons taking part in the project as regards the protection of personal information; and

(6) the holding of training activities on the protection of personal information intended for those persons taking part in the project.

§2. Survey

8. A public body must consult the committee referred to in section 2 on the special measures pertaining to a survey involving the collection or use of personal information to be complied with to protect personal information.

Those measures must examine

(1) the need to conduct the survey; and

(2) the ethical aspect of the survey with regard to the sensitivity of the personal information collected and the purposes for which it is to be used.

§3. *Video-surveillance*

9. A public body must consult the committee referred to in section 2 on the special measures pertaining to video-surveillance technology to be complied with to protect personal information.

Those measures must examine

- (1) the need to use that technology; and
- (2) whether the use of that technology is consistent with the right to privacy.

DIVISION V FINAL

10. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except

- (1) paragraph 4 of section 2, which comes into force on 29 November 2010; and
- (2) sections 4 to 6, which come into force on 29 November 2009.

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Gouvernement du Québec

O.C. 418-2008, 30 April 2008

Professional Code
(R.S.Q., c. C-26)

Nurses

— Certain professional activities that may be performed by nursing assistants

Regulation respecting certain professional activities that may be performed by nursing assistants

WHEREAS, under paragraph *h* of section 94 of the Professional Code (R.S.Q., c. C-26), the Bureau of a professional order may make a regulation to determine, among the professional activities that may be engaged in by members of the order, those that may be engaged in by the persons or categories of persons indicated in the regulation, and the terms and conditions on which such persons may engage in such activities;

WHEREAS the Bureau of the Ordre des infirmières et infirmiers du Québec made the Regulation respecting certain professional activities that may be performed by nursing assistants;

WHEREAS, pursuant to section 95 of the Professional Code and subject to sections 95.1 and 95.2 of the Code, every regulation made by the Bureau under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 3 October 2007 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the profession:

THAT the Regulation respecting certain professional activities that may be performed by nursing assistants, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting certain professional activities which may be engaged in by nursing assistants

Professional Code
(R.S.Q., c. C-26, s. 94, par. *h*)

DIVISION I GENERAL

1. The purpose of this Regulation is to determine which of the professional activities that may be performed by nurses may, following the issue of a prescription and in accordance with the other terms and conditions set out herein, be performed by: