

Regulations and other Acts

Gouvernement du Québec

O.C. 855-2015, 30 September 2015

An Act respecting health services and social services
(chapter S-4.2)

Private seniors' residence **— Conditions for obtaining a certificate of** **compliance and operating standards** **— Amendment**

Regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence

WHEREAS the Government made the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence (chapter S-4.2, r. 5.01);

WHEREAS the first paragraph of section 14 of the Regulation provides that the operator of a private seniors' residence must make a call-for-help system available to each resident, enabling the resident to obtain, quickly and at all times, assistance from a staff member responsible for emergency calls, who must be physically present in the residence and ensure access inside the residence by the emergency services, if applicable;

WHEREAS, under section 24 of the Regulation, the staff members of a private seniors' residence and the volunteers working in the residence must not be charged with or have been convicted of an indictable or other offence related to the abilities and conduct required to work in the residence, unless, in the case of a conviction, a pardon has been obtained;

WHEREAS the first paragraph of section 25 of the Regulation provides that every person wishing to join the staff of a private seniors' residence or to work there as a volunteer must, before beginning work, provide the operator with a declaration concerning any charge or conviction referred to in section 24 unless, in the case of a conviction, a pardon has been obtained;

WHEREAS, under the last paragraph of section 25 of the Regulation, the operator must have the accuracy of the declaration referred to in the first paragraph of that section verified by a police force before the staff member or volunteer begins work;

WHEREAS the first paragraph of section 30 of the Regulation provides that, subject to any other legislative or regulatory provision requiring the presence of a larger number of persons in a residence, at least 1 staff member of full age must be present, at all times, in a residence whose services are intended for independent elderly persons that has fewer than 200 rooms or apartments, in order to provide supervision, and if the residence has 200 or more rooms or apartments, the minimum number of persons is 2;

WHEREAS section 83 of the Regulation provides that the operator of a private seniors' residence has until 1 April 2015 to obtain from the staff members and volunteers working at the residence the declaration and consents referred to in section 25 and to have the declaration verified by a police force in accordance with that section if it mentions a judicial record;

WHEREAS section 84 of the Regulation provides that, despite section 88, section 14 has effect only from the date of coming into force of a regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence, in particular to amend this section again or to strike it out, or not later than 31 October 2015 with respect to an operator of a private seniors' residence whose services are intended for independent elderly persons and having fewer than 50 rooms or apartments and from 30 November 2013 with respect to any other operator of a private seniors' residence whose services are intended for independent elderly persons;

WHEREAS the first paragraph of section 85 of the Regulation provides that, despite section 88, the first paragraph of section 30 has effect only from the date of coming into force of a regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence, in particular to amend this section again or to strike it out, or not later than 31 October 2015 with respect to an operator of a private seniors' residence whose services are intended for independent elderly persons and having fewer than 50 rooms or apartments;

WHEREAS the second paragraph of section 85 of the Regulation provides that, until the first of the two dates provided for in the first paragraph of that section, the operator referred to therein must implement measures ensuring that a person may be contacted at all times to ensure

an immediate intervention in the event of an emergency. The measures must be approved by the operator's board of directors, if applicable;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, under paragraphs 2, 2.1 and 5 of section 346.0.6 of the Act respecting health services and social services (chapter S-4.2), the Government may prescribe, by regulation, the health and social criteria with which the operator of a private seniors' residence must comply to receive a certificate of compliance, which may vary according to category of private seniors' residence, the conditions that staff members and volunteers of a private seniors' residence and any other person working in such a residence must fulfill, depending on their duties, in particular conditions relating to training and security, including conditions relating to judicial records, and the information and documents those persons must provide to the operator of the residence to enable the operator to verify whether those conditions have been fulfilled, and any other standard applicable to the operation of a private seniors' residence;

WHEREAS, under the first paragraph of section 346.0.7 of the Act, the Government must include in the health and social criteria determined under paragraph 2 of section 346.0.6 the minimum number of persons required to be present at all times in a private seniors' residence to ensure proper supervision, taking into account, as applicable, the category of the residence;

WHEREAS, under section 11 of the Regulations Act (chapter R-18.1), no proposed regulation may be made or submitted for approval before the expiry of 45 days from its publication in the *Gazette officielle du Québec*, or before the expiry of the period indicated in the notice accompanying it or in the Act under which the proposed regulation may be made or approved, where the notice or the Act provides for a longer period;

WHEREAS, under section 12 of that Act, a proposed regulation may be made without having been published, if the authority making or approving it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 13 of that Act, the reason justifying the absence of such publication must be published with the regulation;

WHEREAS, under section 17 of that Act, a regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in the regulation or in the Act under which it is made or approved;

WHEREAS, under the first paragraph of section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under the second paragraph of section 18 of that Act, the reason justifying such coming into force must be published with the regulation;

WHEREAS, in the opinion of the Government, the urgency due to the following circumstances justifies the making of the Regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence and its coming into force on the date of its publication:

—the deadline in the transitional provisions of section 83 of the Regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence has expired and the deadlines in sections 84 and 85 will soon expire;

—the Minister of Health and Social Services has set up the strategic committee on the harmonization of the implementation of the certification requirements for private seniors' residences, composed of representatives of all the partners involved, and has held consultations on the amendments to be made to the Regulation and the new rules to be included in it;

—a consensus has been reached by the partners on those amendments, but certain disputes persist, particularly as regards the persons authorized to provide supervision in a private seniors' residence;

—the Minister of Health and Social Services has prepared a draft Regulation respecting the certification of private seniors' residences to replace the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence, which will be published on the same day as this Regulation;

—during the time of the prior publication of the draft Regulation respecting the certification of private seniors' residences, the Minister of Health and Social Services wishes to receive comments from the persons or stakeholders concerned by the rules governing private seniors' residences and comments from the general public on the new proposed rules;

—it is necessary to extend the application of sections 83 to 85 of the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence until the coming into force of the replacing Regulation so that the rules applicable to operators of private seniors' residences remain stable during the time of the prior publication of the draft Regulation respecting the certification of private seniors' residences and the consultations;

—it is urgent that the proposed amendments to the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence come into force as soon as possible to limit as much as possible the time during which operators of private seniors' residences will be in an illegal situation;

WHEREAS it is expedient to make the Regulation, which will come into force on the date of its publication in the *Gazette officielle du Québec*;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT the Regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence

An Act respecting health services and social services (chapter S-4.2, ss. 346.0.6 and 346.0.7)

1. The Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence (chapter S-4.2, r. 5.01) is amended by replacing section 83 by the following:

“**83.** Despite section 88, the operator of a private seniors' residence has until the date of coming into force of a regulation to amend or replace the Regulation respecting the conditions for obtaining a certificate of compliance

and the operating standards for a private seniors' residence, in particular to amend this section again or to strike it out, to obtain from the staff members or volunteers the declaration and consents referred to in section 25 and to have the declaration verified, if it mentions a judicial record.”

2. Section 84 is replaced by the following:

“**84.** Despite section 88, section 14 has effect only from the date of coming into force of a regulation to amend or replace the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence, in particular to amend this section again or to strike it out, with respect to an operator of a private seniors' residence whose services are intended for independent elderly persons and having fewer than 50 rooms or apartments.”

3. Section 85 is replaced by the following:

“**85.** Despite section 88, the first paragraph of section 30 has effect only from the date of coming into force of a regulation to amend or replace the Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence, in particular to amend this section again or to strike it out, with respect to an operator of a private seniors' residence whose services are intended for independent elderly persons and having fewer than 50 rooms or apartments.

Until that date, the operator referred to in the first paragraph must implement measures ensuring that a person may be contacted at all times to ensure an immediate intervention in the event of an emergency. The measures must be approved by the operator's board of directors, if applicable.”

4. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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