

The charges payable to the Board are 1.5 those provided for in this section, with a minimum amount equal to the charges payable for 2 hours, where an activity is performed between noon and 1:00 p.m., between 4:30 p.m. and 8:30 a.m., on Saturdays, on Sundays, on a holiday and the day before or after 25 December or 1 January or on any other day standing in lieu thereof.

91. The fees payable are \$85 for the issue, amendment or renewal of a permit.

The fees are not reimbursed by the Board following the suspension, cancellation or abandonment of the permit.

CHAPTER VIII OFFENCE

92. A contravention of any provision of this Regulation constitutes an offence, except for the provisions of Chapter VII.

CHAPTER IX TRANSITIONAL AND FINAL

93. Despite section 96, persons who have a certificate of authorization issued following the approval of a quality control program by the Board pursuant to the Regulation respecting pressure vessels (chapter A-20.01, r. 1) are exempt from the obligation to hold a permit under this Regulation until the date of expiry of the certificate.

94. Despite the provisions of Division III of Chapter V, the periodic inspection of a pressure installation may be carried out by the Board or by a person to whom that function is delegated under section 8 of the Act respecting pressure vessels (chapter A-20.01) until 1 April 2019.

Where the periodic inspection is carried out by the Board, the charges payable to it are those provided for in section 90 of this Regulation.

95. This Regulation replaces the Regulation respecting pressure vessels (chapter A-20.01, r. 1).

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

(1) the rules regarding installation, repair or alteration or owner-user permits provided for in Division I of Chapter III come into force on 1 April 2019. Persons wishing to avail themselves of the new system of permits before that date may apply therefor with the Board;

(2) the provisions of CSA Standard Z7396.1, Medical gas pipeline systems – Part 1: Pipelines for medical gases, medical vacuum, medical support gases, and anaesthetic gas scavenging systems, adopted by reference under the second paragraph of section 10, come into force on 1 April 2019. Until that date, BNQ Standard 5710-500, *Gaz médicaux ininflammables – Réseaux de distribution des établissements fournissant des services de santé – Caractéristiques et méthodes d’essais*, published by BNQ and adopted under the Regulation respecting pressure vessels (chapter A-20.01, r. 1) remains applicable to the installation of pressure equipment intended for the distribution networks of institutions providing health services.

103349

Gouvernement du Québec

O.C. 92-2018, 7 février 2018

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

Monitoring mechanisms by a user sheltered in a facility maintained by an institution operating a residential and long-term care centre — Terms governing the use

Regulation respecting the terms governing the use of monitoring mechanisms by a user sheltered in a facility maintained by an institution operating a residential and long-term care centre

WHEREAS, under subparagraph 30 of the first paragraph of section 505 of the Act respecting health services and social services (chapter S-4.2), the Government may, by regulation, determine the terms governing the use, by a user and his representative described in section 12 of the Act, of monitoring mechanisms, such as cameras or any other technological means, in the facilities maintained by an institution and in intermediate resources, family-type resources, private seniors' residences or any other premises it determines, in connection with the provision of health services and social services;

WHEREAS the second paragraph of section 505 of the Act provides that a regulation under subparagraph 30 of the first paragraph of that section that enacts measures mainly applicable to seniors is made on the joint recommendation of the Minister of Health and Social Services and the Minister responsible for Seniors;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting the terms governing the use of monitoring mechanisms by a user sheltered in a facility maintained by an institution operating a residential and long-term care centre was published in Part 2 of the *Gazette officielle du Québec* of 11 October 2017, with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services and the Minister responsible for Seniors and Anti-Bullying:

THAT the Regulation respecting the terms governing the use of monitoring mechanisms by a user sheltered in a facility maintained by an institution operating a residential and long-term care centre, attached to this Order in Council, be made.

ANDRÉ FORTIER,
Clerk of the Conseil exécutif

Regulation respecting the terms governing the use of monitoring mechanisms by a user sheltered in a facility maintained by an institution operating a residential and long-term care centre

An Act respecting health services and social services (chapter S-4.2, s. 505, par. 30)

CHAPTER I SCOPE AND DEFINITION

1. This Regulation applies to the installation and use of monitoring mechanisms, concealed or not, by a user sheltered in a facility maintained by an institution operating a residential and long-term care centre within the meaning of section 83 of the Act respecting health services and social services (chapter S-4.2) or by the user's representative described in section 12 of the Act.

2. For the purposes of this Regulation, "monitoring mechanism" means any mechanism, device or technological means allowing to capture images or sounds and used for monitoring purposes, in particular a monitoring camera.

CHAPTER II RULES GOVERNING THE INSTALLATION AND USE OF MONITORING MECHANISMS

3. A monitoring mechanism must be installed by the user or, as the case may be, the user's representative.

Where the mechanism is installed by the representative, he or she must obtain the user's consent, unless such consent is impossible to obtain.

4. The installation of a monitoring mechanism is authorized only to ensure the safety of the user or that of the user's property, or to ensure the quality of the care and services provided to the user, in particular to detect a case of user maltreatment.

5. A monitoring mechanism may not be used in a continuous manner by a user's representative, unless the purposes sought by the installation of the mechanism justify it.

6. Visual or sound recording by means of a monitoring mechanism may be done only if such recording is necessary for the purposes set out in section 4.

7. When a monitoring mechanism is installed in a room where several users are sheltered, the user who installs the mechanism or, as the case may be, the user's representative must obtain the consent of the other users sheltered in that room, or of their representatives, before installing the mechanism, unless the purposes sought by the installation of the mechanism justify proceeding without such consent.

The monitoring mechanism may not be installed and used to capture images or sounds of the other users sheltered in that room.

8. A monitoring mechanism may not be installed and used to capture images and sounds from outside the user's room where a mechanism is installed.

In addition, a monitoring mechanism may not enable to capture images from a bathroom, unless the purposes sought by the installation of the mechanism justify it.

9. The installation or use of a monitoring mechanism must not require that alterations be made to the institution's property, except with the institution's consent.

10. The installation or use of monitoring mechanisms must not entail costs for the institution, except with the institution's consent.

11. The monitoring mechanism must be removed if its use is no longer necessary for the purposes sought by the installation of the mechanism.

The need to use a monitoring mechanism must be reassessed at least every 6 months by the user or, as the case may be, the user's representative. The user or, as the case may be, the user's representative must then assess whether the reasons for installing the mechanism are still valid, whether the objectives sought by installing it have been attained and whether the terms governing the use of the mechanism have been complied with.

CHAPTER III RULES GOVERNING THE USE AND CONSERVATION OF IMAGES AND RECORDINGS

12. The user or, as the case may be, the user's representative is responsible for ensuring the confidentiality and security of the images captured using a monitoring mechanism and of the recordings made using such mechanism.

13. The use of images captured using a monitoring mechanism and of recordings made using such mechanism is restricted to what is necessary for the purposes set out in section 4.

14. The communication of images and recordings must be restricted and done in such a manner as to protect the identity of the persons whose picture or voice was captured.

The restrictions referred to in the first paragraph do not apply where the recordings are communicated to

(1) the institution that shelters the user, the local service quality and complaints commissioner of the institution or the Health Services Ombudsman;

(2) a body that, under the law, is in charge of preventing, detecting or repressing crime or offences against the law, if the recordings are necessary to prosecute an offence against an Act applicable in Québec; or

(3) any other person to whom the recording must be communicated by reason of an emergency posing a threat to the life, health or safety of a person.

15. Recordings may be conserved only if such conservation is necessary for fulfilling the purposes sought by the installation of the mechanism.

The need to conserve recordings must be reassessed at least every 6 months by the user or, as the case may be, the user's representative. The user or, as the case may be, the user's representative must then assess whether the reasons for conserving the recordings are still valid and whether the objectives sought by conserving them have been attained.

16. A recording must be destroyed by the user or, as the case may be, the user's representative, or at their request.

17. A recording made with a monitoring mechanism must be destroyed using safe and permanent means that ensure the confidential nature of the information contained in the recording.

18. The destruction method used must take into account the medium used for the recording and the confidential nature of the recordings.

When the recording is on a reusable electronic medium such as a memory card or a computer's hard disk, destruction may be accomplished, in particular, by formatting, rewriting or electronic shredding.

Where the recording is on a non-reusable electronic medium such as a compact disc, destruction may be accomplished, in particular, by physically destroying the medium.

19. Where the recording is destroyed by a third person, he or she must be informed of the confidential nature of the recordings and of the fact that the recording was made in accordance with this Regulation.

20. This Chapter applies to any copy, transcription or reproduction, total or partial, of a recording made with a monitoring mechanism.

CHAPTER IV OBLIGATIONS OF INSTITUTIONS

21. When a user is admitted, an institution operating a residential and long-term care centre must inform the user or, as the case may be, the user's representative of the rules applicable to the installation and use of monitoring mechanisms and provide the user or representative with the support needed to comply with the rules.

22. An institution operating a residential and long-term care centre must properly indicate the possibility that monitoring mechanisms could be installed in the facilities where the centre operates.

The indications must be installed in such a way as to be visible by any person entering the facility.

The indications must not enable to identify the location where a monitoring mechanism is installed.

23. An institution operating a residential and long-term care centre must designate a person in charge of providing the support needed to the user or, as the case may be, the user's representative so that they can comply with this Regulation.

CHAPTER V
TRANSITIONAL AND FINAL

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

103350