



NATIONAL ASSEMBLY OF QUÉBEC

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 101
(2022, chapter 6)

**An Act to strengthen the fight against
maltreatment of seniors and other
persons of full age in vulnerable
situations as well as the monitoring
of the quality of health services and
social services**

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EXPLANATORY NOTES

The purpose of this Act is to strengthen the fight against maltreatment of seniors and other persons of full age in vulnerable situations as well as the monitoring of the quality of health services and social services.

To that end, the Act clarifies the definition of “person in a vulnerable situation”. It also introduces a definition of “health services and social services provider”.

The Act provides that the president and executive director or the executive director of a health and social services institution, as applicable, or the person he or she designates must promote a culture of well-treatment within the institution and take the necessary means to prevent maltreatment and to put an end to any case of maltreatment brought to his or her attention. It obliges the health and social services institutions to submit their anti-maltreatment policy as well as their reviewed policy to the Minister of Health and Social Services, who approves it on the recommendation of the Minister Responsible for Seniors and Informal Caregivers. It also states the various information the local service quality and complaints commissioner must set out in his or her annual activities summary concerning cases of maltreatment submitted to him or her in the exercise of his or her functions.

The Act establishes the elements that must be included in the Québec-wide framework agreement to combat maltreatment of seniors and of persons in vulnerable situations that the Minister Responsible for Seniors and Informal Caregivers must enter into with other actors from the sectors concerned, including with respect to the concerted intervention process that must be put in place in each of the health regions. It describes the objectives of and establishes the application framework for the process, and obliges certain bodies to designate resource persons to implement it. Furthermore, it provides that a concerted intervention process must enable any senior or any person in a vulnerable situation who is not already covered by the application of an institution’s anti-maltreatment policy, as well as any person who has reasonable cause to believe a senior or a person in a vulnerable situation who is not covered by such a policy is a victim of maltreatment, to file a complaint or make a report to a designated resource person.

The Act proposes to broaden the obligation of health services and social services providers and of professionals within the meaning of the Professional Code to report maltreatment by extending that obligation to any situation in which they have reasonable cause to believe that a person is a victim of maltreatment and by adding categories of persons of full age for which maltreatment must be reported. It gives the Minister of Health and Social Services inspection and investigation powers to verify compliance with the Act.

The Act also provides that the Minister Responsible for Seniors and Informal Caregivers must establish a maltreatment assistance, assessment and reference centre, whose functions are to include providing information on the resources available and the possible recourses to put an end to a case of maltreatment.

Furthermore, the Act gives the Minister of Health and Social Services the power to designate a person to assume, in certain situations, the provisional administration of private institutions not under agreement. It gives the same power to the integrated health and social services centres, in particular with regard to private seniors' residences, as well as to the public institutions with regard to certain intermediate resources with which they have entered into an agreement. In addition, it gives the Minister of Health and Social Services and the integrated health and social services centres the power to investigate with regard to private seniors' residences, and it allows the integrated health and social services centres to provide assistance and support to the operators of such residences when those operators experience difficulties.

The Act establishes that the permit of a health and social services institution and the temporary certificate of compliance or the certificate of compliance of a private seniors' residence may be revoked where the permit holder or the operator of the residence fails to take the necessary means to put an end to any case of maltreatment that is brought to their attention. It also provides that a local service quality and complaints commissioner who has reasonable cause to believe that there exists a situation that could pose a threat to the health and well-being of a user or a group of users must send to the president and executive director or the executive director of the institution concerned, as well as to the Minister of Health and Social Services, a copy of his or her conclusions, with reasons, together with any recommendations made.

The Act introduces an obligation for the operator of a private seniors' residence who wishes to cease activities to establish, and have approved by the integrated health and social services centre

concerned, a cessation-of-activities plan that sets out the steps and actions that will be taken over a period of at least six months before the cessation, including in order to assist in the relocation of persons who require it.

The Act also introduces penal sanctions, applicable in, among others, cases of maltreatment of persons taken in charge by a residential and long-term care centre, intermediate or family-type resource or private seniors' residence, in cases of failure to report maltreatment where there is an obligation to do so, or in cases of failure to transmit a cessation-of-activities plan for approval or to comply with the approved plan.

Lastly, the Act includes certain transitional and consequential provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (chapter L-6.3);
- 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);
- Act respecting health services and social services (chapter S-4.2);
- Act respecting pre-hospital emergency services (chapter S-6.2).

Bill 101

AN ACT TO STRENGTHEN THE FIGHT AGAINST MALTREATMENT OF SENIORS AND OTHER PERSONS OF FULL AGE IN VULNERABLE SITUATIONS AS WELL AS THE MONITORING OF THE QUALITY OF HEALTH SERVICES AND SOCIAL SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

1. Section 2 of the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (chapter L-6.3) is amended

(1) by inserting “, such as a physical or intellectual disability or an autism spectrum disorder” after “psychological in nature” in paragraph 4;

(2) by inserting the following paragraph after paragraph 5:

“(5.1) “health services and social services provider”: means any person who, in the exercise of his or her functions, directly provides health services or social services to a person, on behalf of an institution, private seniors’ residence, intermediate resource or family-type resource, including a person who carries on activities described in sections 39.7 and 39.8 of the Professional Code (chapter C-26) as well as the operator of, or the person responsible for, the residence or the resource, if applicable;”;

(3) by striking out the paragraph number of each of its paragraphs, and by placing all the definitions in the English text in alphabetical order.

2. Section 3 of the Act is amended

(1) by inserting “seniors and of” after “maltreatment of” in the first paragraph;

(2) by replacing “of the policy” in the third paragraph by “and application of the policy, to promoting a culture of well-treatment within the institution and to taking the necessary means to prevent maltreatment and to put an end to any case of maltreatment that is brought to their attention”;

(3) in the fourth paragraph,

(a) by inserting the following subparagraph after subparagraph 1:

“(1.1) the undertaking by the president and executive director or the executive director of the institution, as applicable, or by the person designated by the president and executive director or the executive director to promote a culture of well-treatment within the institution, in particular in the application of practices or procedures, and to take the necessary means to prevent maltreatment and to put an end to any case of maltreatment that is brought to their attention;”;

(b) by replacing “maltreatment of” in subparagraph 2 by “maltreatment of seniors and of”;

(c) by replacing “such persons” in subparagraph 3 by “seniors or persons in vulnerable situations”;

(d) by replacing subparagraph 4 by the following subparagraph:

“(4) the procedure allowing any other person, including a person who does not work for the institution, including a caregiver, to report to the local service quality and complaints commissioner any alleged case of maltreatment of a senior or of a person in a vulnerable situation who receives health services and social services;”;

(4) by replacing “required follow-up in response to any complaint or report of maltreatment” in subparagraph 8 of the fourth paragraph by “follow-up that must be given to any complaint or report of maltreatment, fostering the involvement of the person who is a victim of maltreatment at each stage,”.

3. The Act is amended by inserting the following sections after section 4:

“4.1. In addition to the elements set out in the fourth paragraph of section 3, the policy must include

(1) the fact that any senior or any person in a vulnerable situation who believes he or she is a victim of maltreatment and who is not covered by the application of an institution’s policy may file a complaint with a resource person designated in accordance with section 17; and

(2) the fact that any other person may report to such a designated resource person any alleged case of maltreatment of a senior or a person in a vulnerable situation who is not covered by the application of an institution’s policy.

“4.2. The institution must submit its policy, within 30 days of its adoption, to the Minister of Health and Social Services, who, on the recommendation of the Minister responsible for Seniors, approves it within 45 days after receiving it, with or without amendment.”

4. Section 5 of the Act is amended by replacing “and their” by “to their caregivers and to their”.

5. Section 7 of the Act is replaced by the following section:

“7. The institution must review its policy and submit it to the Minister of Health and Social Services at least every five years, before the date set by the Minister. On the recommendation of the Minister responsible for Seniors, the Minister approves the reviewed policy within 90 days after receiving it, with or without amendment.”

6. Section 8 of the Act is amended by replacing “make its policy” in the second paragraph by “post the policy in public view and make it”.

7. Section 9 of the Act is amended by replacing “make the policy” in the second paragraph by “post the policy in public view and make it”.

8. Division V of Chapter II of the Act, comprising sections 10 to 12, is repealed.

9. Section 13 of the Act is amended by inserting “seniors and of” after “maltreatment of”.

10. Section 14 of the Act is amended

(1) by inserting “seniors and of” after “maltreatment of” in the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“The annual summary of the local commissioner’s activities must set out, among other elements,

(1) the number of complaints and reports concerning cases of maltreatment under examination or being processed at the beginning and at the end of the fiscal year as well as the number of complaints and reports received concerning such cases during the fiscal year, by living environment and by type of maltreatment;

(2) the number of interventions on the commissioner’s own initiative concerning cases of maltreatment being carried out at the beginning and at the end of the fiscal year as well as the number of interventions carried out on the commissioner’s own initiative concerning such cases during the fiscal year, by living environment and by type of maltreatment;

(3) the number of complaints and reports concerning cases of maltreatment received, examined or processed, dismissed on summary examination, refused or abandoned, by type of maltreatment;

(4) the nature of the main recommendations concerning cases of maltreatment made by the local commissioner to the board of directors of the institution concerned and to the department or service manager concerned within such an institution as well as, if applicable, to the highest authority of the resource, body or partnership or the person holding the position of highest authority responsible for the services that are the subject of complaints or reports concerning cases of maltreatment, by type of maltreatment; and

(5) any other element determined by the Minister of Health and Social Services.”

II. Chapter III of the Act, comprising sections 16 to 20, is replaced by the following chapters:

“CHAPTER III

**“CONCERTED INTERVENTION PROCESS CONCERNING
MALTREATMENT**

“DIVISION I

“GENERAL PROVISION

“16. The Minister responsible for Seniors is responsible for combatting maltreatment of seniors and of persons in vulnerable situations by fostering the complementarity and effectiveness of the measures that are taken by the actors from the sectors concerned and that are intended to prevent, detect and combat maltreatment.

For that purpose, the Minister coordinates the establishment, in each health region, of a concerted intervention process concerning maltreatment that takes into account each region’s specific realities, in particular by entering into the Québec-wide framework agreement referred to in section 20.4.

“DIVISION II

“DESIGNATED RESOURCE PERSONS

“17. The application of the concerted intervention process must enable any senior or any person in a vulnerable situation who believes he or she is a victim of maltreatment and who is not covered by an institution’s anti-maltreatment policy as well as any person who has reasonable cause to believe that a senior or a person in a vulnerable situation who is not covered by such a policy is a victim of maltreatment to file a complaint or make a report of maltreatment with the resource persons designated by the following bodies:

(1) an integrated health and social services centre, a local authority and the Cree Board of Health and Social Services of James Bay;

(2) a police force, where the facts in support of the complaint or report could constitute a criminal or penal offence;

(3) the Public Curator, where the person is under tutorship or curatorship or a protection mandate has been homologated for the person, or where the person's incapacity to care for himself or herself or administer his or her property has been ascertained by medical assessment but the person is not under a protective measure;

(4) the Commission des droits de la personne et des droits de la jeunesse, where the facts in support of the complaint or report could constitute a case of discrimination, exploitation or harassment within the meaning of the Charter of human rights and freedoms (chapter C-12); and

(5) the Autorité des marchés financiers, in a case of financial abuse committed by a person subject to its regulation.

The Minister may designate any other person or body to receive a complaint or report in accordance with this section.

“18. The Director of Criminal and Penal Prosecutions designates a resource person for the purposes of Division III of this chapter.

“DIVISION III

“APPLICATION FRAMEWORK FOR A CONCERTED INTERVENTION PROCESS

“19. The purpose of a concerted intervention process is to implement any of the following measures:

(1) concerted action by at least two designated resource persons to quickly and accurately assess a case of maltreatment in order to put an end to it, in particular by combining their expertise and communicating information they may have in relation to the case;

(2) coordination of the actions, investigations or other procedures of at least two designated resource persons in order to ensure the effectiveness of an intervention aimed at putting an end to a case of maltreatment and to minimize the negative impact of the intervention on the senior or the person in a vulnerable situation who is a victim of maltreatment; and

(3) intervention on the part of the judicial system to adequately protect the senior or the person in a vulnerable situation who is a victim of maltreatment, in particular by means of a protection order referred to in article 509 of the Code of Civil Procedure (chapter C-25.01).

The initiation of a concerted intervention process may arise from the reception of a complaint or report of maltreatment by a designated resource person or from the referral of a case of maltreatment to such a resource person

by a person working for the same body as the resource person. It may also arise from the reception of a complaint or report by the local service quality and complaints commissioner, where the commissioner has referred the case to a designated resource person, with the consent of the senior or the person in a vulnerable situation. Such consent is not necessary, however, where it must be given by the tutor, curator or mandatary of the senior or the person in a vulnerable situation and that tutor, curator or mandatary is, according to the complaint or report, the maltreating person.

“20. Where a designated resource person considers that initiating a concerted intervention process would facilitate putting an end to a case of maltreatment, the designated resource person must provide the senior or the person in a vulnerable situation with information related to the scope of the actions that could be undertaken, the support the senior or the person could receive and the possible outcomes. The designated resource person may also, if he or she considers it advisable, provide the senior or the person with information on the health services or social services the maltreating person could receive.

“20.1. A designated resource person must obtain the consent of the senior or the person in a vulnerable situation for the initiation of a concerted intervention process and for the communication, to other designated resource persons, of personal information that concerns the senior or the person and that is necessary for conducting a concerted intervention aimed at putting an end to the case of maltreatment of which the senior or the person is a victim.

Despite the first paragraph, a designated resource person may initiate a concerted intervention process and communicate, to other designated resource persons, personal information that concerns a senior or a person in a vulnerable situation, without the senior’s or person’s consent,

(1) where such consent must be given by the tutor, curator or mandatary of the senior or the person in a vulnerable situation and that tutor, curator or mandatary is, according to the complaint or report, the maltreating person; or

(2) in order to prevent an act of violence, including a suicide, where the resource person has reasonable cause to believe that there is a serious risk of death or of serious bodily injury threatening the senior or the person in a vulnerable situation and where the nature of the threat generates a sense of urgency.

For the purposes of subparagraph 2 of the second paragraph, “serious bodily injury” means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.

“20.2. A designated resource person who initiated a concerted intervention process must, where the process has ended, inform any other designated resource person who was involved in the process of the nature of the management of the maltreatment situation.

“20.3. Where the complaint or report received by the designated resource person does not give rise to the initiation of a concerted intervention process, the designated resource person may obtain support or advice from another designated resource person with regard to the directions and actions to take to put an end to the case of maltreatment. The designated resource person remains responsible for following up on the complaint or report.

“DIVISION IV

“QUÉBEC-WIDE FRAMEWORK AGREEMENT TO COMBAT MALTREATMENT

“20.4. The Minister responsible for Seniors must enter into a Quebec-wide framework agreement to combat maltreatment of seniors and persons in vulnerable situations 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 government department or other body considered useful.

The framework agreement must set out, among other things,

(1) the guiding principles that support its application and the terms relating to the involvement of the resource persons designated for the purposes of the concerted intervention process;

(2) the establishment of the following committees:

(a) a Québec-wide steering committee responsible for developing an overall vision for the application of and follow-up on the framework agreement as well as the concerted intervention process;

(b) a Québec-wide advisory committee responsible for coordinating the application of and follow-up on the framework agreement as well as the concerted intervention process throughout all health regions; and

(c) for each health region, a regional implementation committee responsible for coordinating the application of and follow-up on the framework agreement and the implementation of the concerted intervention process;

(3) the joint obligation of the parties to the framework agreement to develop intervention support tools and see that they are updated; and

(4) the obligation of the parties referred to in section 17 and the Director of Criminal and Penal Prosecutions to exercise the following functions:

(a) develop an internal procedure concerning the terms related to initiating a concerted intervention process and, if applicable, see that it is updated;

(b) designate a representative whose role is, among other things, to offer support for the purposes of any decision relating to the initiation of a concerted intervention process; and

(c) disseminate, according to the mode established in the framework agreement, the name and contact information of the designated resource persons referred to in section 17.

“20.5. An integrated health and social services centre and a police force that are referred to in section 17 must collaborate in implementing the Québec-wide framework agreement by exercising the functions set out in subparagraph 4 of the second paragraph of section 20.4.

“DIVISION V

“ACCOUNTABILITY

“20.6. The Minister responsible for Seniors must report on the application of the provisions of this chapter every year in a report the Minister tables in the National Assembly within four months after 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 Minister’s website.

“CHAPTER III.1

“MALTREATMENT ASSISTANCE, ASSESSMENT AND REFERENCE CENTRE

“20.7. The Minister responsible for Seniors must establish a maltreatment assistance, assessment and reference centre.

The functions of the centre include

(1) receiving a call from a person seeking information or support concerning maltreatment, and actively listening to the person;

(2) assessing the situation described by the person as well as its risk level, in particular to determine whether it is a case of maltreatment;

(3) providing information on the resources available and the possible recourses to put an end to a case of maltreatment;

(4) referring the person to the resource persons most able to help the person, including the competent local service quality and complaints commissioner or any other designated resource person referred to in section 17; and

(5) conducting, with the person’s consent, follow-up to accompany the person in the process or in the steps he or she has taken or is taking.

“20.8. The Minister may, by agreement, entrust the organization and administration of the maltreatment assistance, assessment and reference centre to an institution or any other body.”

12. The heading of Chapter IV of the Act is replaced by the following heading:

“PROTECTION MEASURES SPECIFIC TO CERTAIN CASES OF MALTREATMENT”.

13. Section 21 of the Act is replaced by the following section:

“21. Any health services and social service provider or any professional within the meaning of the Professional Code (chapter C-26) who, in the exercise of his or her functions or the practice of his or her profession, has reasonable grounds to believe that a person is a victim of maltreatment must report the case without delay where the person is

(1) a user of full age who is lodged in a facility maintained by an institution operating a residential and long-term care centre;

(2) a user of full age who is taken in charge by an intermediate resource or by a family-type resource;

(3) a person of full age who is under tutorship or curatorship or for whom a protection mandate has been homologated;

(4) any person of full age whose incapacity to care for himself or herself or to administer his or her property has been ascertained by medical assessment, but who is not under a protective measure; or

(5) any other person in a vulnerable situation who is a resident of a private senior’s residence.

The report is filed with the competent local service quality and complaints commissioner where the person of full age concerned is covered by an institution’s anti-maltreatment policy or, in any other case, with a designated resource person referred to in section 17, to be handled in accordance with Chapter II or Chapter III, as applicable.

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

Anyone who contravenes the provisions of the first paragraph commits an offence and is liable to a fine of \$2,500 to \$25,000. Those amounts are doubled for a subsequent offence.”

14. The Act is amended by inserting the following section after section 21:

“21.1. The following commit an offence and are liable to a fine of \$5,000 to \$125,000 in the case of a natural person, or to a fine of \$10,000 to \$250,000 in any other case:

(1) anyone who commits an act of maltreatment against a user of full age who is lodged in a facility maintained by an institution operating a residential and long-term care centre, a user of full age who is taken in charge by an intermediate resource or family-type resource or a resident of a private seniors’ residence, on the premises of such a facility, resource or residence;

(2) an institution, the person responsible for or operator of a resource or residence or a member of their staff that commits an act of maltreatment against a user or resident referred to in subparagraph 1 while the user or resident, who is under the responsibility of the institution, person or operator, as applicable, is outside the premises referred to in that subparagraph; or

(3) a person who, in the exercise of his or her functions, commits an act of maltreatment against a user of full age to whom the person directly provides in-home health services or social services on behalf of an institution.

The amounts of the fines are doubled for a subsequent offence.

For the purposes of this section, residents of a private seniors’ residence and persons receiving in-home health services and social services are covered provided they are persons in vulnerable situations within the meaning of section 2.”

15. The Act is amended by inserting the following chapters after section 22:

“CHAPTER IV.1

“CONFIDENTIALITY, PROTECTION AGAINST REPRISAL AND IMMUNITY FROM PROCEEDINGS

“22.1. A local service quality and complaints commissioner or a designated resource person referred to in section 17 must take all necessary measures to preserve the confidentiality of any information that would allow a person who files a complaint or makes a report of maltreatment to be identified, unless the person consents to being identified. The commissioner or the resource person may, however, communicate the identity of the person to a police force.

“22.2. Reprisals are prohibited against a person who, in good faith, files a complaint or makes a report of maltreatment or cooperates in the examination of a complaint or processing of a report.

Threats of reprisal against a person to dissuade them from filing a complaint, making a report or cooperating in the examination of a complaint or processing of a report are also prohibited.

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

Anyone who threatens or intimidates a person or takes reprisals or attempts to take reprisals against a person because the person complies with this Act, exercises a right provided for by this Act or reports conduct that contravenes this Act commits an offence and is liable to a fine of \$2,000 to \$20,000 in the case of a natural person and \$10,000 to \$250,000 in any other case. Those amounts are doubled for a subsequent offence.

“22.3. No proceedings may be brought against a person who, in good faith, has filed a complaint or made a report of maltreatment or cooperated in the examination of a complaint or in the processing of a report, whatever the conclusions issued.

“CHAPTER IV.2

“INSPECTION AND INVESTIGATION

“22.4. The Minister may authorize any person to act as an inspector for the purpose of verifying compliance with this Act.

An inspector may, in the exercise of his or her functions,

(1) at any reasonable time, enter any premises where an anti-maltreatment policy applies;

(2) take photographs or make recordings of the premises and the property located there; and

(3) require the communication of any document or file for examination or reproduction, if the inspector has reasonable grounds to believe that they contain information relating to the application of this Act or the regulations.

If the premises referred to in subparagraph 1 of the first paragraph are in the nature of a dwelling for the occupant, the inspector must obtain the occupant’s consent before inspecting the premises.

“22.5. An inspector may, by a request sent by registered mail or personal service, require any person to communicate by registered mail or personal service, within a reasonable time specified by the inspector, any information or document relating to the application of this Act or the regulations.

“22.6. The Minister may designate any person to investigate any matter relating to the application of this Act or the regulations.

“22.7. Inspectors and investigators must, on request, identify themselves and produce a certificate of authority.

“22.8. Anyone who in any way hinders or attempts to hinder an inspector or investigator in the performance of inspection or investigation functions, in particular by deceiving the inspector or investigator by concealment or misrepresentation or, in the case of an inspector, by refusing to provide a document or a file that the inspector is entitled to require under this Act, commits an offence and is liable to a fine of \$5,000 to \$50,000 in the case of a natural person and \$15,000 to \$150,000 in any other case. Those amounts are doubled for a subsequent offence.

“22.9. No proceedings may be brought against an inspector or an investigator for an act or omission in good faith in the performance of inspection or investigation functions.”

16. Section 39 of the Act is repealed.

17. Section 40 of the Act is replaced by the following section:

“40. The Minister responsible for Seniors is responsible for the administration of this Act, except Chapters II, IV.1 and IV.2, which are under the responsibility of the Minister of Health and Social Services.”

ACT TO MODIFY THE ORGANIZATION AND GOVERNANCE OF THE HEALTH AND SOCIAL SERVICES NETWORK, IN PARTICULAR BY ABOLISHING THE REGIONAL AGENCIES

18. Section 50.2 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) is amended by replacing “sections 34” in the second paragraph by “sections 33.1, 34”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

19. Section 19 of the Act respecting health services and social services (chapter S-4.2) is amended

(1) by striking out paragraph 3;

(2) by inserting “or to a person authorized to conduct an investigation under the first paragraph of section 489.4” at the end of paragraph 5.

20. The Act is amended by inserting the following section after section 33:

“33.1. A local service quality and complaints commissioner who, in the exercise of his or her functions, has reasonable grounds to believe there exists a situation that could pose a threat to the health or well-being of a user or a group of users, including such a situation arising from the application of

practices or procedures, must send a copy of his or her conclusions, including reasons, to the executive director of the institution concerned and to the Minister, together with any recommendations made to the board of directors concerned.”

21. Section 240.1 of the Act is amended by replacing “in accordance with section 414” by “in accordance with this Act”.

22. The Act is amended by inserting the following sections after section 309:

“309.1. A public institution having entered into an agreement with an intermediate resource, other than a resource governed by the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements (chapter R-24.0.2), may designate a person to assume, for a period not exceeding 120 days, the provisional administration of the intermediate resource

(1) where the agreement has been cancelled;

(2) where the intermediate resource engages in practices or tolerates a situation that could pose a threat to the health or safety of the persons to whom it provides services; or

(3) where the intermediate resource is experiencing difficulties that seriously compromise either the quality of the services it offers or its administration, organization or operation.

The period provided for in the first paragraph may be extended by the institution, provided that the extension period does not exceed 90 days.

“309.2. The provisional administrator of an intermediate resource shall, as soon as possible, make a preliminary report of his findings to the public institution, together with his recommendations.

“309.3. Before submitting the preliminary report to the public institution, the provisional administrator shall give the operator of the intermediate resource the opportunity to present observations. The provisional administrator shall attach to the report a summary of the observations made to him.

“309.4. Where the public institution designates a provisional administrator in accordance with section 309.1, it shall indicate whether all or certain powers of the operator of the intermediate resource are suspended and are therefore exercised by the provisional administrator.

If deprived of certain powers, the resource’s operator shall continue to exercise those powers that were not suspended.

At all times, the resource’s operator shall continue to exercise all powers with regard to activities other than activities related to the operation of the resource, where applicable.

“309.5. No legal proceedings may be brought against the provisional administrator of an intermediate resource for an act done in good faith in the exercise of his functions.

“309.6. The public institution may, where the preliminary report made by the provisional administrator under section 309.2 confirms the existence of a situation described in section 309.1,

(1) order the resource to take the necessary corrective measures within the period the public institution determines; and

(2) order the provisional administrator to continue his administration or to relinquish it and not resume it unless the intermediate resource takes the corrective measures ordered by the public institution in accordance with subparagraph 1.

In addition, the public institution shall order the provisional administrator to make a final report to it on ascertaining that the situation described in section 309.1 has been corrected or that it will not be possible to correct it.

“309.7. After receiving the final report of the provisional administrator under the second paragraph of section 309.6, the public institution may take either of the following measures:

(1) terminate the provisional administration on the date it determines; or

(2) exercise any power conferred on it by section 309.6.”

23. The Act is amended by inserting the following section after section 346.0.4.2:

“346.0.4.2.1. Subject to the third paragraph of section 346.0.4.2, a temporary certificate of compliance is valid for up to one year. It may not be renewed.

A certificate of compliance is valid for four years. It may be renewed for the same period.

Six months before the expiry date of a certificate of compliance, an agency must initiate the renewal process for the certificate with the certificate holder.”

24. Section 346.0.6 of the Act is amended by inserting the following paragraph after paragraph 3.2:

“(3.3) the obligation of an operator of a private seniors’ residence and of the agency for the region where the residence is situated to enter into an agreement concerning the provision of certain services to residents and setting out the obligations of the parties in that respect, as well as the minimum content of such an agreement;”.

25. The Act is amended by inserting the following sections after section 346.0.9:

“346.0.9.1. The agency may designate any person to investigate any matter relating to the application of this subdivision and the regulations.

“346.0.9.2. An investigator must, on request, identify himself and produce a certificate of authority.

“346.0.9.3. No legal proceedings may be brought against an inspector or an investigator for an omission or act done in good faith in the exercise of his functions.”

26. Section 346.0.10 of the Act is replaced by the following sections:

“346.0.10. If the operator of a private seniors’ residence is experiencing difficulties with respect to the quality of the services the operator offers or with respect to the administration, organization or operation of the residence, the agency may provide assistance and support to the operator.

Such assistance and support must be the subject of an agreement between the agency and the operator, which must stipulate, among other things, the nature, duration and expected results of the assistance and support.

An operator that has received assistance and support must report to the agency on any developments in the situation.

“346.0.10.1. The agency may designate a person to assume, for a period not exceeding 120 days, the provisional administration of a private seniors’ residence

(1) where the operator of the residence no longer holds a temporary certificate of compliance or a certificate of compliance, no longer complies with a provision of this subdivision or of the regulations, or where the operator’s temporary certificate or certificate of compliance has been cancelled in accordance with this Act;

(2) where the operator fails to take the corrective measures ordered by the agency within the period determined by the agency;

(3) where the operator engages in practices or tolerates a situation that could pose a threat to the health or safety of the persons to whom the operator provides services; or

(4) where the operator is experiencing difficulties that seriously compromise either the quality of the services it offers or the administration, organization or operation of the residence.

The period provided for in the first paragraph may be extended by the agency, provided that the extension period does not exceed 90 days.

“346.0.10.2. The provisional administrator of a private seniors’ residence shall, as soon as possible, make a preliminary report of his findings to the agency, together with his recommendations.

“346.0.10.3. Before submitting the preliminary report to the agency, the provisional administrator shall give the operator of the private seniors’ residence the opportunity to submit observations. The provisional administrator shall attach to the report a summary of the observations made to him.

“346.0.10.4. Where the agency designates a provisional administrator in accordance with section 346.0.10.1, it shall indicate whether all or certain powers of the operator of the private seniors’ residence are suspended and are therefore exercised by the provisional administrator.

If deprived of certain powers, the residence’s operator shall continue to exercise those powers that were not suspended.

At all times, the residence’s operator shall continue to exercise all powers with regard to activities other than activities related to the operation of the residence, if applicable.

“346.0.10.5. No proceedings may be brought against a provisional administrator of a private seniors’ residence for an act done in good faith in the exercise of his functions.

“346.0.10.6. The agency may, where the preliminary report made by the provisional administrator under section 346.0.10.2 confirms the existence of a situation described in section 346.0.10.1,

(1) attach such restrictions and conditions to the temporary certificate of compliance or the certificate of compliance as it considers appropriate;

(2) prescribe the time by which any situation described in section 346.0.10.1 must be remedied; and

(3) order the provisional administrator to continue his administration or to relinquish it and not resume it unless the operator of the private seniors’ residence complies with the conditions imposed by the agency under subparagraph 1 or 2.

In addition, the agency shall order the provisional administrator to make a final report to it on ascertaining that the situation described in section 346.0.10.1 has been corrected or that it will not be possible to correct it.

“**346.0.10.7.** After receiving the final report of the provisional administrator under the second paragraph of section 346.0.10.6, the agency may take either of the following measures:

- (1) terminate the provisional administration on the date it determines; or
- (2) exercise any power conferred on it by section 346.0.10.6.”

27. Section 346.0.11 of the Act is amended by adding the following paragraph at the end:

“(6) fails to take the necessary means to put an end to any case of maltreatment within the meaning of the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (chapter L-6.3) that is brought to its attention.”

28. Section 346.0.17.1 of the Act is replaced by the following section:

“**346.0.17.1.** The operator of a private seniors’ residence who wishes to cease activities, even with respect to only a part of the residence, must transmit a cessation-of-activities plan to the agency concerned at least nine months before the projected date of cessation.

The main purpose of the plan is to ensure that the cessation of activities does not compromise the health and safety of the residents. The plan must set out the steps and actions that will be taken by the operator of the residence over a period of at least six months preceding the cessation. The plan must set out, among other elements,

- (1) the projected date of the cessation of activities;
- (2) the contact information of the persons concerned by the cessation of activities and of any persons acting on their behalf;
- (3) the measures that will be taken by the operator
 - (a) to assist in the relocation of the persons concerned who require it; and
 - (b) to properly inform the persons concerned and any persons acting on their behalf of the relocation assistance available to them and of any developments in the situation until the cessation of activities; and
- (4) any other element determined by government regulation.

The agency concerned must notify the operator as well as the Minister of Health and Social Services and the Minister responsible for Seniors in writing of the receipt of the cessation-of-activities plan. In addition, if the agency considers that the plan does not meet the requirements of the second paragraph,

it must, in writing and within 30 days after receipt of the plan, notify the operator and provide the latter with the reasons in support of its conclusion in order for the operator to revise the plan as soon as possible.

The agency concerned must approve the operator's cessation-of-activities plan, with or without amendment, within three months after its receipt and transmit a copy of it to the Minister of Health and Social Services and to the Minister responsible for Seniors. Before approving a plan with amendment, the agency must grant the operator a period of at least 10 days to submit observations. The operator must comply with the plan approved by the agency concerned.

All notices that, under the rules set out in the Civil Code respecting the lease of a dwelling, must be given to the lessees prior to the cessation of activities are without effect if they are transmitted before the cessation-of-activities plan is approved by the agency concerned.

This section does not apply where the rights conferred on the operator by a certificate of compliance or a temporary certificate of compliance have been validly transferred to another person in accordance with section 346.0.20."

29. Section 346.0.17.2 of the Act is amended by replacing "did not give the agency concerned a prior notice of intention in accordance with that section" by "did not transmit the required cessation-of-activities plan to the agency concerned for approval in accordance with that section".

30. Section 346.0.18 of the Act is amended by adding the following sentence at the end: "The same applies when the agency approves the cessation-of-activities plan of the operator of a private seniors' residence."

31. Sections 413.2 to 415 of the Act are repealed.

32. Section 446 of the Act is amended by inserting the following paragraphs after paragraph 2:

"(2.1) engages in practices or tolerates a situation that could pose a threat to the health or well-being of persons whom the institution receives or could receive or that are inconsistent with the pursuit of the mission of a centre it operates;

"(2.2) fails to take the necessary means to put an end to any case of maltreatment within the meaning of the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (chapter L-6.3) that is brought to its attention;".

33. Section 447 of the Act is amended by replacing "in paragraph 2 of section 446" in the first paragraph by "in paragraph 2, 2.1 or 2.2 of section 446".

34. The heading of Division I of Chapter VIII of Title II of Part III of the Act is replaced by the following heading:

“INSPECTION AND INVESTIGATION”.

35. The Act is amended by inserting the following sections after section 489.2:

“**489.3.** A person authorized in writing by the Minister may conduct an investigation into any matter relating to the application of subdivision 2.1 of Division II of Chapter I of Title I of Part III and the regulations in respect of a private seniors’ residence or any other resource or category of resource offering lodging determined by government regulation under the first paragraph of section 346.0.21.

“**489.4.** The Minister may authorize any person in writing to conduct an investigation in the following cases:

- (1) where an institution is not complying with the law;
- (2) where an institution engages in practices or tolerates a situation that could pose a threat to the health or well-being of the persons served by the institution;
- (3) where the Minister becomes aware, at any time in a fiscal year, that the expenditures of a public institution exceed its revenues and that its budgetary balance is at risk; and
- (4) where the Minister considers that there has been a serious fault, such as embezzlement, in the management of the public institution.

A person authorized to conduct an investigation is vested, for the purposes of the investigation, with the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to impose imprisonment.

“**489.5.** Once the investigation has been completed, the Minister may require the institution concerned to submit an action plan to follow up on the recommendations made by the Minister.”

36. Section 490 of the Act is amended by striking out “under agreement” in the second paragraph.

37. Section 495 of the Act is amended by striking out “under agreement”.

38. Section 531.1.3 of the Act is replaced by the following section:

“531.1.3. An operator of a private seniors’ residence or a new lessor referred to in section 346.0.17.2 who contravenes any of the provisions of section 346.0.17.1 commits an offence and is liable to a fine of \$2,500 to \$62,500 in the case of a natural person or \$7,500 to \$187,500 in the case of a legal person.

Penal proceedings for an offence referred to in the first paragraph are prescribed by three years from the date of commission of the offence.”

ACT RESPECTING PRE-HOSPITAL EMERGENCY SERVICES

39. Section 8 of the Act respecting pre-hospital emergency services (chapter S-6.2) is amended by replacing “on an agency by sections 414 and 415” by “on the Minister by sections 489.4 and 489.5”.

TRANSITIONAL AND FINAL PROVISIONS

40. An institution must review its anti-maltreatment policy described in section 3 of the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations (chapter L-6.3) to comply with the provisions of that Act, as amended by this Act, not later than 6 April 2023.

The institution must submit the policy to the Minister of Health and Social Services in accordance with section 7 of that Act, as replaced by section 5, not later than 6 October 2023.

41. The Québec-wide framework agreement to combat maltreatment must be updated to comply with the new provisions of Chapter III of the Act to combat maltreatment of seniors and other persons of full age in vulnerable situations, enacted by section 11, not later than 6 April 2023.

42. Section 346.0.17.1 of the Act respecting health services and social services (chapter S-4.2), as replaced by section 28 of this Act, does not apply to an operator of a private seniors’ residence who, before 6 April 2022, gave the agency concerned the prior notice of at least six months provided for in that section, as it read on 5 April 2022.

In addition, section 346.0.17.2 of the Act respecting health services and social services, as amended by section 29 of this Act, does not apply to a new lessor if, before 6 April 2022, the former operator of the residence gave the agency concerned such a prior notice or if the new lessor gave the prior notice himself or herself pursuant to that section, as it read on 5 April 2022.

43. This Act comes into force on 6 April 2022.