

BRIEF

SUBMITTED TO THE COMMISSION
DE LA SANTÉ ET DES SERVICES SOCIAUX

February 14, 2020

Bill No. 52

*An Act to strengthen the complaint examination
process of the health and social services network, in
particular for users receiving services from private
institutions*



Foreword

The Fédération interprofessionnelle de la santé du Québec-FIQ and the Fédération interprofessionnelle de la santé du Québec | Secteur privé-FIQP represent 76,000 healthcare professionals in nursing and cardio-respiratory care, which includes the majority of nurses, licensed practical nurses, respiratory therapists and clinical perfusionists in Quebec health and social services institutions. Of these 76,000 healthcare professionals, nearly 1,500 work in private institutions. The FIQ and FIQP's strong foundation in the health network enriches their expertise, which is valued and recognized by decision-makers from all over. The FIQ and FIQP represent healthcare professionals with diverse work experience who provide care across all areas of the health and social services network.

As first-hand witnesses of the health care system's daily operations, healthcare professionals see the effects of socioeconomic inequality on health, as well as the impacts of the decisions made at all levels of the political and hierarchical structure. The FIQ and FIQP are labour organizations whose membership is primarily female, made up of healthcare professionals, public and private network employees, and citizens who use the services. Through their orientations and decisions, the FIQ and FIQP strive to protect social gains and to achieve greater equality and social justice.

Driven by their mission, they defend the interests and concerns of their members, as well as those of the public.

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Introduction

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Bill No. 52, which aims to strengthen the complaint examination process of the health and social services network, in particular for users receiving services from private institutions, presented on December 3, 2019 by Marguerite Blais, Minister Responsible for Seniors and Informal Caregivers, is intended as the government's response to mitigating certain shortcomings in the complaint examination process for users, as observed in health institutions and social services.

The healthcare professionals represented by the FIQ and FIQP work in the vast majority of public and private health institutions across Quebec. They provide the care and services within each mission, as defined by the *Act Respecting Health Services and Social Services*. The Federations have always geared their actions toward promoting quality patient care and services. Consequently, they applaud the fact that the legislator would like to strengthen the complaint examination process for users.

All the same, the Federations believe that certain issues in the bill raise questions and deserve explanations. We need to pay special attention to the many mandates assigned to service quality and complaint commissioners, and to their independence and impartiality, to ensure that they can carry out their duties without compromising the integrity of their role.

In addition to their questions and requests for clarification regarding this bill, the FIQ and FIQP would like to take this opportunity to propose solutions that will improve the quality and safety of care and thus work toward the same goals as the local service quality and complaint commissioners to improve patient care and services.

A significant work load

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The Federations applaud the fact that the legislator would like to entrust the complaint examination process for users who receive services from private institutions to a public institution. The FIQ and FIQP support all legislative changes that strengthen respect for patients and their rights.

However, since Bill No. 83¹ was adopted in 2005, the local service quality and complaint commissioners have been given additional work and responsibilities. The FIQ and FIQP believe that the current Bill No. 52 will only add more to their already significant workload, interfering with their capacity to achieve their mission's main objectives.

As a result of several reforms, the commissioners have to cover more territory and handle more complex issues. The creation of the Centres intégrés de santé et de services sociaux (CISSS/CIUSSS) brought together the many missions of the original institutions under one new umbrella institution spread out over several sites, some of which are several kilometres apart. For example, the CIUSSS du Saguenay-Lac-Saint-Jean covers a territory of 95,762 square kilometres.

In 2015, at the time the *Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies*² was adopted and the CISSS/CIUSSSs were created, the legislator had perhaps underestimated the workload increase. Faced with the scope of the task, the new merged institutions created the complaint commissioner roles and allowed some employees in the institution to perform certain activities related to the commissioners' work. This solution, aimed at alleviating the commissioners' burden, compromised the independence they need to perform their duties. Some user committees and the ombudsperson publicly denounced this and how it violated the law.³

¹ *Act to amend the Act respecting health services and social services and other legislative provisions*, 2005, ch. 32.

² L.Q. 2015, ch. O-7.2.

³ Jessica NADEAU. « Québec bafoue sa propre loi », *Le Devoir* [Online], February 25, 2016.

<https://www.ledevoir.com/societe/sante/463901/processus-de-plaintes-dans-les-hopitaux-quebec-bafoue-sa-propre-loi> (Viewed on February 9, 2020)

⁴ L.Q. 2017, ch. 21.

In 2017, as part of special consultations on Bill No. 130, *An Act to amend certain provisions regarding the clinical organization and management of health and social services institutions*,⁴ the legislator wanted to amend the examination procedure, in effect since 2005, in order to correct the practice denounced by the ombudsperson. Like other groups and organizations, the FIQ and FIQP denounced this legislative amendment, which distorted the whole complaint examination process. The final version of the bill still allows institutional staff to participate in the complaint examination process, but it now stipulates that this staff, under the authority of the commissioner or assistant commissioner, may not hold other positions with the employer.

Furthermore, since 2018, local service quality and complaint commissioners have been assigned an even greater workload. They were tasked with handling reports and complaints under the *Act to combat maltreatment of seniors and other persons of full age in vulnerable situations*.⁵ During the special consultations before the Committee on Citizen Relations, the Regroupement des commissaires aux plaintes et à la qualité du Québec tabled a brief that raises a question about the workload. The question is even part of a special recommendation requesting that the legislator foresee the resources necessary to carry out the new mandate.⁶ In the brief, the Regroupement specifies that the human, financial and material resources tied to this new responsibility will change over time, which needs to be taken into consideration.

In October 2019, about a year after policies were adopted within the institutions under the law, *La Presse* reported that the commissioners had to handle over 866 cases of mistreatment in the preceding year.⁷

⁴ L.Q. 2017, ch. 6.3

⁵ REGROUPEMENT DES COMMISSAIRES AUX PLAINTES ET À LA QUALITÉ DU QUÉBEC. *Mémoire-Consultations particulières et auditions publiques sur le projet de loi n° 115, Loi visant à lutter contre la maltraitance des aînés et toute autre personne majeure en situation de vulnérabilité*, 18 janvier 2017, p. 14

⁶ Tommy CHOUINARD. « Maltraitance envers les aînés : 866 dossiers en un an », *La Presse* [Online, in French], October 14, 2019. [<https://www.lapresse.ca/actualites/sante/201910/13/01-5245299-maltraitance-envers-les-aines-866-dossiers-en-un-an.php>] (Viewed on February 9, 2020)

Although the minister announced it would hire 12 new service quality and complaint commissioners to manage the new responsibilities specified in the bill, the FIQ and FIQP remain concerned by the immense workload of the commissioners and their assistants and their ability, despite very good intentions, to fulfil this mandate.

Recommendation 1

The FIQ and FIQP recommend that the local service quality and complaint commissioners and their assistants be allocated sufficient financial, human and material resources to properly fulfil their mandate. The local commissioners and their assistants must be consulted to determine their needs.

Impartiality must remain a priority

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After the unfortunate events that occurred at the Centre d'hébergement de soins de longue durée (CHSLD) Saint-Charles-Borromée in Montreal in 2003, the law was amended so as to make the local commissioners' impartiality the cornerstone of the users' complaint examination process.

The local service quality and complaint commissioners play a particular role within a health and social services institution. They only have to answer to the institution's Board of Directors. Unlike other senior management positions, there is no hierarchical order between the commissioners and the general administration. To carry out their mandate, the local complaint commissioners must interact with various people within the institution. Local service quality and complaint commissioners speak with user committees, families, managers, and network employees who provide important feedback. It is key that commissioners maintain these relationships in order to protect their impartiality.

The FIQ and FIQP believe that the commissioners' impartiality is crucial and gives the users' complaint examination process its meaning. That's why nothing must compromise or diminish its importance. As such, the Federations applaud the intention in this bill to strengthen the complaint examination process.

Moreover, on December 3, 2019, in parallel with the announcement of the bill, Minister Blais announced that she wanted to create a new advisory-commissioner position at the Ministère de la Santé et des Services sociaux (MSSS).⁸ The new advisory-commissioner role and its duties is not included in the bill.

A recent change to the MSSS's⁹ organizational chart shows that the advisory-commissioner position will report to the Direction générale de la coordination, de la planification, de la performance et de la qualité.

⁸ RADIO-CANADA. « Maltraitance des aînés : Québec veut rendre l'examen des plaintes plus efficace » [Online], December 3, 2019. [<https://ici.radio-canada.ca/nouvelle/1416267/sante-commissaire-conseil-renforcer-regime-examen-plaintes>] (Viewed on February 9, 2020)

⁹ MSSS. Organizational chart [Online], February 3, 2020. (In French) [https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/sante-services-sociaux/publications-adm/ORG_organigramme_MSSS_01.pdf?1579534967] (Viewed on February 9, 2020)

The FIQ and FIQP have questions about certain responsibilities that will be entrusted to the network employee who will take on this new role at the ministry. The new advisory-commissioner could be called on to support local commissioners and medical examiners with complex situations. They will also be responsible for systematically monitoring the implementation of corrective measures recommended by local service quality and complaint commissioners.ⁱ Meanwhile, the advisory-commissioner will also maintain their employment connection with their institution. Were the advisory-commissioner to intervene in the institution, it could give rise to a particular situation, to say the least.

What will the local service quality and complaint commissioners' obligations be to the advisory-commissioner? What will the hierarchy be between them and the advisory-commissioner? How will the monitoring and quality committees in the institutions and the new advisory-commissioner interact with regard to their duty to monitor the implementation of corrective measures? The Federations are perplexed by all of these unanswered questions and the underlying reasons for creating this position.

The Federations express their reservations without taking full issue with this government initiative. They suspect that some of the advisory-commissioner's duties and integration within the MSSS will likely partially undermine the commissioners' independence and impartiality.

Recommendation 2

The FIQ and FIQP recommend that the local service quality and complaint commissioners and medical examiners maintain their independence and impartiality so that they can carry out their duties and responsibilities without compromise and that they answer solely to their institution's board of directors.

Working together with service quality and complaint commissioners

Without wanting to call into question the relevance of the local service quality and complaint commissioners' work, the FIQ and FIQP believe that there are some solutions that could greatly improve the quality and safety of patient care and services while decreasing the commissioners' workload.

For a few years now, the FIQ and FIQP have been promoting and testing out safe healthcare professional-to-patient ratios within health and social services network institutions.

Safe healthcare professional-to-patient ratios have been tested internationally with promising results. It's a solution that is backed by over fifteen years of scientific literature. Safe ratios are a catalyst for attracting and retaining healthcare professionals in the health network, for improving the quality and safety of patient care, and increasing efficiency in the health network.

From April 2018 to March 2019, 500,502 incidents and accidents were reported in Quebec,¹⁰ which averages out to 1,371 adverse events per day. The most reported events are falls (37 %) and medication errors (28%). The Federations have good reason to believe that incidents and accidents are under-reported given the code of silence in healthcare institutions.¹¹ Some adverse events generated consequences that contributed to the death of no less than 450 people.

The Chief Coroner's Office investigated a number of patient deaths following adverse events and wrote recommendations for care teams. To promote safe care in CHSLDs, the Chief Coroner's Office's recommendations included:

- Lowering patient ratios per nurse;
- Seriously considering increasing night staff;

¹⁰ MSSS. *Rapport 2018-2019 sur les incidents et accidents survenus lors de la prestation des soins et services de santé au Québec*, 2019.

¹¹ Brigitte BRETON. « Appel à la "boss des pdg" », *Le Soleil* [Online], January 22, 2020. https://www.lesoleil.com/actualites/appel-a-la-boss-des-pdg-893917971ca058241fe7a7b305576e8a?utm_source=dvr.it&utm_medium=facebook

(Viewed on February 9, 2020)

- Making efforts to stabilize staff.¹²

These deplorable situations cause patients and their loved ones suffering and can give rise to a significant amount of complaints to the local service quality and complaint commissioner.

The Federations believe that we must tackle the root of the problem and review the composition of the care team and the number of healthcare professionals caring for patients. Some patients in CHSLDs did not have a night nurse on staff for several weeks,¹³ which is in violation of the standard set by the MSSS.¹⁴ In short, implementing safe healthcare professional-to-patient ratios would increase the staff's overall ability to carry out their professional duties and greatly improve the safety and quality of care, which would benefit Quebec patients and their loved ones.

Recommendation 3

The FIQ and FIQP recommend creating legislation for safe healthcare professional-to-patient ratios and implementing them within health and social services institutions throughout Quebec.

¹² BUREAU DU CORONER. *Insuffisance respiratoire dans un CHSLD*, 2016; A 77-year old woman died of suffocation and compression asphyxiation at the CHSLD Trèfle d'Or in La Prairie, 2012; An 89-year old woman died following a deterioration of her overall condition and heart failure at the Résidence des Boulevards in Montreal, 2009.

¹³ Marie-Pier BOUCHARD. « Pas d'infirmière la nuit dans certaine CHSLD », *Radio-Canada* [Online], July 18, 2019.

[<https://ici.radio-canada.ca/nouvelle/1228463/absence-infirmiere-chsld-nuit-mauricie-centre-du-quebec>] (Viewed on February 12, 2020)

¹⁴ MSSS, *Cadre de référence et normes relatives à l'hébergement dans les établissements de soins de longue durée*, Gouvernement du Québec, 2018, p. 18.

Conclusion

The current state of the health and social services network is concerning. Every day the media puts out stories about patients' terrible experiences. Healthcare professionals and other network staff work in very difficult conditions and despite everything, they strive to offer quality care and services to the Quebec population.

Despite our concerns regarding the commissioners' workload and impartiality, the FIQ and FIQP support the government's initiative to strengthen the complaint examination process. Nonetheless, this measure alone is not enough to mitigate these recurring problems, which generate a large number of the complaints filed with the local commissioners.

We need to take preventive action and implement long-term solutions. The Federations believe implementing safe healthcare professional-to-patient ratios is a solution that would have a measurable impact over time on care and service quality.

List of recommendations

Recommendation 1

The FIQ and FIQP recommend that the local service quality and complaint commissioners and their assistants be allocated sufficient financial, human and material resources to properly fulfil their mandate. The local commissioners and their assistants must be consulted to determine their needs.

Recommendation 2

The FIQ and FIQP recommend that the local service quality and complaint commissioners and medical examiners maintain their independence and impartiality so that they can carry out their duties and responsibilities without compromise and that they answer solely to their institution's board of directors.

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