



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 70

**An Act to amend the Act respecting
health services and social services,
the Health Insurance Act and the Act
respecting the Régie de l'assurance
maladie du Québec**

Introduction

**Introduced by
Mr. Philippe Couillard
Minister of Health and Social Services**

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EXPLANATORY NOTES

This bill introduces, for the purposes of the provisions of the Act respecting health services and social services on regional storage services for certain health information in order to provide health services, the principle of implicit consent by all persons who receive such services in Québec to the storage of certain personal health information by an agency or institution the Minister authorizes to set up regional storage services or by the Régie de l'assurance maladie du Québec in the cases provided for by law. Accordingly, the bill sets out the operating rules that come into play when a person opts out of personal information storage.

The bill provides that the information stored includes a copy of the historical data that relate to certain information.

The bill also proposes amendments to the Health Insurance Act in order to specify certain rules relating to the unique identification numbers that the Régie de l'assurance maladie du Québec assigns to persons who receive health services in Québec.

Lastly, the bill makes a number of consequential amendments to the Act respecting the Régie de l'assurance maladie du Québec.

LEGISLATION AMENDED BY THIS BILL:

- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting health services and social services (R.S.Q., chapter S-4.2).

Bill 70

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES, THE HEALTH INSURANCE ACT AND THE ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

1. Section 19.0.2 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended

(1) by replacing everything after “for the purpose of” in the last sentence of the first paragraph by “verifying the validity or facilitating the transfer of the other information”;

(2) by replacing “register of insured persons” at the end of the second paragraph by “register of users, after recording in the register the information referred to in the twelfth paragraph of section 65 of the Health Insurance Act (chapter A-29)”.

2. Section 505 of the Act, amended by section 184 of chapter 32 of the statutes of 2005 and by section 31 of chapter 43 of the statutes of 2006, is again amended by replacing paragraph 24.1 by the following paragraph:

“(24.1) prescribe the manner in which and the terms under which a person may opt out of having the personal information referred to in section 520.9 sent, in accordance with section 520.17 or 520.18, to an agency or an institution referred to in section 520.7 or to the Régie de l'assurance maladie du Québec, or the manner in which and the terms under which a person may opt in, following an earlier opting out, to having personal information sent;”.

3. Section 520.6 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by striking out paragraph 3;

(2) by replacing paragraph 4 by the following paragraph:

“(4) voluntary participation and non-discrimination, in that each person must remain entirely free to opt out at any time of having the personal information referred to in section 520.9 sent, in accordance with section 520.17

or 520.18, to an authorized agency or institution or to the Régie de l'assurance maladie du Québec, and that the opting out must in no way imperil the person's right to have access to and receive the health services required by the person's state of health;”.

4. Section 520.7 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005 and amended by section 34 of chapter 43 of the statutes of 2006, is again amended

(1) by replacing the part before subparagraph 1 of the first paragraph by the following:

“520.7. The Minister shall authorize an agency or an institution situated in the agency's area of jurisdiction to establish regional storage services for copies of the information referred to in section 520.9, including copies of the historical data that relate to information on the results of laboratory tests or analyses, including the results of laboratory function tests, the results of medical imaging examinations and immunological data, in respect of persons who receive health services in Québec, except a person who opts out of having personal information sent, in accordance with section 520.17 or 520.18, to such an agency or institution or to the Régie de l'assurance maladie du Québec to be stored.

The historical data for the information referred to in the first paragraph may not predate 1 January 2007.

The information that may be so stored is”;

(2) by replacing the second paragraph by the following paragraphs:

“Such an agency or institution must make sure, before receiving the information referred to in section 520.9 or communicating information that it stores, that the person concerned has not opted out of having personal information sent to the agency or institution.

For the purposes of the second paragraph, the date of confirmation that the person has not opted out is the date of

(1) the test or taking of samples, with respect to laboratory tests and analyses;

(2) the medical imaging examination, with respect to such examinations;

(3) the filling of a prescription, with respect to medication; and

(4) the administration of a vaccine, with respect to immunological data.”

5. Section 520.8 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by replacing “who may give consent to the

storage of personal information in accordance with Chapter IV of this Title” in the sixth and seventh lines of subparagraph 3 of the first paragraph by “in respect of whom an authorized agency or institution stores information”.

6. Section 520.9 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005 and amended by section 35 of chapter 43 of the statutes of 2006 and by section 6 of chapter 31 of the statutes of 2007, is again amended

(1) by inserting “, in addition to the historical data that relate to the information referred to in subparagraphs 4, 5 and 7 of this paragraph,” after “may include” in the third line of the first paragraph;

(2) by inserting “and analyses” after “tests” in subparagraph 4 of the first paragraph.

7. Section 520.11 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by replacing “register of insured persons” at the end of the second paragraph by “register of users”.

8. Sections 520.14 to 520.16 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, are replaced by the following sections:

“520.14. Persons who receive health services in Québec may at any time, before a local authority or before the Régie de l’assurance maladie du Québec and in the manner and under the terms the Government determines by regulation, opt out of having the personal information referred to in section 520.9 sent, in accordance with section 520.17 or 520.18, to an authorized agency or institution or to the Régie de l’assurance maladie du Québec.

Such persons may personally opt out as of the age of 14.

In the case of persons represented by the Public Curator, the latter may opt out on their behalf before the Régie de l’assurance maladie du Québec, in the manner and under the terms the Board determines.

“520.15. In addition, persons who have opted out may at any time, before a local authority or before the Régie de l’assurance maladie du Québec and in the manner and under the terms the Government determines by regulation, opt into having the personal information referred to in section 520.9 sent, in accordance with section 520.17 or 520.18, to an authorized agency or institution or to the Régie de l’assurance maladie du Québec.

“520.16. Information on the purpose and objectives pursued in establishing regional storage services and on the procedures for accessing, using, communicating, storing and destroying information stored under this Title must be published, in particular, on the website of the Ministère de la Santé et des Services sociaux. The information must specify that authorized health and social service providers are authorized, when providing services,

(1) to send, in keeping with their access profile and provided the person concerned has not opted out of having the personal information referred to in section 520.9 sent,

(a) a copy of the information referred to in subparagraphs 1 to 3 and 5 to 8 of the first paragraph of section 520.9 to the authorized agency or institution in the area of jurisdiction of an agency where health services are provided or, exceptionally, in the area of jurisdiction of the agencies the Minister specifies;

(b) a copy of the information on the results of a laboratory test or analysis to the authorized agency or institution in the area of jurisdiction of the agency that sent a request for the laboratory test or analysis, including laboratory function tests, or, exceptionally, to the authorized agency or institution in the area of jurisdiction of the agencies the Minister specifies; and

(c) a copy of the information concerning medication referred to in subparagraph 6 of the first paragraph of section 520.9 to the Régie de l'assurance maladie du Québec if the services are provided by a pharmacist practising in a community pharmacy; and

(2) to receive, in keeping with their access profile and provided the person concerned has not opted out, a copy of the information referred to in section 520.9 and stored by the authorized agency or institution and by the Régie de l'assurance maladie du Québec in accordance with section 520.23.”

9. Section 520.17 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by replacing “who consented to” in the fifth line of the first paragraph by “who has not opted out of”;

(2) by replacing “who consented to” in the third line of the second paragraph by “who has not opted out of”;

(3) by replacing everything after “person concerned” in the third line of the third paragraph by “and confirmation that the person has not opted out of personal information storage”.

10. Section 520.18 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by replacing paragraph 2 by the following paragraph:

“(2) confirmation that the person concerned has not opted out of having personal information sent to an authorized agency or institution or to the Régie de l'assurance maladie du Québec; and”.

11. Section 520.19 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by replacing “of the existence and validity of that person’s consent” in the last two lines of the second paragraph by “that the person has not opted out of such use of personal information”.

12. Section 520.22 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) functions relating to the registration of a person’s opting out of having the personal information referred to in section 520.9 sent, in accordance with section 520.17 or 520.18, to an authorized agency or institution or to the Régie de l’assurance maladie du Québec;”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) functions relating to the management of the opting out register, set out in subparagraph *h.5* of the second paragraph of section 2 of the Act respecting the Régie de l’assurance maladie du Québec;”.

13. Section 520.23 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by replacing the first paragraph by the following paragraph:

“**520.23.** Opting out renders any information previously stored on a person inactive. That information may not be destroyed until five years after the period of use prescribed under section 520.10.”;

(2) by replacing “again expresses a wish to have the” by “opts back in to having the personal”;

(3) by striking out everything after “used” in the second paragraph;

(4) by replacing “agency or institution authorized to store it” in the third line of the third paragraph by “authorized agency or institution or to the Régie de l’assurance maladie du Québec”.

14. Section 520.24 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is replaced by the following section:

“**520.24.** When a person dies, the person, by operation of law, is registered by the Régie de l’assurance maladie du Québec as having opted out.

Information on the person is destroyed five years after such registration.”

15. Section 520.25 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended by replacing the first paragraph by the following paragraph:

“**520.25.** An agency or institution may, during the period of use referred to in section 520.23, communicate to an authorized health and social service provider, according to the access profile assigned to the provider, the

information it stores or that the Régie de l'assurance maladie du Québec stores or holds in respect of a person who has not opted out under section 520.14, whatever the area of jurisdiction or territory in which that health and social service provider provides services to the person.”

16. Section 520.26 of the Act, enacted by section 189 of chapter 32 of the statutes of 2005, is amended

(1) by replacing “of the existence and validity of consent, in the cases provided for in this Title” in paragraph 4 by “, in the cases provided for in this Title, that a person has not opted out of having the personal information referred to in section 520.9 sent, in accordance with section 520.17 or 520.18, to an authorized agency or institution or to the Régie de l'assurance maladie du Québec”;

(2) by replacing “who consented to the storage” in the second line of paragraph 5 by “who has not opted out of personal information storage”.

HEALTH INSURANCE ACT

17. Sections 9.0.1.1 and 9.0.1.2 of the Health Insurance Act (R.S.Q., chapter A-29) are replaced by the following sections:

“9.0.1.1. The unique identification number assigned in accordance with the third paragraph of section 9 or section 9.0.1 or the eleventh paragraph of section 65 must be constituted so as not to disclose, of itself, information concerning the person to whom it is assigned.

The unique identification number may not be printed on a health insurance card or eligibility card or any other card or medium to be carried by its holder. The number may, however, be entered on such a card or medium by a technological means that ensures its confidentiality.

“9.0.1.2. The unique identification number assigned to a person by the Board may not be used, requested, required or noted by another person except for purposes relating to the organizing, planning, or dispensing of services or the provision of goods or resources in the field of health or social services, or for the purposes of the storage services provided for in Title II of Part III.1 of the Act respecting health services and social services (chapter S-4.2), in order to allow the person to be unequivocally identified.

However, the Board and agencies or institutions authorized under section 520.7 of the Act respecting health services and social services may use the number for statistical purposes, provided the statistics cannot be associated with a specific person and the unique identification number is not disclosed.

In addition, a unique identification number may be used only in a manner that ensures its confidentiality. The Minister may make a regulation prescribing security standards to ensure the confidentiality of unique identification numbers.

“9.0.1.3. A natural person is guilty of an offence and is liable to a fine of \$6,000 to \$30,000 and a legal person is guilty of an offence and is liable to a fine of \$12,000 to \$60,000 if that person contravenes section 9.0.1.1 or 9.0.1.2.”

18. Section 65 of the Act is amended

(1) by replacing everything after “qu’aux seules fins” in the last sentence of the fifth paragraph in the French text by “de vérifier la validité des autres renseignements ou d’en faciliter le transfert”;

(2) by replacing “register of insured persons” in the ninth paragraph and the eleventh paragraph by “register of users”;

(3) by striking out the last sentence of the eleventh paragraph;

(4) by adding the following paragraphs at the end:

“The Board shall store, in respect of a person referred to in the eleventh paragraph, the following information that it receives from an institution or a health professional: the person’s name, date of birth, sex, address, language code and telephone number, as well as the names of the person’s parents or legal representative, the person’s social insurance number or the number and title of an official document issued by a state authority establishing the person’s identity and, if applicable, the date of the person’s death. The Board shall also store the unique identification number it assigned to the person in accordance with the eleventh paragraph.

The Board may forward the information referred to in the twelfth paragraph to an institution or a health professional, in order that the information contained in the institution’s or health professional’s local files or index be up-to-date, accurate and complete. The social insurance number may only be forwarded to verify the validity or facilitate the transfer of the other information.

Despite any inconsistent provision of a general law or special Act, an institution or a health professional may, in order that the information contained in the institution’s or health professional’s local files or index be up-to-date, accurate and complete, forward the information referred to in the fifth or twelfth paragraph to the Board.”

ACT RESPECTING THE RÉGIE DE L’ASSURANCE MALADIE DU QUÉBEC

19. Section 2 of the Act respecting the Régie de l’assurance maladie du Québec (R.S.Q., chapter R-5), amended by section 287 of chapter 32 of the statutes of 2005 and by section 1 of chapter 31 of the statutes of 2007, is again amended

(1) by replacing subparagraph *h.5* of the second paragraph by the following subparagraph:

“(h.5) establish and keep up to date a register of persons who opt out of having the personal information referred to in section 520.9 of the Act respecting health services and social services (chapter S-4.2) sent, in accordance with section 520.17 or 520.18 of that Act, to an authorized agency or institution or to the Régie de l’assurance maladie du Québec to be stored;”;

(2) by replacing “who consented to it” in the fifth line of subparagraph *h.6* of the second paragraph by “who has not opted out of information storage services”.

20. Section 2.0.2 of the Act, enacted by section 288 of chapter 32 of the statutes of 2005, is amended by replacing “consented to its doing so and that the consent remains valid and was not revoked” in the fourth and fifth lines by “has not opted out of having the personal information referred to in section 520.9 of the Act respecting health services and social services sent, in accordance with section 520.17 or 520.18 of that Act, to an authorized agency or institution or to the Board”.

21. Section 2.0.4 of the Act, enacted by section 288 of chapter 32 of the statutes of 2005, is replaced by the following section:

“2.0.4. To keep the opting out register referred to in subparagraph *h.5* of the second paragraph of section 2 up to date, the Board shall enter a deceased person as having opted out.”

22. Section 2.0.5 of the Act, enacted by section 288 of chapter 32 of the statutes of 2005, is amended

(1) by replacing “an insured person” in the second and third lines of the second paragraph by “a person”;

(2) by replacing “having consented to it” in the fourth line of the third paragraph by “who has not opted out of information storage services”.

23. No information referred to in section 520.9 of the Act respecting health services and social services may be sent to an authorized agency or institution or to the Régie de l’assurance maladie du Québec to be stored until 60 days after the date on which sections 520.5 to 520.32 of that Act take effect, under an order in council made by the Minister under section 322 of that Act, in the area of jurisdiction of an agency in which the person concerned resides.

24. The provisions of this Act come into force on the date or dates to be set by the Government.

