

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 27

An Act to amend the Act respecting health services and social services as regards access to users' records

Introduction

Introduced by
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Minister of Health and Social Services

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EXPLANATORY NOTES

This bill amends the Act respecting health services and social services in order to determine the extent of the powers of the director of professional services of a health services or social services institution where health professionals are granted access to the records of users for research, study or teaching purposes. In addition, the bill specifies that consent to a request for access to a user's record given to a health professional is subject to certain conditions and is valid for a limited period only.

The same amendments are made in respect of the Act respecting health services and social services for Cree Native persons.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting health services and social services (R.S.Q., chapter S-4.2);

– Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

– Act respecting administrative justice (1996, chapter 54).

Bill 27

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AS REGARDS ACCESS TO USERS' RECORDS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

(1) by replacing "authorization" in the second line of the first paragraph by "consent";

(2) by replacing "authorization" in the third line of the first paragraph by "consent";

(3) by striking out the second paragraph.

2. The said Act is amended by inserting, after section 19, the following sections:

"19.1. Consent to a request for access to a user's record for study, teaching or research purposes must be in writing; in addition, it must be free and enlightened and given for specific purposes. Otherwise, it is without effect.

The consent is valid only for the time required for the attainment of the purposes for which it was granted or, in the case of a research project approved by an ethics committee, for the period determined, where that is the case, by the ethics committee.

"19.2. Notwithstanding section 19, the director of professional services of an institution or, failing such a director, the executive director may authorize a professional to examine the record of a user for study, teaching or research purposes without the user's consent.

Before granting such authorization, the director must, however, ascertain that the criteria determined under section 125 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) are satisfied. If the director is of the opinion that the professional's project is not in compliance with generally accepted standards of ethics or scientific integrity, the director may refuse to grant the authorization.

The authorization must be granted for a limited period and may be subject to conditions. It may be revoked at any time if the director has reason to believe that the authorized professional is violating the confidentiality of the information obtained or is not complying with the conditions imposed or with generally accepted standards of ethics and scientific integrity."

3. Section 24 of the said Act is replaced by the following section:

"24. At the request of a user, an institution must send a copy or summary of, or an extract from, the user's record as soon as practicable to another institution or to a professional.

However, where the request is made for study, teaching or research purposes, the institution may require consent in writing as provided for in section 19.1."

4. Section 7 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), amended by section 742 of chapter 43 of the statutes of 1997, is again amended

(1) by replacing "l'autorisation expresse" in the fourth line of the first paragraph of the French text by "le consentement exprès";

(2) by replacing the second and third paragraphs by the following paragraphs:

"However, the director of professional services of an institution or, failing such a director, the executive director may, notwithstanding subparagraph 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), authorize a professional to examine the record of a beneficiary for study, teaching or research purposes without the beneficiary's consent. Before granting such authorization, the director must, however, ascertain that the criteria determined under section 125 of that Act are satisfied and, where the director is of the opinion that the professional's project is not in compliance with generally accepted standards of ethics or scientific integrity, the director may refuse to grant the authorization. The authorization must be granted for a limited period and may be subject to conditions. It may be revoked at any time if the director has reason to believe that the authorized professional is violating the confidentiality of the information obtained or is not complying with the conditions imposed or with generally accepted standards of ethics or scientific integrity.

Consent to a request for access to a beneficiary's record for study, teaching or research purposes must be in writing; in addition, it must be free and enlightened and given for specific purposes. Otherwise, it is without effect. It is valid only for the time required for the attainment of the purposes for which it was granted or, in the case of a research project approved by an ethics committee, for the period determined, where that is the case, by the ethics committee.

At the request of a beneficiary, an institution must, in accordance with the regulations, send a copy or summary of, or an extract from, the beneficiary's record as soon as practicable to another institution or to a professional. However, where the request is made for study, teaching or research purposes, the institution may require consent in writing, and the provisions of the preceding paragraph apply.";

(3) by replacing "seventh" in the first line of the last paragraph by "eighth".

5. Section 3 of Schedule I to the Act respecting administrative justice (1996, chapter 54), amended by section 871 of chapter 43 of the statutes of 1997, is again amended by replacing "sixth" in the second line of paragraph 9 by "seventh".

6. This Act comes into force on (*insert here the date of assent to this Act*).