



Health Care

Know your rights! — Guide to legal information

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Important

The information in this guide is of a general nature, and should not be taken as legal advice. If you require information about a specific legal issue, you should **contact a lawyer or a legal aid clinic**.

Acknowledgements

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This document covers the area of **health care**. A number of **general** and **specific** issues are addressed. The document also includes some of the laws and sections in them that will be useful to you in **standing up for your rights** in regard to health care whenever they are not respected.

General issues

This section covers general issues about rights when it comes to health care, as well as specific recourses available to you. For information about [general recourses](#), you can consult the document entitled Advocacy and Essential Legal Information.

What are my rights in regard to health care in Quebec?

Internationally

The **Convention on the Rights of Persons with Disabilities**¹, was signed by Canada in 2010.

Article 25 of the **Convention** covers the issue of health care by asking the States Parties to recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. Thus, article 25 of the Convention asks that they take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.

¹ This Convention was adopted by the United Nations on **December 13, 2006**, and ratified by Canada on **March 11, 2010** and by Quebec on **March 10, 2010**. For comments on this Convention, see V. A. Boujeka, **La convention des Nations unies relative aux droits des personnes handicapées et son protocole facultatif**, RDSS sept-oct. 2007, n° 5, p. 799.

Nationally

In Quebec, every resident is covered by the **public health insurance plan**. That plan is overseen by the **Régie de l'assurance maladie du Québec (RAMQ)**. Prescription drug insurance, whether private or public, is mandatory for all residents. The government uses various approaches to ensure that interventions by professional associations, particularly those in the domain of **health care**, are adapted to the needs of disabled people².

The **Act respecting health services and social services** contains extensive information about specific rights in regard to health care.

Nothing may be done without the consent of the individual, and every individual may be actively involved in decisions concerning their health. The relevant sections are as follows:

“4. Every person **is entitled to be informed of the existence of the health and social services and resources available** in his community and of the conditions governing access to such services and resources.”

“5. Every person **is entitled to receive, with continuity and in a personalized and safe manner, health services and social services** which are scientifically, humanly and socially **appropriate**.”

“6. Every person **is entitled to choose the professional or the institution** from whom or which he wishes to receive health services or social services.

Nothing in this Act shall restrict the freedom of a professional to accept or refuse to treat a person.”

“7. Every person whose life or bodily integrity is endangered **is entitled to receive the care required by his condition**. Every institution shall, where requested, ensure that such care is provided.”

² **Convention on the Rights of Persons with Disabilities** - First Report of Canada, p. 33, para. 197.

“8. Before giving his consent to care concerning him, every user of health services and social services **is entitled to be informed of his state of health and welfare** and to be acquainted with the various options open to him and the risks and consequences generally associated with each option.

The user **is also entitled to be informed, as soon as possible, of any accident** having occurred during the provision of services that has actual or potential consequences for the user’s state of health or welfare and of the measures taken to correct the consequences suffered, if any, or to prevent such an accident from recurring.

For the purposes of this section and sections 183.2, 233.1, 235.1 and 431 and unless the context indicates otherwise,

“**accident**” means an action or situation where a risk event occurs which has or could have consequences for the state of health or welfare of the user, a personnel member, a professional involved or a third person.”

“9. **No person may be made to undergo care** of any nature, whether for examination, specimen taking, treatment or any other intervention, except with his consent.

Consent to care or the authorization to provide care shall be given or refused by the user or, as the case may be, his representative or the court, in the circumstances and manner provided for in articles 10 and following of the [Civil Code](#).”

“10. Every user **is entitled to participate in any decision affecting his state of health** or welfare.

He is entitled, in particular, to participate in the development of his intervention plan or individualized service plan where such plans are required under sections 102 and 103.

The same applies to any modification made to such plans.”

Where do my rights stem from?

The **Constitution of Canada** is what protects our rights. The notion of inclusion is provided in section 15 of the **Canadian Charter of Rights and Freedoms**.

Quebec's Charter of human rights and freedoms also stems from Canada's **Constitution**, and includes the notion of inclusion. Other provincial statutes also protect people's rights. Access to **health care** is based in the **Act respecting health services and social services**.

All things considered, in seeking the foundations of our rights in regard to **health care**, we can simply rely on **Quebec's Charter**, which applies provincially in challenges against the Province and private matters, as well as statutes such as the one on **health services and social services**.

Section 10 of Quebec's Charter provides as follows: "Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap."

How can I stand up for my rights in regard to health care?

Please note that there are also [general recourses](#). You will find them in the document entitled [Advocacy and Essential Legal Information](#).

There are **two** recourses specific to health care, as follows.

Under sections 5 and 6 of the **Act respecting health services and social services**, every person is not only **entitled to receive access to health services** but is also **entitled to receive the care required by his condition**.

1. Local service quality and complaints commissioner

People who believe that they have been denied reasonable access to **health care** and want to express their dissatisfaction with the services provided by a **public health facility**, and **as of June 1, 2021 a private facility**³, can file a complaint with the **local service quality and complaints commissioner** at the **CISSS (integrated health and social services centre)** or **CIUSSS (integrated university health and social service centre)**.

If they are dissatisfied with the outcome of the complaint, or their complaint is rejected, they can appeal to the **national office**.

Finally, if they are dissatisfied with the appeal to the **national office**, they can appeal to the **Service Quality and Complaints Commissioner appointed by the Government**.

However, these recourses only result in a recommendation. Thus, any response to a complaint will not be a mandatory solution. The process is designed to receive the complaint and improve the situation⁴.

2. Public Protector

Once the **institution's complaint process** presented above has been exhausted, there is always the option of filing a complaint with the **Public Protector**. It is important to **exhaust all recourses with the local service quality and complaints commissioner before** appealing to the Public Protector because the latter can only, in principle, intervene as a last resort,

³ <https://www.quebec.ca/en/health/health-system-and-services/rights-recourses-and-complaints/the-health-and-social-services-network-complaint-examination-system>

⁴ SPRUMONT, D., "Les droits d'accès aux services de santé en droit québécois", (1998) 6 **Health L.J.**, 191-238 ; À titre d'aide-mémoire, nous vous conseillons de visiter le site du **Ministère de la Santé et des services sociaux** : <https://www.quebec.ca/en/health/health-system-and-services/rights-recourses-and-complaints/the-health-and-social-services-network-complaint-examination-system>

except in an emergency. Other than dissatisfaction with the outcome of your initial complaint, you can also file a complaint with the **Public Protector** if you have not received a response from the Commissioner within 45 days after filing your initial complaint. You can file your complaint with the **Public Protector** [online](#).

Once your complaint has been received, there will be an investigation into the situation. After that, the **Public Protector** will be in a position to make a recommendation and ensure its implementation and improvement of the situation⁵.

Specific issues

This section covers specific situations and certain rights in regard to **health care** that can be trampled.

I was asked to fill out medical forms that are not accessible. What can I do?

Quebec has a policy entitled **L'accès aux documents et aux services offerts au public pour les personnes handicapées** whereby the government department or organization is **required** to provide any document, such as a form, in the mode of your preference, for example in braille, audio or other. In addition, under that policy, the establishment can offer you assistance with filling out the form in question. Furthermore, **the**

⁵ <https://educaloi.qc.ca/en/capsules/the-quebec-ombudsman-a-second-place-to-turn-for-complaints-about-health-or-social-services/>

government department or organization cannot charge you for the accommodation you requested⁶.

I need to see a doctor, but the waiting area at the medical clinic has an inaccessible wait procedure (for example taking a number). What can I do?

In view of the right to equality, guaranteed by the **Canadian Charter of Rights and Freedoms** and **Quebec's Charter of human rights and freedoms**, public establishments are subject to the **obligation to accommodate** in order to enable equal access for everyone. Thus, you would be entitled to seek assistance with the numbering system from a worker in the medical clinic, for instance. The clinic may be required to **foster access to its services** unless it demonstrates that such an obligation is impossible or imposes an excessive constraint, as demonstrated in the matter of [Eldridge c. Colombie-Britannique \(Procureur général\), \[1997\] 3 RCS 624](#). Therefore, in order to provide equal access to a doctor in a medical clinic, it would be reasonable to facilitate access to the wait system by accommodating inasmuch as possible a person with a visual impairment.

Moreover, under the **L'accès aux documents et aux services offerts au public pour les personnes handicapées** policy, the medical clinic may be obligated to offer you assistance with the process once you arrive.

⁶ For additional information about public access to services and forms: <https://publications.msss.gouv.qc.ca/msss/fichiers/2006/06-824-02.pdf> ; <https://www.youtube.com/watch?v=MMza1kY5vYQ&feature=youtu.be>

The instructions and information provided with my prescription are in an inaccessible format. What can I do?

The **right to equality** that you are guaranteed under **Quebec's Charter** (section 10) imposes on service providers (which include your doctor and your pharmacist) the obligation of reasonable accommodation so that you can enjoy access without discrimination to the services they offer. You can refer to the matter of the [Commission des droits de la personne et des droits de la jeunesse \(Gagnon\) c. Hôtel Villa de France](#), paragraph 33.

This means that when you pick up your prescription at the pharmacy, if the information and instructions you are given are not in an accessible format, **you have the right to request that they be provided to you in a format that is accessible to you.**

I feel that I am being mistreated by the medical staff who do not understand my needs or do not treat people with sight loss equitably. What can I do?

If the **health care** staff do not understand your needs, you can try to discuss these with them or complain to a supervisor. You can also **file a complaint directly with the users' committee for your health care facility.** Under the **Act respecting health services and social services** (sections 209 and 212), every institution is required to have such a committee, whose mandate is to **defend your rights.**

If the committee is unable to solve your complaint, you can then turn to the **regional service quality and complaints commissioner** for your institution (sections 30 and 63 of the **Act respecting health services and social services**). The commissioner has 45 days after receiving a complaint to inform you of the recourses available to you or of the conclusions in the matter (sections 30 and 66 of the **Act respecting health services and social services**). If the commissioner's findings are unsatisfactory, or if you do not hear back within 45 days, you can file a complaint with the [Health and Social Services Ombudsman](#) (sections 40 and 72 of the **Act respecting health services and social services**), **represented by the Public Protector** (section 1 of the Act respecting the Health and Social Services Ombudsman) or with the **Commission des droits de la personne et des droits de la jeunesse** if you have been discriminated against based on your disability.

Quebec's **Charter of human rights and freedoms** protects your rights in regard to government services, including **health care**. Those rights include the right to dignity (section 4), the right not to be treated differently because of disability (section 10), and the right to be protected against exploitation (section 48).

I was told that I would have to pay for my accommodation for health care. Is that true?

No, you do not have to pay for your accommodation for health care in any institution in **Quebec's health care network**.

Establishments in Quebec's health care network are public organizations pursuant to section 4 of the **Auditor General Act**⁷. Thus, they are subject to the **Act to secure handicapped persons in the exercise of their**

⁷ L.R.Q., c. V -5.01

rights with a view to achieving social, school and workplace integration⁸. Section 26.5 of this Act states as follows:

“After consultation with the **Office**, and no later than **17 December 2006**, the Government shall establish a policy directing government departments and public agencies to provide reasonable accommodation for handicapped persons enabling them to have access to the documents, whatever their form, and to the services available to the public.”

The government policy entitled [L'accès aux documents et aux services offerts au public pour les personnes handicapées](#), specifies that no fee may be charged for adapting documents or services or for implementing an accommodation. A department or agency may not, under any circumstances, charge a disabled person additional fees associated with the adaptation of a document or a service available to the public⁹.

I was told that my caregiver cannot participate in certain aspects of my health care, for instance accompanying me in certain parts of the hospital. What can I do?

Every establishment in the health care system is **obligated to accommodate disabled people** to protect their right to equality under section 10 of the **Charter of human rights and freedoms**. This obligation is set out in the government policy entitled **L'accès aux documents et aux services offerts au public pour les personnes handicapées**. For

⁸ L.R.Q., c. E -20.1

⁹ **Politique gouvernementale sur L'accès aux documents et aux services offerts au public pour les personnes handicapées**, p. 11.

instance, every disabled person is entitled to be accompanied and assisted by the person of their choice when necessary to obtain the required information or services (section 11, **Act respecting health services and social services**).

Every disabled person is entitled to file a complaint under the concerned department's or agency's complaints mechanism. In this case that would be the **local service quality and complaints commissioner**. You can also turn to the **Public Protector** or the **Commission des droits de la personne et des droits de la jeunesse**, even if you did not go through the complaints mechanism¹⁰. The different options for remedying a situation of this type are set out below.

1. Service Quality and Complaints Commissioner

You must file a complaint with the **service quality and complaints commissioner** for the establishment in question¹¹. That complaint may be made orally or in writing. If necessary, you can ask the local commissioner to help you formulate your complaint. In fact, the local commissioner is required to assist you throughout the process.

Shortly after filing your complaint, you will receive a letter from the local commissioner, confirming that it has been received. Once the local commissioner completes the review of the events, you will be informed of the findings, no later than 45 days after your complaint was received. If you are not informed of the findings by then, you can turn to the **Public Protector**.

¹⁰ Politique gouvernementale **L'accès aux documents et aux services offerts au public pour les personnes handicapées**,
<https://publications.msss.gouv.qc.ca/msss/fichiers/2006/06-824-02.pdf>

¹¹ **Loi sur les services de santé et les services sociaux** (L.R.Q., c. S -4.2), chapitre III, section I.

2. Public Protector

The **Public Protector** fulfills the functions of the **Health and Social Services Ombudsman** under the **Act respecting the Health and Social Services Ombudsman** (section 1).

The **Public Protector** generally intervenes as an authority of second instance, hence when the complainant is dissatisfied with the outcome of the first recourse with the **local service quality and complaints commissioner** (section 8).

Your complaint may be made orally or in writing (section 10, paragraph 3). However, it is recommended that you use the secure form on the **Public Protector [website](#)**.

3. Commission des droits de la personne et des droits de la jeunesse

You can always file a complaint with the **Commission des droits de la personne et des droits de la jeunesse**, which will be heard by the **Human Rights Tribunal** or **common law courts** on the grounds of a violation of the **Quebec Charter**. For additional information about this recourse and how to proceed, you can consult the document entitled **[Advocacy and Essential Legal Information](#)**.

I live in a long-term care home, and I believe that my rights have been violated. What can I do?

Residential and long-term care centres (**CHSLDs**) are part of the **health care system**, and are therefore covered under the **health care and social services system complaints review program**. The same applies to **private homes for seniors**, as are **adaptation or rehabilitation and social integration services**. In fact, the complaints review program

applies to all public and private establishments in the health care system. Thus, the process described above applies to disabled people whose rights have been violated.

When your rights are not respected, stand up for them!

We hope this guide will help you stand up for your rights as they relate to education. We believe that you are in the best position to defend your rights. When your rights are not respected, you have the right to stand up for them and to make sure that others **Know your Rights**.

CNIB is here for you. Since its inception in 1918, CNIB has undertaken a variety of advocacy initiatives to **break down barriers** for people who are blind and to **advocate for an inclusive society**.

Please feel free to contact us for referrals and to take advantage of our services.

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Visit the campaign website for information on other rights:

cnib.ca/en/support-us/advocate/quebec-advocacy/know-your-rights

Join the conversation on social media by using the tagline:

#KnowyourRights

Together, enforce the rights of blind people!