

**REGULATION RESPECTING THE COMPLAINT EXAMINATION
PROCEDURE OF THE AGENCE DE LA SANTÉ ET DES SERVICES
SOCIAUX DE MONTRÉAL (R2007-02)**

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SECTION 1 - GENERAL PROVISIONS

1.1 Definitions

In this regulation, unless the context indicates otherwise, the expressions or terms listed below have the following meanings:

- *Agence*: the Agence de la santé et des services sociaux de Montréal;
- *Regional commissioner*: the regional service quality and complaints commissioner appointed by and accountable to the board of directors, as per section 63 of the Act;
- *Institution*: an institution within the meaning of the *Act respecting health services and social services* (R.S.Q., chapter S-4.2), whose facilities are located within the territory of the Agence;
- *Act*: The Act respecting health services and social services (R.S.Q., chapter S-4.2); *Membre du personnel de l'Agence* :
- *Member of the personnel of the Agence*: a person who is a member of the personnel of the Agence who may act under the authority of the regional commissioner if permitted by the Agence's organization plan, as per section 63 of the Act;
- *Community organization*: a community organization as per section 334 of the Act, located within the Montreal territory;
- *Accredited community organization*: a community organization located in the Montreal region, to which the Agence has granted a financial allowance in accordance with and for the purposes specified in section 454 of the Act;
- *Complainant*: any person who addresses a complaint to the Agence directly, through a person authorized by the Act or by the Civil Code of Québec to represent him, through a close relative or, in the absence of a close relative, through a significant person; *Complaint*:

1^o a lack of satisfaction of any person, addressed directly to the Agence, regarding the services that he received or should have received from a community organization within the meaning of section 334 of the Act, from a community organization or a private nursing home within the meaning of section 454 of the Act, or from a residence for the elderly within the meaning of section 346.0.1 of the Act;

2^o a lack of satisfaction of any natural person addressed directly to the Agence regarding a function or an activity of the Agence by which the person is personally affected owing to the fact that the person receives or ought to receive services provided by institutions, intermediate resources, family-type resources, community organizations, residences accredited for the purposes of subsidies as per section 454 of the Act or residences for the elderly referred to in section 346.0.1 of the Act;

3^o a lack of satisfaction of any natural person addressed directly to the Agence, regarding any clientele assistance provided by the Agence itself as part of its functions as regards services to the public and user rights or, as the case may be, with respect to services that this person requires or uses and which are provided by an organization, a

partnership or a person whose services or activities relate to the field of health and social services and with which or whom a service agreement has been made by the Agence for the provision of services and who cannot otherwise apply to an institution. Such an agreement must provide for the application of divisions III through VII of chapter III as well as the Act respecting the Health and Social Services Ombudsman (chapter P-31.1) regarding such services;

4° a lack of satisfaction addressed directly to the Agence by the heirs or legal representatives of a deceased person, regarding the services the deceased received or ought to have received when living;

- *Public Protector*: The Public Protector replaces the Health and Social Services Ombudsman appointed by the Government of Québec by virtue of the *Public Protector Act* (R.S.Q., chapter P-32);
- *Residence for the elderly within the meaning of section 346.0.1 of the Act*: a congregate residential facility where rooms or apartments intended for elderly persons are offered for rent along with a varied range of services relating, in particular, to security, house-keeping assistance and assistance with social activities, except a facility operated by an institution and a building or residential facility where the services of an intermediate resource or a family-type resource are offered;
- *Accredited private nursing home*: a private nursing home located in Montreal, to which the Agence has granted a financial allowance in accordance with and for the purposes identified in section 454 of the Act;
- *Intermediate resource*: any resource attached to a public institution through which the institution provides a user registered for the institution's services with a living environment suited to the user's needs, together with the support or assistance services required by the user's condition, in order to maintain the user in or integrate the user into the community, is an intermediate resource
- *Family-type resource*: A foster family or foster home within the meaning of section 312 of the Act.

1.2 Scope

This regulation applies to the Agence's complaint examination procedure, for the purpose of enforcing division III of chapter III of the *Act respecting health services and social services* (R.S.Q., chapter S-4.2).

Unless indicated otherwise, the meaning of the terms used in this regulation is the same meaning as that attributed to them by the Act.

1.3 Responsibility for applying the procedure

The regional commissioner comes under the authority of the board of directors and is alone answerable for the application of the complaint examination procedure, in accordance with section 63 of the Act.

During the examination of a complaint by the Agence, the regional commissioner is also answerable to the board of directors for the enforcement of the rights of persons who apply to him or her and for the diligent handling of their complaints.

The regional commissioner exercises exclusively the functions provided for in section 66 of the Act, including that of taking action on his or her own initiative according to the conditions specified in paragraph 7 of that section, in order to fulfill the responsibilities specified in the preceding paragraph.

As permitted by the organization plan of the Agence, members of the personnel who come under the authority of the regional commissioner shall assist the regional commissioner in exercising his or her various functions and in fulfilling the mandate conferred upon him or her by law.

SECTION 2 – COMPLAINTS

2.1 Formulation

Any person who wishes to file a complaint must address himself, verbally or in writing, to the regional commissioner.

2.2 Assistance

The local commissioner must give the necessary assistance or see to it that the necessary assistance is given to users who require assistance for the formulation of a complaint or for any further step related to the complaint, in particular by the community organization of the region to whom a user assistance and support mandate has been given pursuant to section 76.6 of the Act.

2.3 Verbal complaints

Verbal complaints must be recorded in writing in a register or in a computer system prepared for that purpose.

Verbal complaints require the same examination as written complaints and require diligent and rigorous handling. Verbal complaints form part of a process to ease procedures for a person who does not wish to prepare a written complaint.

If the regional commissioner dismisses a verbal complaint for the reasons set out in section 68 of the Act, the regional commissioner must so inform the complainant verbally and record this information and the date on which the complainant was informed in the register referred to above.

2.4 Written complaints

Written complaints may be hand-written, typed or written on a computer and must be signed by the complainant or, as the case may be, by his legal representative, by a close relative, or, in the absence of a close relative, by a significant person, authorized by the complainant to assist him in the formulation of his written complaint.

If the regional commissioner dismisses a written complaint for the reasons set out in section 68 of the Act, he or she must so inform the complainant in writing.

2.5 Content of complaints

All complaints brought to the attention of the regional commissioner should tend to include the following information:

- the date of receipt of the complaint;
- the surname, given name, address and telephone number of the complainant;
- the surname, given name, address and telephone number of the complainant's representative, if the complaint is formulated by the representative;
- the surname, given name, address and telephone number of the person or the user assistance-mandated community organization that is assisting the user, as the case may be;
- identification of the proceeding that is the object of the complaint;
- the reason for which the complainant is unsatisfied;
- a statement of the facts;
- the expected outcome, if relevant.

2.6 Notice of receipt

Unless the regional commissioner's conclusions are sent to the complainant within 72 hours after the complaint was received, the regional commissioner must provide the person who has formulated a written or verbal complaint with a written notice containing the following information:

- the date on which the Agence received the complaint;
- the date by which the Agence expects to communicate the regional commissioner's conclusions, with reasons, to the complainant, unless the commissioner has dismissed the complaint for the reasons set out in section 68 of the Act;
- mention of the possibility of being assisted and supported by the community organization with the user assistance and support mandate, of the region;
- mention that if the regional commissioner fails to communicate his or her conclusions to the complainant within 45 days of receipt of the complaint, the complainant may apply to the Public Protector, whose address and telephone number must also be provided.

The regional commissioner must inform the authority concerned of the receipt of a complaint that concerns that authority. If the complaint is written, then the authority must be informed in writing. If the regional commissioner is of the opinion that no prejudice will be caused to the user, the commissioner shall forward a copy of the complaint to the authority or, if the complaint is verbal, a copy of the statement of facts that he or she has prepared. This information must include the time limit within which the authority may present its written observations.

SECTION 3 – COMPLAINT RECORDS

3.1 Establishment

Complaint records are established and kept by the regional commissioner. Subject to the regulation made under paragraph 23 of section 505 of the Act, a user's complaint record must include all documents produced or received by the regional commissioner that pertain to the complaint and its handling

3.2 Confidentiality

Complaint records are confidential. Access may only be granted in accordance with the Act.

3.3 Prohibition

No document contained in a user's complaint record may be filed in the record of a member of the personnel.

3.4 Conservation

After a complaint has been closed, the complaint record is retained for the period specified in the regulations of the Agence, after which the regional commissioner sees that it is destroyed.

SECTION 4 – EXAMINATION AND HANDLING OF COMPLAINTS

4.1 Reasons for dismissal

The regional commissioner may, upon summary examination, dismiss a complaint if, in the commissioner's opinion, it is frivolous, vexatious or made in bad faith. The regional commissioner shall so inform the complainant, in writing in the case of a written complaint, and shall file a copy of his or her decision in the complaint record.

4.2 Interviews

During the examination of a complaint, the regional commissioner or, if relevant, a member of the personnel as defined in section 1, must allow the complainant and the authority that is the subject of the complaint to present their observations.

4.3 Consultations

In the exercise of his or her functions, the regional commissioner or, if relevant, a member of the personnel as defined in section 1, may consult any person whose expertise the commissioner requires, including, with the authorization of the board of directors, an expert from outside the Agence.

4.4 Time limit

A time limit of 45 days is allowed for the handling of the complaint by the regional commissioner, to be calculated from the date of receipt of the complaint.

If the complainant authorizes him or her to do so, the regional commissioner may arrange with the complainant to extend the time limit beyond the period identified in the preceding paragraph, in the event that the regional commissioner is prevented from respecting the above-mentioned time limit of 45 days by circumstances outside of his or her control, including:

- the handling of a more urgent complaint or a situation requiring the immediate intervention of the regional commissioner;
- the need to consult a person for his or her expertise or, as the case may be, to apply to an expert from outside the Agence with the authorization of the board of directors, in accordance with section 65 of the Act;
- the nature and complexity of the complaint to be handled, in view of the time that had passed since the occurrence of the events that gave rise to the complaint.

Notwithstanding the authorization referred to in the second paragraph of this section, the complainant retains the right to apply to the Public Protector, as specified in section 4.6.

4.5 Conclusions and follow-up

The regional commissioner shall communicate his or her conclusions, with reasons, to the complainant and to the authority concerned no later than and within the time limit prescribed in section 4.4, together with the procedure the complainant must follow if he wishes to apply to the Public Protector. If the complaint is written, the conclusions must be communicated in writing.

4.6 Application to the Public Protector

If, at the close of the 45th day provided for in section 4.4, the regional commissioner or his or her delegate fails to communicate his or her conclusions, with reasons, in writing

or, if relevant, verbally, to the complainant, the commissioner is deemed to have communicated negative conclusions to the complainant. Such failure gives the complainant the right to apply to the Public Protector..

If the complainant ascertains that the regional commissioner or, if relevant, a member of the personnel refuses or ceases to examine the complaint, as the case may be, the complainant may apply to the Public Protector.

If the complainant disagrees with the conclusions, with reasons, transmitted by the regional commissioner, he has the right to apply to the Public Protector as well.

SECTION 5 – REPORTS

5.1 Reports to the board of directors

The regional commissioner must prepare and present the report referred to in section 76.12 of the Act, to the board of directors for their approval, incorporating into the report the annual summary of his or her activities and all other reports referred to in section 76.10 of the same Act.

5.2 Reports by institutions

In addition to the annual reports transmitted by institutions to the Agence regarding the application of the complaint examination procedure, user satisfaction and the enforcement of user rights, the regional commissioner may, at his or her discretion, request that a particular institution transmit reports more than once a year.

SECTION 6 - FINAL PROVISIONS

6.1 Reprisals

The regional commissioner must intervene without delay in the manner he or she deems most appropriate upon being apprised that a person who has filed or who intends to file a complaint, is the victim of reprisals.

6.2 Effective date

This regulation becomes effective on the date that it is adopted by the Agence's board of directors and replaces the complaint examination procedure of the Régie régionale de la santé et des services sociaux de Montréal-Centre adopted on September 19 2002.