

HEALTH CARE

Know and exercise your rights.

Understand what happens when you force someone
to stay in the hospital.



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Important!

The information in this guide applies to people 18 or older. Special rules might apply to people under 18.

Rights of users of the public health care system



Access to health care

All people in Quebec have the right to receive the health care they need within the limits of available resources.

The holder of a Quebec **health insurance card** has the right to receive free health care, such as a medical exam, blood tests, psychiatric treatment and some radiology services.

Usually, the holder of a health insurance card from another Canadian province also has access to free health care.

People covered by the Canadian government's Interim Federal Health Program (IFHP), such as some refugee claimants, also have access to free health care.

Lost or expired card? You'll have to pay for health care services and then request a refund from the Régie de l'assurance maladie or RAMQ (Quebec's health insurance board) after renewing your health insurance card.

People who don't have a health insurance card must pay for the health care they receive.

■ Language of service

Health care services in Quebec are usually offered in French, but some public institutions must also offer services in English.

To find English services in your region, contact the integrated health and social services centre (CISSS or CIUSSS) for your region. See the Useful Resources section at the end of this guide.

To learn more, read Éducaloi's article [Health and Social Services in English](#) at www.educaloi.qc.ca/en.



Be accompanied by the person of your choice

Everyone has the **right to be accompanied** by a person they choose in these situations:

- when being informed of available services or how to get those services
- during medical appointments
- when receiving health care, if possible in the circumstances



Choose a health care provider

People can **choose the health care professional and institution** they want. They can refuse to be treated by a specific doctor or in a specific hospital. But there are exceptions, for example, in an emergency or if they are a danger to themselves or to others (see page 6).

But people can't force a doctor to treat them if the doctor refuses. Nor can people insist on services from a hospital that doesn't have the required resources.



Be informed

Patients have the **right to be informed** of their state of health and treatment options. They also have the right to know the risks and outcome of each treatment option.

Usually, patients also have the **right to see their medical file**.



Accept or refuse care

When patients can make their own decisions

Patients have the **right to accept or refuse** care. The medical team must make sure the patient agrees to receive the proposed treatment. The patient's agreement is called consent and it must be free and informed. This means the patient knows all the important facts and consents voluntarily without being forced or pressured.

Patients must be capable of giving consent when accepting or refusing care. This means they understand

- the information they are given about their state of health and recommended treatment, and
- the consequences of accepting or refusing treatment.

Important! As soon as patients understand this information and can express themselves, their decision to accept or refuse care must be respected. Having a mental illness does not automatically mean a person is incapable of giving consent to care. The patient's right to accept or refuse care depends on the situation, such as the stage of the patient's illness.

If the medical team decides patients can't make their own decisions

In some emergencies, the medical team can intervene without the patient's consent, for example, if the patient's life is in danger and the patient is unconscious. Also, when patients are an immediate danger to themselves or to others, a doctor can intervene without their consent.

If it's not an emergency, the law lets other people consent for those who can't make their own decisions.

A patient's legal representative (mandatory under a protection mandate, tutor or curator) can consent on the patient's behalf.

If there's no legal representative, the patient's spouse or common-law partner can give consent, regardless of the length of their relationship. In the absence of a spouse or partner, a close relative (sister, brother) can consent on the patient's behalf. If there is no spouse or close relative, anyone who shows a special interest in the patient can consent.

Patients **can still refuse treatment** even if the medical team thinks they can't make their own decisions. In this case, the medical team must have a judge's permission to treat the patient.



Be treated with respect

The medical team must respect the patient's dignity. For example, they must respect the patient's privacy. The medical team must not

- use physical force without the patient's consent,
- use a chemical substance or mechanical means to control or limit the patient's movement (e.g., medication or physical restraints),
- isolate the patient, or
- prevent the patient from using a device needed for a disability.

Exceptions regarding the use of force

The medical team may use physical force, isolation or other means to control patients if needed to prevent them from harming themselves or others.

But there are limits. The force must be **minimal**, used only **exceptionally** and only for safety reasons. It must never be used as a punishment. The medical team must also consider the patient's physical and mental state.

Using force must always be **the only reasonable option**.

Exceptionally, medical staff may also use force if needed to respect a court order. The use of force must be **necessary** to prevent serious and immediate harm to the patient or staff, for example, when patients put themselves at risk by systematically and repeatedly refusing treatment.

Each health care institution must have procedures for the use of force against a patient. The document setting out the procedures is public.



Receive safe, appropriate care

A patient has a right to receive **safe, quality** health care. The care must be **personalized** and **adapted** to the patient's state of health.

If the patient's state of health requires it, the patient has the **right to be lodged** in a health services institution that has the resources the patient needs.

Respect for the user's rights

If the rights of a user of the health care system are not respected, the user has recourses against the institution in question. The institution might be

- a local community service centre (CLSC),
- a hospital,
- a long-term care centre (CHSLD), or
- a rehabilitation centre.

The person can start by contacting the institution's **users' committee**. The users' committee can explain the person's rights. It can also support and help the person file a complaint.

The person can complain to the **service quality and complaints commissioner**. If the complaint is accepted, the commissioner can warn the institution and make recommendations to prevent it from happening again.

Anyone who isn't satisfied with the commissioner's response can complain to the **Québec Ombudsman (Protecteur du citoyen)**. The Ombudsman can investigate the situation and make recommendations to prevent the situation from happening again. Complaints may be made orally or in writing.

In some situations, a person can also file a complaint against a doctor or other medical professional. The person can contact the health care professional's **professional order** to find out how to file the complaint.

A person can also complain to the **police** if the medical team used excessive force.

■ Protection when filing a complaint

All users of the health care system can demand to have their rights respected. A user can't be penalized for making a complaint.

Users who think they've been penalized for making a complaint can notify the service quality and complaints commissioner. The commissioner must intervene without delay.

Forced hospitalization

Usually, people cannot be kept at the hospital against their will. **A person must agree to stay in the hospital.**

But there are three exceptions:

Preventive confinement	in case of a serious and immediate danger	Judge's permission needed? No
Temporary confinement	to force someone to be evaluated by two psychiatrists	Judge's permission needed? Yes
Court-authorized confinement	to keep a person in the hospital for a longer time	Judge's permission needed? Yes



When a judge's permission is not needed

People who are a **serious and immediate danger** to themselves or to others because of their mental state can be brought to the hospital by force. This is the case, for example, if a person threatens to commit suicide or harm someone else.

A police officer can force a person to go to the hospital

Police officers don't need a judge's or anyone else's permission.

If a police officer decides to bring someone to the hospital, the officer must

- tell the person where they are being taken,
- explain why they are being taken there, and
- let them immediately contact a friend or family member and a lawyer.

Once the person is at the hospital, the hospital must take charge of the person.

A doctor can keep a person at the hospital against their will for up to 72 hours (preventive confinement)

The law allows doctors to keep people at the hospital against their will for up to **72 hours**. This is called preventive confinement.

A doctor who thinks the person is no longer a serious and immediate danger can let the person leave earlier.

A doctor or another member of the hospital staff must tell people why they are being kept at the hospital, and what will happen while there.

People who agree to medical care must be told what care they will get. If they refuse, a doctor can't force them to accept medical care, such as a psychiatric examination or other medical treatment.

End of preventive confinement

People must be allowed to leave the hospital no later than 72 hours after they arrived. The medical staff must let them know as soon as their confinement is over and tell them they may leave.

A doctor must have a judge's permission to keep a person for more than 72 hours.

Exception: If the 72 hours ends on a weekend or public holiday and no judge is available, the doctor can keep a person a little longer if there is still a serious and immediate danger.



When a judge's permission is needed

A judge's permission is needed in these situations:

- to force someone to have a psychiatric evaluation against their will. This is called **temporary confinement**.
- to keep someone in the hospital against their will (other than for preventive confinement, see page 6). This is called **court-authorized confinement**.

Before ordering court-authorized confinement, a judge must have reports from two psychiatrists who say it's necessary. Judges often order temporary confinement before they order court-authorized confinement.

To force a person to have a psychiatric exam (temporary confinement)

Temporary confinement is when a judge orders a person to stay at the hospital to have a psychiatric exam. The person can't be kept longer than **4 to 6 days**.

A temporary confinement order lets two psychiatrists evaluate the person even if the patient objects. The order can also authorize other necessary medical examinations.

When giving a temporary confinement order for a person who is not already in the hospital, a judge can authorize the police to bring the person to the hospital.

The hospital psychiatrists evaluate the person separately. The first psychiatrist must evaluate the person within 24 hours of the judge's order or of the person's admission to the hospital.

If one of the psychiatrists thinks hospitalization isn't necessary, the person must be allowed to leave.

If both psychiatrists decide the person must stay in the hospital, the person can be kept for 48 hours after the examinations without a new order from a judge.

Forced hospitalization for a longer period (court-authorized confinement)

Hospitals need a judge's permission to hospitalize someone longer than for preventive confinement or for temporary confinement. This is called court-authorized confinement.

These are the requirements:

- Two psychiatrists decide the person should stay in the hospital.
- The judge must believe the person is dangerous and hospitalization is necessary.

A judge can decide that hospitalization isn't necessary even though the two psychiatrists think it is.

The judge decides how long the person can be hospitalized. Every time doctors want to keep a person longer, they must make a new request to a judge.

As soon as hospitalization is no longer needed, the person must be allowed to leave. The person must be told as soon as the forced hospitalization is over.

To decide whether hospitalization is still needed, the person must have psychiatric exams 21 days after the judge first ordered the hospitalization. After that, the person must be evaluated every three months.

Court-ordered authorization doesn't allow a doctor to force a person to receive medical care. If the person refuses medical care that is not urgent, a doctor needs a judge's permission to give that medical care.



Rights of people hospitalized against their will

While hospitalized, patients must not be isolated from others. From the time they arrive at the hospital (even for preventive confinement), they have a right to communicate privately with these people:

- their mandatary, tutor or curator
- a lawyer
- the public curator

They can also communicate with anyone else. But a doctor can temporarily limit these communications if the doctor thinks it's necessary.

While hospitalized, a patient can ask to change doctors or be transferred to another hospital. If that hospital has the necessary resources, the doctor can grant the request.



What happens in front of the judge

The hospital makes a request to the judge

Usually, it's the hospital that asks the judge to order a psychiatric evaluation (temporary confinement) or court-authorized confinement. In some situations, it can also be the person's relative, friend or any interested person who asks for the order.

The person must be told

Whoever makes the request to force a person to be hospitalized must notify the person by having a bailiff give the person a document stating the date the request will be made to the judge.

The hospital must also have a bailiff give notice to the person's mandatary, tutor or curator **at least two days before** seeing the judge. If this isn't possible, the hospital must notify a family member or anyone who shows a special interest in the person, or the public curator.

The person can challenge a request for forced hospitalization

People have a right to give their version of the situation to the judge. But a judge can decide without hearing a person, for example, if the judge thinks it would harm the person's health or safety, or the health or safety of someone else.

The person can call an expert (e.g., another doctor) or other witnesses to prove they are not a danger and should not be hospitalized. The person has the right to a lawyer. People who qualify for legal aid can be represented by a lawyer for little or no cost.



Challenging forced hospitalization

The person can file a complaint with the Tribunal administratif du Québec or TAQ (administrative tribunal of Quebec). The TAQ can review a hospital's decision and end forced hospitalization.

To file the complaint, the person can send a letter explaining what they are challenging and why. Staff at the TAQ can help the person prepare the letter. The Centre d'aide et d'accompagnement aux plaintes or CAAP (complaint assistance and support centre) can also help the person file the complaint.

Anyone else can file a complaint on the person's behalf at the secretariat of the TAQ or at the office of the Court of Quebec.

The person or anyone interested can ask the Quebec Superior Court for a habeas corpus order. This is a request where the judge must decide whether the person has been deprived of their freedom illegally.

A person whose rights were not respected has all the remedies that every user of the health care system has (see page 5).

■ Protection when filing a complaint

All users of the health care system can demand to have their rights respected. A user can't be penalized for filing a complaint.

Users who think they've been penalized for filing a complaint can notify the service quality and complaints commissioner. The commissioner must intervene without delay.

Useful Resources

Learn more about your rights and health care services

Éducaloi

www.educaloi.qc.ca/en

Régie de l'assurance maladie du Québec or RAMQ (health insurance board)

www.ramq.gouv.qc.ca/en

1 800 561-9749

Ministère de la Santé et des Services sociaux

(department of health and social services)

www.msss.gouv.qc.ca (in French with some limited information in English)

Santé Montréal (Montréal)

www.santemontreal.qc.ca/en

- List of institutions providing services in English:
www.santemontreal.qc.ca/en
Click on Public, choose Support and services, click Services in English
- List of crisis centres in the Montreal region:
www.santemontreal.qc.ca/en
Click on Public, choose Support and services, click Crisis centres
- Find an interpreter in the health care system:
www.santemontreal.qc.ca/en
Click on Public, choose Support and services, click Interpreters

Public Curator

www.curateur.gouv.qc.ca/cura

Switch to English

1 800 363-9020

Find support

Ami-Quebec

amiquebec.org

514 486-1448

Forward House (Montreal)

www.forwardhouse.org

514 488-9119

Friends for Mental Health (West Island of Montreal)

www.asmfmh.org

514 636-6885

Canadian Mental Health Association

www.cmha.ca

Regroupement provincial des comités des usagers

(group of users' committees in Quebec)

Each institution has its own users' committee (French only)

www.rpcu.qc.ca

514 436-3744

Centre d'aide et d'accompagnement aux plaintes (CAAP)

www.fcaap.ca (French only)

1 877 767-2227

Regroupement des ressources alternatives en santé mentale du Québec (RRASMQ)

List of mental health resources in Quebec and information on the rights
of people with mental health problems

www.rrasmq.com (French only)

Action autonomie (Montréal)

Organization that helps and supports people living with mental health problems

www.actionautonomie.qc.ca (French only)

514 525-5060

File a complaint

Service quality and complaints commissioner

Ask staff at the institution providing the services for the commissioner's contact information

Quebec Ombudsman (Protecteur du citoyen)

www.protecteurducitoyen.qc.ca/en/health-and-social-services

1 800 463-5070

Tribunal administratif du Québec (Quebec's administrative tribunal)

www.taq.gouv.qc.ca/en

1 800 567-0278

Find free or low-cost legal resources

La boussole juridique

www.boussolejuridique.ca/en

Barreau du Québec (Quebec's professional association of lawyers)

www.barreau.qc.ca/en

Click on Find a lawyer in the drop-down menu on the top left corner

Legal aid

www.csj.qc.ca (switch to English)

1 800 842-2213

Legal aid office for people with mental health problems (Montreal):

514 864-4278

Centres de justice de proximité du Québec (community justice centres)

www.justicedeproximite.qc.ca/en

About Éducaloi

Éducaloi informs Quebecers of their rights and responsibilities in everyday language. To learn more, see the “About” section of the website www.educaloi.qc.ca.

Important!

The information in this guide is not meant as legal advice. If you need advice on a specific situation, consult a legal professional.

The legal information in this guide is up to date to August 15, 2018.

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