



**Ministère de la Santé
et des Services sociaux**

Social Services

**Guide to responsibilities for health and
social services agencies in terms of
intermediate and family-type resources**

Departmental Orientations

NON-OFFICIAL TRANSLATION -CSSSPNQL

PRODUCED BY

La Direction des communications du ministère de la Santé et des Services sociaux

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Bibliothèque et Archives nationales du Québec, 2013

Library and Archives Canada, 2013

ISBN: 978-2-550-68578-4 (PDF version)

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WORD FROM ASSOCIATE DEPUTY MINISTER

The adoption of the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions* (RSQ 2009, c. 24) as well as the conclusion of national and group agreement negotiations with different associations and bodies representing family-type resources and intermediate resources has led to significant changes in the legislative, regulatory and administrative framework regarding these resources.

All these changes pose major challenges to the various stakeholders involved in providing these services, and require new ways of doing things while ensuring the quality of services offered to users assigned to these resources.

The health services and social services agencies will be involved in key changes in regional orientations and support to institutions. The exercise of their responsibilities in this area will directly contribute to the successful implementation of the new framework and to maintain the quality of services offered to users, particularly in terms of safety.

The Department is pleased to present this guide which is aimed at informing and providing tools to agencies so they may exercise their responsibilities.

The departmental orientations contained herein are intended to ensure harmonization of ways to operate in the province and represent a guarantee of compliance with best practices by agencies, in consideration of the new framework and the rights of users.

Sylvain Gagnon

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ACKNOWLEDGEMENTS

The **Ministère de la Santé et des Services sociaux** (MSSS) would like to thank the people who inspired the content of the *Guide to responsibilities for health and social services agencies in terms of intermediate and family-type resources* and all those who contributed, through their participation, to its realization, under the responsibility of the Social Services Program Branch.

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ACRONYMS

Agency	Health and social services agency
AVC	Accident vasculaire cérébral (Stroke)
ADL	Activities of daily living
ADL	Activities of daily living
DSM	Diagnostic and Statistical Manual of Mental Disorders
FF	Foster family
ISO	International Organisation for Standardisation
SQ	Statutes of Quebec
RSQ	Statutes and regulations of Quebec
ARR	Act respecting representation
LSSSS	Loi sur les services de santé et les services sociaux
AHSSS	Act respecting health services and social services
MSSS	Ministère de la Santé et des Services sociaux
MCET	Multi-clientele evaluation tool
FH	Foster home
IH	Intermediate home
IRFH	Intermediate resource – foster home
FTH	Family-type home
SAE	Support the autonomy of elderly
FAMS	Functional autonomy measurement system
TAQ	Tribunal administratif du Québec (Administrative Tribunal of Québec)
PDD	Pervasive development disorder

CONTEXT

1. FOUNDATION

This guide is specifically intended for health and social services agencies. It aims to support them in the exercise of their general responsibilities for planning and coordinating services on their territory as well as a vigil in terms of safety and quality of living environments for vulnerable users.

More specifically, the orientations presented include modernizing the agencies' responsibilities in terms of intermediate resources (IR) and family-type resources (FTR).

In 2009, amendments were made to the *Act respecting health services and social services* (RSQ, c. S-4.2, hereinafter "AHSSS") following the entry into force of the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements, and amending various legislative provisions* (RSQ, c. R-24.0.2, hereinafter "*Act respecting the representation of resources*"). Agencies should continue to act according to the new realities of the relationship between institutions and resources as defined in the laws, regulations and national and group agreements between the Ministère de la Santé et des Services sociaux (MSSS) and associations or organizations representing the resources.

A cornerstone of the AHSSS concerning resources is recognition, which gives a natural person, a legal person or a partnership the right to exercise the roles and responsibilities of a resource. Receiving such recognition is also a *causa sine qua non* for the conclusion of an individual agreement between an institution and a resource. The agency is responsible and accountable to grant or maintain this recognition.

However, the role of the agency is not limited only to the recognition of resources. The AHSSS assigns other responsibilities to be exercised to ensure public access on the territory to quality services offered by the resources.

The agency also exercises its responsibilities along with those of other stakeholders from the Quebec public health network who all contribute to this objective.

2. STAKEHOLDERS' GENERAL RESPONSIBILITIES

The AHSSS sets out the roles and responsibilities of stakeholders in the Quebec public health network with respect to the planning, coordination, organization and service delivery by resources.

THE MINISTER



The Minister shall determine priorities, objectives and orientations in the field of health and social services (sect. 431¹). The Minister shall propose to agencies a classification of the services offered by resources and shall also identify the policy to be followed by agencies in determining the rules and procedures governing access to the services provided by intermediate resources, including the general criteria for admission to such resources (sect. 303²).

THE AGENCY



It establishes the general rules governing access to the various services offered by the institutions of its region (sect. 354³). In particular, it has several responsibilities in relation to the resources that are presented in the next section, including the issue of recognition.

THE INSTITUTION



The function of institutions is to ensure the provision of safe, continuous and accessible quality health or social services which respect the rights and spiritual needs of individuals (sect. 100⁴). In particular, institutions identified by the agency shall recruit and assess resources with a view to their recognition by the agency (sect. 305, 310 and 314)⁵ with the aim of referring users.

THE RESOURCE



It derives its existence from the AHSSS (sect. 302, 311, 312 and 314)⁶. It has the responsibility to offer referred users a living environment in a context closest to a home, and support services or required by their condition and determined according to the Regulation respecting the classification of services offered by an intermediate resource and a family-type resource (S-4.2, r. 3.1).

¹ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

² *Idem.*

³ *Idem.*

⁴ *Idem.*

⁵ *Idem.*

⁶ *Idem.*

3. SPECIFIC RESPONSIBILITIES OF THE AGENCY

The legislator specifically attributes various roles to the agency with regard to the implementation of services by institutions and resources. The exercise of these roles helps to ensure the quality of services offered to users in resources.

As a result, the AHSSS provides that the agency shall:



- establish the rules and procedures governing access to the services provided by resources in compliance with the departmental orientations (sect. 303, par. 2 and sect. 304, par. 1)⁷;
- identify the public institutions which may call upon a resource (sect. 304, par. 1, subpar. 2)⁸;
- specify the criteria for recognizing resources (sect. 304, par. 1, subpar 1)⁹;
- recognize the resources (sect. 304, par. 1, subpar 1)¹⁰;
- keep a register of recognized resources classified according to the types of clientele (sect. 304, par. 1, subpar 1)¹¹;
- suspend or revoke recognition, if applicable (sect. 305.1);¹²
- ensure that mechanisms for concerted action are established and put into operation, in particular with regard to national or group agreements (sect. 304, par. 1, subpar. 4)¹³;
- review of a decision made by the institution to which the resource (not covered under the *Act respecting the representation of resources*) is attached to settle any misunderstanding concerning them (sect. 307)¹⁴.

In addition, the *Act respecting the representation of resources* (sect. 55) provides that:



- a public institution that has signed a specific agreement may not amend it, terminate it before its expiry or prevent its renewal without the authorization of the agency concerned.

⁷ See Appendix in this Guide: Extracts from the “*Act respecting health services and social services*”.

⁸ *Idem.*

⁹ *Idem.*

¹⁰ *Idem.*

¹¹ *Idem.*

¹² *Idem.*

¹³ *Idem.*

¹⁴ *Idem.*

Departmental orientations in relation to the responsibilities of each agency are presented in the following chapters. Compliance with these orientations will promote the harmonization of procedures for recognition of resources and ensure the exercise of other specific responsibilities to the agency.

These orientations also allow for more flexibility to the agency that can provide the relevant and necessary modifications, if any, in accordance with its local and regional realities, as well as clinical and organizational projects by local authorities within its territory.

Chapter 2

RESPONSIBILITIES IN TERMS OF ACCESS TO SERVICES

1. FOUNDATION

Regional planning of services and establishing rules and procedures governing public access to services in a region are responsibilities the agency has assumed for many years.

In particular, section 304¹⁵ of the AHSSS assigns responsibility for establishing the rules and procedures governing access to the services provided by intermediate resources and family-type resources, including the general criteria for admission to such resources.

Thus, the Minister has the responsibility to support the agency in carrying out this responsibility by establishing, as specified in Section 303¹⁶ of the AHSSS, the rules and procedures to be followed in this regard.

In addition, the agency plays a central role with respect to mechanisms and criteria for access to services by institutions, as provided for in sections 355 and 356 of the AHSSS:

Section 355

The agency shall determine the procedure for setting up mechanisms to coordinate access to the services provided by residential and long-term care centres, rehabilitation centres of the class specified by the agency, intermediate resources attached to institutions and family-type resources of its region.

The agency must also ensure that the mechanisms of access to services take the socio-cultural and linguistic characteristics of the users into account.

Section 356

Every institution concerned with a mechanism of access to services established pursuant to section 355 must submit its criteria of access to services to the agency for approval, in particular with respect to the admission and discharge of users and the policies for their transfer. However, the Minister may require that an institution, by reason of its special vocation, submit its criteria and policies directly to him for approval. The Minister shall in that case obtain the opinion of the agency.

¹⁵ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

¹⁶ *Idem*.

Finally, as provided for in section 358, the agency must ultimately ensure the harmonious development of resources in the region:

Each agency shall ensure that the institutions of the region carry out their functions of reception, assessment and referral of users, and that intermediate resources and family-type resources are developed in harmony with the capacity of the population concerned to accept them.

2. PURPOSE AND SCOPE

Service delivery in the resources' living environment is part of significant legislative, regulatory and administrative frameworks that converge towards offering quality services to the user.

Conditions governing access which are established by the agency are part of these frameworks. Without limiting the foregoing, these conditions should give preference to sections 301¹⁷ and the following sections of the AHSSS when establishing contracts with a natural person, legal person or partnership to provide its users with a living environment and support or assistance services referred to in the Regulation respecting the classification of services offered by an intermediate resource and a family-type resource (RSQ, c. S-4.2, r. 3.1.).

The delivery of services by resources as part of the health and social services network falls under a continuum of services to users targeted by the programs-services of the Ministère de la Santé et des Services Sociaux (MSSS).

The determination and application of rules and procedures governing access thus help to ensure that individuals whose condition requires it have fair access to the resources of the region, while promoting the quality of these services. The exercise of this responsibility is thus part of regional planning and coordination of health and social services and is therefore complementary to the general rules and procedures governing access to housing services established by the agency.

In addition, these rules and procedures shall not restrict the support and stability principle for an individual in his natural environment, with regard to their particular needs and the response they receive from the local services network, community and close relatives.

Therefore, the agency shall take particular account of the following aspects in determining the rules and procedures governing access:

- The characteristics of resources and their exercise framework, including the relevant provisions of the AHSSS and the Regulation respecting the classification of services offered by an intermediate resource and a family-type resource (RSQ, c. S-4.2, r. 3.1.), as well as national and group agreements between the Minister and associations and organizations representing resources;

¹⁷ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

- All factors affecting locally and regionally the organization of services, including clinical and organizational projects of local networks for the territory, contributions by other service providers, other community and private partners, etc;
- Departmental orientations and the guidelines of the *Framework for Intermediate resources and family-type resources*;
- Departmental orientations with regard to the user's profile upon reception;
- Integrated risk management and quality management resulting from the maintenance of the user in a resource, thus promoting stability.

When rules and procedures for the creation of mechanisms to coordinate access to the services provided by resources are established by the agency, the institution will refer to these in order to establish the criteria for access to its services. In accordance with Articles 355¹⁸ and 356¹⁹ of the AHSSS, they will be subject to the institution's approval of the agency.

Finally, the agency, by determining its rules and procedures governing access, will promote harmonization in the organization, management and delivery of services by the resources in accordance with regional characteristics, culture and the needs of users.

3. PROFILE OF THE USER UPON RECEPTION

When an individual is taken in charge by a resource, it represents a component of the whole continuum of determined services in a region in order to meet the specific needs of a user. It coexists with other offers of services, including services for the maintenance of users in their home environment or lodging in an institutional setting.

In this context, the rules and procedures governing access determine certain characteristics of an individual being referred to a resource (profile upon reception) in order to support the institution in determining the best service to provide the user according to his needs on one hand, and the framework for providing services in a resource, on the other.

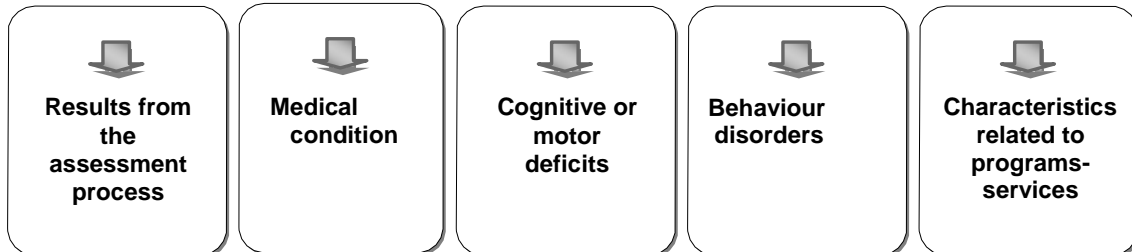
The profile upon reception is therefore one of the aspects of the rules and procedures governing access that will guide the decision making process of the institution in terms of referring the user. The agency will establish the profile of the user to be assigned to a resource in accordance with the departmental orientations provided in this guide.

The profile upon reception established by the agency must be sufficiently precise to allow institutions to exercise their functions of reception, assessment and referral of users, while allowing the determination of the living environment most appropriate for the user and ensuring the quality of services that will be offered.

¹⁸ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

¹⁹ *Idem*.

This profile is established by the agency on the basis of the following elements:



The reference to a profile upon reception will only become consistent, compliant and useful in the following contexts:

- a recent assessment of all the user's needs has been conducted;
- rules and procedures governing local and regional access provide a gateway to programs-services;
- specific collaborative agreements between institutions in the region have been concluded;
- mechanisms for concerted action between institutions are put into operation;
- caseworkers have knowledge of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource* and the *Framework for Intermediate resources and family-type resources*;
- The *Professional Code*, in particular sections 39.7 and 39.8, is understood and applied.

In sum, the profile of the user upon reception helps to ensure compliance of services required by the user with the roles and responsibilities of a resource, in particular under the AHSSS and the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

4. CHARACTERISTICS OF THE USER'S PROFILE UPON RECEPTION

4.1 GENERAL CHARACTERISTICS

The profile upon reception first presents general characteristics common to all users, regardless of the program-service they are from.

These characteristics relate to the various central aspects of the user's situation and condition established as a result of a recent assessment confirming that the taking in charge of this user by a resource represents the most appropriate response given the user's needs.

These general characteristics are as follow:

Assessment

A recent assessment has been conducted of the individual's overall needs and has concluded that it is impossible for the individual to continue living (in the short or medium term) safely in their current living environment, even with the addition of services or support from close relatives. The same assessment also establishes that the individual's profile does not allow him to remain at home nor in an institutional home, and a resource could on a more or less long-term basis and in a stable and adapted environment, meet the individual's changing needs. In the case of a minor, the family is included in the assessment process. However, the nature of the medical condition, deficits, behaviour disorders or characteristics associated with a program-service, shall allow the resource to participate in the maintenance or integration of the individual in the community.

Medical Condition

The individual may have some mental or physical health issues, but their medical condition is currently stable and the individual's related needs can be met by support or assistance services provided by the resource and by an institution's professional services.

Cognitive or Motor Deficits

The individual may have moderate or significant cognitive or motor deficits, but not at a level that would jeopardize his safety and that of his peers, resource or the persons required to respond to users.

Behaviour Disorders

The individual may have behaviour disorders that do not jeopardize his safety and that of his peers, resource or the persons required to respond to users. The tolerance for risk related to behaviour disorders may vary depending on the skills and attitudes of the resource, the type of residential organization and the mission, how the services are organized, access mechanisms, policies and procedures of the institution.

4.2 CHARACTERISTICS RELATED TO PROGRAMS-SERVICES

In addition to general characteristics common to all users, other characteristics related to programs-services can be added to the profile upon reception to take into account certain characteristics of the user's condition. These special characteristics are as follow:

Support for elderly autonomy

The individual has a geriatric profile consisting of one or more of the following characteristics²⁰: is usually 75 years or older, but is sometimes under 65 years of age, suffers from chronic diseases or effects from a previous illness (stroke, amputation, fracture, etc); they need help to carry out daily and domestic living activities; suffers from mental illness; has motor difficulties; takes multiple medications; receives multiple services from different institutions and several care providers; is isolated and close relatives show signs of exhaustion; has several risk factors - blindness, deafness, cognitive impairment, falls, excessive thinness, obesity, etc. The individual has been assessed using the Multiclientele Assessment Tool (OEMC). The individual generally has an ISO-SMAF profile between 6 and 12. If the profile is different, the choice of referral to a resource is based on clinical judgment that takes into account in particular the uniqueness of the individual, his life story and his lifestyle.

Physical Disability

The individual has a permanent mobility, visual or language impairment, causing significant and persistent disabilities.

Intellectual disability or pervasive development disorder (PDD)

The individual has an intellectual disability manifested by a general cognitive functioning is significantly below average, with adjustment difficulties appearing in childhood. The individual has a PDD that can manifest in different clinical forms. In both cases, the individual has the following characteristics: qualitative impairments in social interaction, impaired communication and language, restricted interests and repetitive behaviours.

²⁰ Source document: *Réseau de services intégrés pour les personnes âgées*. MSSS, 2009.

Troubled youth

The child must be removed from his family and placed in foster care because of the inability of the parents to take care of the child. The family history and certain personal characteristics of the child are such that he has attachment, development or behaviour issues causing difficulty coping in different spheres of life. The child may also have developmental delays in one or more areas of their lives.

Mental health

Adult

The individual has severe mental disorders or has transient mental disorders of varying intensity (DSM - Axis 1). The assessment of the individual's situation leads to the conclusion that it is impossible for the individual (in the short or medium term) to live on their own in the community with the existing support services, including intensive treatment in the community or monitoring of varying intensity. The individual requires social protection in order to maintain health stability.

Youth

The child must be removed from his family and placed in foster care because of a mental health problem or a diagnosed mental disorder that has led him to adopt reactions or inappropriate behaviour so that parents are no longer able to take care of the child. The child may also have difficulty adapting in different spheres of life, or has reactions or inappropriate behaviour related to his condition.

Addictions

The individual is monitored by a public institution for rehabilitation in relation to an issue of abuse or addiction to alcohol, drugs or gambling and money.

5. STRUCTURING RESPONSIBILITY

The rules and procedures governing access to the services are therefore a way for the agency to assume responsibility for regional planning by helping to ensure the right service to the right individual and in the appropriate resource.

Applying these rules and procedures is in compliance with laws, regulations and agreements in force.

These rules and procedures also have a major impact on the exercise of responsibilities in terms of reception, assessment and referral of the user assumed by the institution, while allowing flexibility to exercise clinical and ethical judgment and respect for user rights.

Consultation by institutions in the process of establishing the rules and procedures governing access to services as well as planning and implementation of dissemination and appropriation activities in terms of their content will be guarantees of a consistent application in the region.

Chapter 3

RESPONSIBILITIES IN TERMS OF RECOGNITION

1. FOUNDATION

The responsibilities of the agency in terms of recognition of resources are not new responsibilities. However, given the changes in the legal, contractual and administrative frameworks surrounding resources, it is imperative to refocus them.

The recognition requirement to be a resource and perform the roles and responsibilities is rooted in the AHSSS in section 302²¹ for intermediate resources, and section 312²² for family-type resources.

The agency of the concerned region attributes the responsibilities for obtaining this recognition as seen in sections 304 and 305.1 of the AHSSS:

Section 304

The agency shall, in addition to establishing the rules and procedures of access to the services provided by intermediate resources in its region:

- (1) specify the criteria for recognizing intermediate resources, recognize them and keep a register of recognized resources classified according to the types of clientele;
- (2) identify the public institutions in its region which may call upon the services of intermediate resources and which must ensure the professional follow-up of the users referred to the resources;
- (3) *(paragraph repealed)*;
- (4) ensure that mechanisms for concerted action between institutions and their intermediate resources are established and put into operation, in particular with regard to group agreements entered into under the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements* (chapter R-24.0.2) or under section 303.1.

Section 305.1

An intermediate resource whose recognition is suspended or revoked by an agency may contest that decision before the Administrative Tribunal of Québec within 60 days after being notified of the decision.

²¹ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

²² *Idem.*

In sum, in terms of recognition, the agency must perform different actions, namely:



- identify the public institutions in its region which may call upon the services of intermediate resources (sect. 304, par. 1, subpar. 2)²³;
- specify the criteria for recognizing intermediate resources (sect. 304. Par.1, subpar. 1)²⁴;
 - recognize a resource (sect. 304. Par.1, subpar. 1)²⁵;
- suspend or revoke recognition (sect. 305.1) ;²⁶
- keep a register of recognized resources classified according to the types of clientele (sect. 304. Par.1, subpar. 1) .

In exercising its responsibilities in terms of recognition, the agency shall consider:

- the rights of users, to receive appropriate health services and social services as indicated in section 5²⁸ of the AHSSS;
- the definition of an intermediate resource as indicated in section 302²⁹ of the AHSSS and that of a foster family and a foster home as indicated in section 312³⁰ of the AHSSS;
- the living environment and support or assistance services to be provided by all the resources as part of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*;
- national and group agreements between the Minister and the associations or organizations representing resources.

The responsibilities of the agency shall be complementary to those entrusted to institutions, including that provided for in section 305 of the AHSSS “*institutions [...] shall themselves recruit and assess resources with a view to their recognition by the agency.*”

Finally, other legal, regulatory and administrative considerations will influence the agency, namely:

- charters governing human rights and freedoms;
- the agency and institution’s financial framework;
- the optimal use of previously recognized and available resources;
- the equitable distribution of resources in relation to each type of user;
- the development and use of resources by an institution to fulfill its mission or mandate entrusted by the agency;
- the number of resources in relation to the community’s capacity for reception.

²³ See Appendix in this Guide: Extracts from the “*Act respecting health services and social services*”.

²⁴ *Idem.*

²⁵ *Idem.*

²⁶ *Idem.*

²⁷ *Idem.*

²⁸ *Idem.*

²⁹ *Idem.*

³⁰ *Idem.*

2. PURPOSE AND SCOPE

Recognition represents an authorization for a natural person, legal person or a partnership to provide support or assistance services and an adapted living environment (intermediate resource) or an environment that is closest to a family environment (foster family) or a natural environment (foster home) to meet the needs of users entrusted by a public institution identified by the agency in the region.

Obtaining recognition allows the person who obtained it to exercise in this living environment, roles and responsibilities of a resource and to conclude with a public institution identified by the agency, a specific agreement or a particular agreement to take in charge the users entrusted by this institution.

The issuing of recognition by the agency is a fundamental act contributing to the quality of services rendered to the user and to their security.

This responsibility by the agency is exercised to complement the resource recruitment and assessment process by the institutions. As mentioned above, section 305³¹ of the AHSSS attributes to institutions the responsibility for recruiting and assessing resources for recognition.

In this context, resource recruitment and assessment activities carried out by institutions shall take into account the requirements of the agency in terms of recognition and its prerogative to issue or not, this recognition.

The agency is responsible and accountable for its decision to recognize or not a resource, and for the duration thereof.

3. IDENTIFICATION OF THE INSTITUTIONS



Only a public institution identified by the agency may call upon the services of an intermediate resource, as part of section 301³² of the AHSSS, or a family-type resource, as part of section 310³³ of the same Act.

The responsibility assigned to the agency for identifying the institutions on its territory that may engage the services of a resource is important because without this identification, a public institution cannot conclude a specific agreement or a particular agreement with a resource.

³¹ See Appendix in this Guide: Extracts from the “Act respecting health services and social services”.

³² *Idem.*

³³ *Idem.*

The exercise of this responsibility also promotes the efficient organization of services offered by the resources of the region.

To adequately fulfill this responsibility, the agency must identify institutions in order to:

- respect their mission;
- apply their expertise;
- provide access to resources;
- provide continuity and quality of services;
- provide efficiency in the recruitment and use of resources.

It should be noted that the agency may, under section 306³⁴ of the AHSSS, consider the possibility of allowing several institutions to “[...] *call upon the services of the same [...] resource*”, and that these institutions “[...] *agree on the professional follow-up of the users and on the payments made to the resource.*”

Moreover, in a given region, the agency could identify an institution so it may act for and on behalf of other institutions in its region as manager of some or all of the resources in a geographic area or of a program-service. This approach assumes that an agreement has been reached between the managing institution and each user institution for administrative management, relationship with the resource and professional monitoring of users.

4. TYPES OF RESOURCES

The AHSSS establishes the types of resources that shall be considered in terms of recognition - **intermediate resource** and **family-type resource** (foster family and foster home) - and provides characteristics specific to each.

INTERMEDIATE RESOURCES

The first paragraph of section 302 of the AHSSS defines an intermediate resource as follows:

[...]a resource that is operated by a natural person as a self-employed worker or by a legal person or a partnership and is recognized by an agency for the purpose of participating in the maintenance of users otherwise registered for a public institution's services in the community or in their integration into the community by providing them with a living environment suited to their needs, together with the support or assistance services required by their condition. [...]

³⁴ See Appendix in this Guide: Extracts from the “*Act respecting health services and social services*”.

FAMILY-TYPE RESOURCES

Sections 311 and 312 of the AHSSS define a family-type resource as:

Section 311

Family-type resources comprise foster families and foster homes.

Section 312

One or two persons receiving in their principal place of residence a maximum of nine children in difficulty entrusted to them by a public institution in order to respond to their needs and afford them living conditions fostering a parent-child relationship in a family-like environment may be recognized as a foster family.

One or two persons receiving in their principal place of residence a maximum of nine adults or elderly persons entrusted to them by a public institution in order to respond to their needs and afford them living conditions as close to a natural environment as possible may be recognized as a foster principal place of residence.

Thus, the family-type resource is divided into two main types - **foster families and foster homes** - and generally exercise their activities based on the type.

FTR FOSTER FAMILY

One or two persons receiving in their principal place of residence a maximum of nine children in difficulty entrusted to them by a public institution in order to respond to their needs and afford them living conditions fostering a parent-child relationship in a family-like environment. Common services offered are those listed in section 1 of Part 1 of the Schedule of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

FTR FOSTER HOME

One or two persons receiving in their principal place of residence a maximum of nine adults or elderly persons entrusted to them by a public institution in order to respond to their needs and afford them living conditions as close to a natural environment as possible. Common services offered are those listed in section 1 of Part 1 of the Schedule of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

4.1 IR - TYPES OF RESIDENTIAL ORGANIZATIONS

Intermediate resources include several types of residential organizations as presented below:

IR GROUP RESIDENCE

The living environment is a physical location where one or several users live and where services are provided by one or more individuals who usually do not reside there. Common services offered are those listed in section 1 of Part 1 of the Schedule of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

IR ROOMING HOUSE

The living environment consists of one or more rooms in the same physical location, with or without common areas or group activities. Common services offered are those listed in section 2 of Part 1 of the Schedule of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

IR SUPERVISED APARTMENT

The living environment consists of one or more apartments where one or several users reside. Common services offered are those listed in section 2 of Part 1 of the Schedule of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

IR FOSTER HOME (IRFH) - EXCEPTIONALLY

The living environment is the principal place of residence of one or two persons receiving a maximum of nine users. Common services offered are those listed in section 1 of Part 1 of the Schedule of the *Regulation respecting the classification of services offered by an intermediate resource and a family-type resource*.

This type of residential organization, because of recent legislative and regulatory changes, is the equivalent of a family-type resource. Thus, unless required, such as through youth protection, this type of residential organization should no longer be used and family-type resources should be prioritized.

OTHER TYPES OF RESIDENTIAL ORGANIZATIONS

The living environment is a distinct model of organization from the residential organizations defined above. It allows for the necessary flexibility to provide the resources to meet new needs or needs that are better suited to new practices.

4.2 FTR EXERCISE LIMITATIONS

It could occur that the exercise of roles and responsibilities of some family-type resources may be limited to certain users or to a designated place of exercise. This is the case for a proximity foster family and for foster families and homes in Aboriginal communities.

PROXIMITY FOSTER FAMILY

The foster family exercises its activities towards a child entrusted to them because of significant ties already present between the child and the natural person(s) constituting the resource, in the spirit of section 4 of the *Youth Protection Act*. More than one child could be received, including siblings.

FOSTER FAMILY AND FOSTER HOME IN ABORIGINAL COMMUNITIES

The foster family or foster home exercises its activities within an Aboriginal community.

5. RECOGNITION CRITERIA



The agency shall establish the criteria, in collaboration with the institution, for issuing recognition to a resource.

According to the English language dictionary (<http://www.merriam-webster.com/>):

A *criterion* is a standard on which a judgment or decision may be based.

It is therefore important that each agency clearly establishes the elements that enable it, together with the institution, to exercise judgment in determining the recognition of an applicant, and ensuring their dissemination.

The agency's criteria for recognition:

- shall be observable and universal in the sense that they shall concern all resources and all programs-service, although some may be applied differently depending on the type of residential organization;
- shall constitute the minimum requirements for providing access to recognition;
- shall be distinct or complementary to the assessment objects of the institution that will concern elements of a biopsychosocial, clinico-administrative or qualitative nature, and will be adapted according to the specific needs of users;

- shall not be confused with the means used by the institution or agency to carry out their assessment (statements, references, documents, etc);
- shall be relevant, reasonable and respectful of the rights of persons.

In addition, to ensure compliance with minimum elements guaranteeing the quality of services, these criteria shall consider the three components of a resource, which are:

THE APPLICANT	THE LIVING ENVIRONMENT	THE PROJECT
<p>The natural person, legal person or partnership that wishes to act as a resource.</p>	<p>The principal residence or facility.</p>	<p>The compliance of the project with the regional guidelines, the characteristics of the type of resource desired and the existence of a contractual relationship with an institution.</p>

Some criteria are aimed at three types of resources (IR, FTR FF or FTR FH), while others are specific to one or the other.

Given the similarity between the IR foster home (IRFH) and family-type resources, the same criteria shall be applied. However, it should be noted that in the future, an IRFH will only exceptionally be considered for recognition.

In addition, family-type resources subject to an exercise limitation will be exempt from the application of certain criteria, depending on the nature of this limitation.

5.1 CRITERIA RELATED TO THE APPLICANT

The criteria related to the applicant involve certain characteristics that are unique to the applicant. Some of these are modulated differently depending, for example, on the type of resource and the legal personality of the applicant (natural person, legal person or partnership).

Criterion 1 **MAJORITY**

FTR and FTRFH	<ul style="list-style-type: none"> The natural person wishing to receive users is an adult.
IR	<ul style="list-style-type: none"> The natural person, officer or director of a legal person or partnership wishing to operate an intermediate resource is an adult.

Criterion 2 **CITIZENSHIP**

FTR and FTRFH	<ul style="list-style-type: none"> The natural person who wishes to receive users is a Canadian citizen or permanent resident of Canada.
IR	<ul style="list-style-type: none"> The natural person, officer or director of a legal person or partnership wishing to operate an intermediate resource is a Canadian citizen or permanent resident of Canada.

Criterion 3 **PRIOR RECOGNITION**

FTR and FTRFH	<ul style="list-style-type: none"> The natural person who wishes to receive users has not had their recognition suspended or revoked as a resource over the last three (3) years.
IR	<ul style="list-style-type: none"> The natural person, officer or director of a legal person or partnership wishing to operate an intermediate resource has not had their recognition suspended or revoked as a resource over the last three (3) years.
FTR and IR	<ul style="list-style-type: none"> For all resources, if recognition was revoked because the resource failed to provide a quality living environment and support or assistance services to users or because the health, safety or well-being of users was jeopardized, the applicant cannot be recognized again as a resource, regardless of the time elapsed since the revocation.

Criterion 4 **PLACE OF BUSINESS**

IR	<ul style="list-style-type: none"> The natural person, officer or director of a legal person or partnership wishing to operate an intermediate resource has a place of business in Canada.
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Criterion 5 **JUDICIAL RECORDS RELATED TO THE FUNCTION**

<p>FTR and FTRFH</p>	<ul style="list-style-type: none"> ▪ The natural person wishing to receive users has no judicial record in connection with the required aptitudes and conduct necessary for the function of a resource. ▪ Any adult person, other than a user, living in the principal residence of a resource has no judicial record which could jeopardize the health or safety of users. ▪ Any <u>adult person required by a resource to act towards users as a volunteer, aid, replacement or employee</u> has no judicial record in connection with the required aptitudes and conduct necessary for the function of a resource. <p style="text-align: center;">– Exemption –</p> <p>Verification of judicial records of <u>adults required by a resource to act towards users (volunteer, aid, replacement or employee)</u> does not apply to a FTR that has an exercise limitation, whether a proximity foster home or FTR in an Aboriginal community.</p>
<p>IR</p>	<ul style="list-style-type: none"> ▪ The legal person or partnership wishing to operate an intermediate resource has no judicial record in connection with the required aptitudes and conduct necessary for the function of a resource. ▪ The natural person, officer or director of a legal person or partnership wishing to operate an intermediate resource has no judicial record in connection with the required aptitudes and conduct necessary for the function of a resource. ▪ Any person required by a resource to act towards users as a volunteer, aid, replacement or employee has no judicial record in connection with the required aptitudes and conduct necessary for the function of this person in the resource.



A person is considered to have a judicial record if:

- they have been convicted of a criminal or penal offence committed in Canada or elsewhere, unless a pardon has been granted for this offence;
- charges are pending against them for a criminal or penal offence committed in Canada or elsewhere;
- there is a court order against them in Canada or elsewhere.

Criterion 6 **SOLVENCY**

FTR and FTRFH	<ul style="list-style-type: none"> ▪ The natural person wishing to receive users has not been subject over the last three (3) years to a Canadian insolvency law. <p style="text-align: center;">– Exemption –</p> <p>This criterion does not apply to a FTR that has an exercise limitation, whether a proximity foster home or FTR in an Aboriginal community.</p>
IR	<ul style="list-style-type: none"> ▪ The legal person or partnership wishing to operate an intermediate resource has not been subject over the last five (5) years to a Canadian insolvency law. ▪ The natural person, officer or director of a legal person or partnership wishing to operate an intermediate resource has not been subject over the last three (3) years to a Canadian insolvency law.

Criterion 7 **REGISTRATION**

IR	<ul style="list-style-type: none"> ▪ The natural person, legal person or partnership wishing to operate an intermediate resource shall comply with the <i>Act respecting the legal publicity of sole proprietorships, partnerships and legal persons</i>.
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Criterion 8 **INSURANCE**

FTR and FTRFH	<ul style="list-style-type: none"> ▪ The natural person wishing to receive users shall obtain and maintain home insurance (or business), as owner or tenant to cover the risk of damage to property and movable property, including risks in terms of comprehensive general liability for activities other than resource-related activities.
IR	<ul style="list-style-type: none"> ▪ The natural person, legal person or partnership wishing to operate an intermediate resource shall obtain and maintain: <ul style="list-style-type: none"> ▪ business insurance in order to cover the risk of damage to property and movable property; ▪ comprehensive general liability and professional liability insurance in order to protect the resource and its personnel; ▪ directors' and officers' liability insurance, when applicable.

Criterion 9 **TRAINING**

<p>FTR and FTRFH</p>	<ul style="list-style-type: none"> ▪ The person wishing to receive users has up-to-date CPR and First Aid training from a recognized organization. ▪ The natural person wishing to receive users shall guarantee constant presence in the living environment of at least one person with up-to-date CPR and First Aid training from a recognized organization, except in a situation where the person present in the living environment intervenes with the users for a short period and on a casual basis. <p style="text-align: center;">– Exemption –</p> <p>Although this type of training is highly recommended, this criterion is not required for a FTR that has an exercise limitation, whether a proximity foster home or FTR in an Aboriginal community.</p>
<p>IR</p>	<ul style="list-style-type: none"> ▪ The natural person, legal person or partnership wishing to operate an intermediate resource shall guarantee constant presence in the living environment of at least one person with up-to-date CPR and First Aid training from a recognized organization.

5.2 CRITERIA RELATED TO THE LIVING ENVIRONMENT

These criteria, whose application may vary depending on the type of resource, involve the physical environment and the characteristics of the proposed living environment as well as its security and safety. The following items are taken into account:

- geographic location;
- accessibility;
- architecture;
- physical features and furniture;
- compliance with applicable laws and regulations.

Criterion 10 **ACCESSIBILITY OF LIVING ENVIRONMENT**

<p>FTR and IR</p>	<ul style="list-style-type: none"> ▪ The living environment is geographically located in an accessible, well-lit and safe area. ▪ In the case where the project is intended for users with reduced mobility, access to the living environment meets generally accepted standards, particularly in terms of access ramps and width of exterior doors.
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Criterion 11 **OUTDOOR LAYOUT**

FTR and IR

- The proposed living environment has safe access to a terrace or to an outdoor area on site or off-site (public park, etc).
- Exterior balconies and railings ensure the safety of users.

Criterion 12 **INDOOR LAYOUT**

FTR and IR

- The living environment provides clean common areas, sufficient for different activities (recreation, meals, private contact with relatives, etc), lit by natural light and adapted to the type of user that the resource takes charge of.
- When the condition of the user requires it, the areas have a roundabout axis sufficient for the movement of mobility aids (wheelchairs, walkers, etc) and the floors are designed so as to avoid falls, i.e. without obstacles, with a non-slip surface and without height differences between the different types of surface.
- In the case of a resource with 10 or more places, the proposed living area is partitioned into blocks with a maximum capacity of 15 rooms.

Criterion 13 **BEDROOMS**

FTR and IR

- Bedrooms are preferably private.
- They have a window looking outside.
- They are on the ground floor or first floor.
- They occupy at least 80 square feet for a single room and 120 square feet for a double room or a single room if the user is in a wheelchair.
- A bedroom could be located in the basement as long as it meets the above characteristics and the user is willing to live there. In such a case, outdoor access (door or window) is provided in order to leave the basement in case of fire and safety standards must be met.
- The furniture minimally includes storage space for clothes and a bed suitable for the condition of intended users.

– **Exemption** –

Although the bedroom size is recommended, it is not mandatory for a FTR that has an exercise limitation, whether a proximity foster home or FTR in an Aboriginal community.

Criterion 14 **BATHROOMS**

FTR and IR

- The proposed bathrooms are shared bathrooms, suitable for intended users and in sufficient numbers.
- A private bathroom is proposed in the case of a user for whom such a facility would help them maintain their autonomy.

Criterion 15 **CALL SYSTEM**

FTR and IR

- Proposed bedrooms and bathrooms are equipped with a call button, should the user's condition require.

Criterion 16 **HEALTH AND SAFETY OF THE LIVING ENVIRONMENT**

FTR and IR

- The proposed living environment complies with the relevant provisions of the *Building Act* and any rule and regulation duly made thereunder.
- It complies with the laws and regulations on fire safety, and any municipal bylaw that applies to the type of residential organization targeted by the project.
- The notices issued by the responsible bodies are applied.
- Food hygiene and sanitation rules and regulations are met.
- Notwithstanding the legislative or regulatory provisions, all living environments are equipped with smoke detectors and fire extinguishers in sufficient numbers.

– Exemption –

In the case of a FTR that has an exercise limitation as a FTR in an Aboriginal community, the conditions to be met are those applicable in the community where they are located.

5.3 CRITERIA RELATED TO THE PROJECT

These criteria are intended to ensure that the resource project meets the legal, regulatory and administrative framework for resources in the region.

More specifically, one of these criteria will allow the agency to ensure that the proposed project is consistent with the type of resource.

For example:

- *For an IR rooming house project*
The proposed living environment in the project shall consist of one or more bedrooms in the same physical location.
- *For a proximity foster family project*
The child or children entrusted by the youth centre shall have a significant relationship with the natural person(s) operating the resource.

It will therefore be necessary to refer to the type of IR or FTR, as defined in AHSSS, to the definitions of types of residential organizations in terms of intermediate resources and definitions of exercise limitations as proposed in this guide to clearly identify the characteristics that shall be provided by the project to meet this criterion.

Finally, it is important to note that an agency shall not issue a first recognition to a resource unless there is a commitment to conclude a specific agreement or a particular agreement with an identified institution.

Criterion 17 COMPLIANCE WITH REGIONAL ORIENTATIONS

FTR and IR	<ul style="list-style-type: none"> ▪ The project is part of the regional orientations established by the agency with regard to the rules and procedures governing access to services. In the case of Aboriginal communities, the orientations are those of the Band Council or of the competent authority in the organization of services.
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Criterion 18 TYPE OF RESOURCE

FTR	<ul style="list-style-type: none"> ▪ The project corresponds to the type of resource and, if applicable, to the exercise limitation specified for the intended users.
IR	<ul style="list-style-type: none"> ▪ The project corresponds to the definition of intermediate resource and type of residential organization specified for the intended users.

Criterion 19 CONTRACTUAL RELATIONSHIP WITH AN INSTITUTION

FTR and IR	<ul style="list-style-type: none"> ▪ In the case of a first recognition, a specific agreement or a particular agreement is provided for between the applicant and an identified institution. <p>– Exemption –</p> <p>In the case of a FTR that has an exercise limitation as a FTR in an Aboriginal community, the contractual relationship may exist between the resource and the institution or its representative.</p>
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5.4 DEROGATION/EXEMPTION CLAUSE

Recognition criteria aim in particular the quality of the living environment and support or assistance services rendered to the user as well as the user's safety. As such, they are all important.

However, considering the history of resource development and the extreme diversity of realities they represent throughout Quebec, it seems that in certain circumstances, the agency may allow for temporary or permanent adjustments of certain criteria.

Such a process of adaptation must be provided and supervised rigorously in order not to jeopardize the quality of the living environment and the safety of users.

An agency's decision to ease or waive, temporarily or permanently, one of its recognition criteria could be based on the following conditions:



- The easing or exemption is subject to a formal request from the institution with the agency;
- The institution clearly indicates the nature and reasons for the adaptation requested as well as its duration (temporary or permanent);
- The institution ensures the agency that this easing or exemption will not cause or jeopardize the quality of the living environment and support or assistance services rendered to the user as well as the safety of users, of the resource or that of any person required to act towards users;
- The request does not relate to the judicial records criterion.

5.5 VERIFICATION OF COMPLIANCE

As noted above, the means used by the agency and institution to ensure compliance of an applicant with the criteria (questionnaires, statements, interviews, on-site visits, etc) shall not be part of this guide.

6. DECISION TO RECOGNIZE A RESOURCE



The decision whether or not to recognize a resource belongs to the agency. It is therefore the agency's ultimate responsibility to ensure the project complies with its recognition criteria.

The agency shall therefore:

- count on the collaboration by the institution and the exercise of its legal responsibilities for recruiting and assessing applicants;
- make sure to obtain, if necessary, all the information necessary to make its decision, and ensure the traceability of information obtained and considered;
- act in a timely manner and respect the rights of persons involved to be treated fairly.

It should be noted that in the absence of a recognition duly issued by the agency, regardless of the quality and relevance of the proposed project, no specific or particular agreement can be reached between the institution and a natural person, legal person or partnership wishing to act as a resource. Therefore, no user could be referred to them until recognition has been issued and an agreement has been reached.

6.1 RECOGNITION PROCEDURE

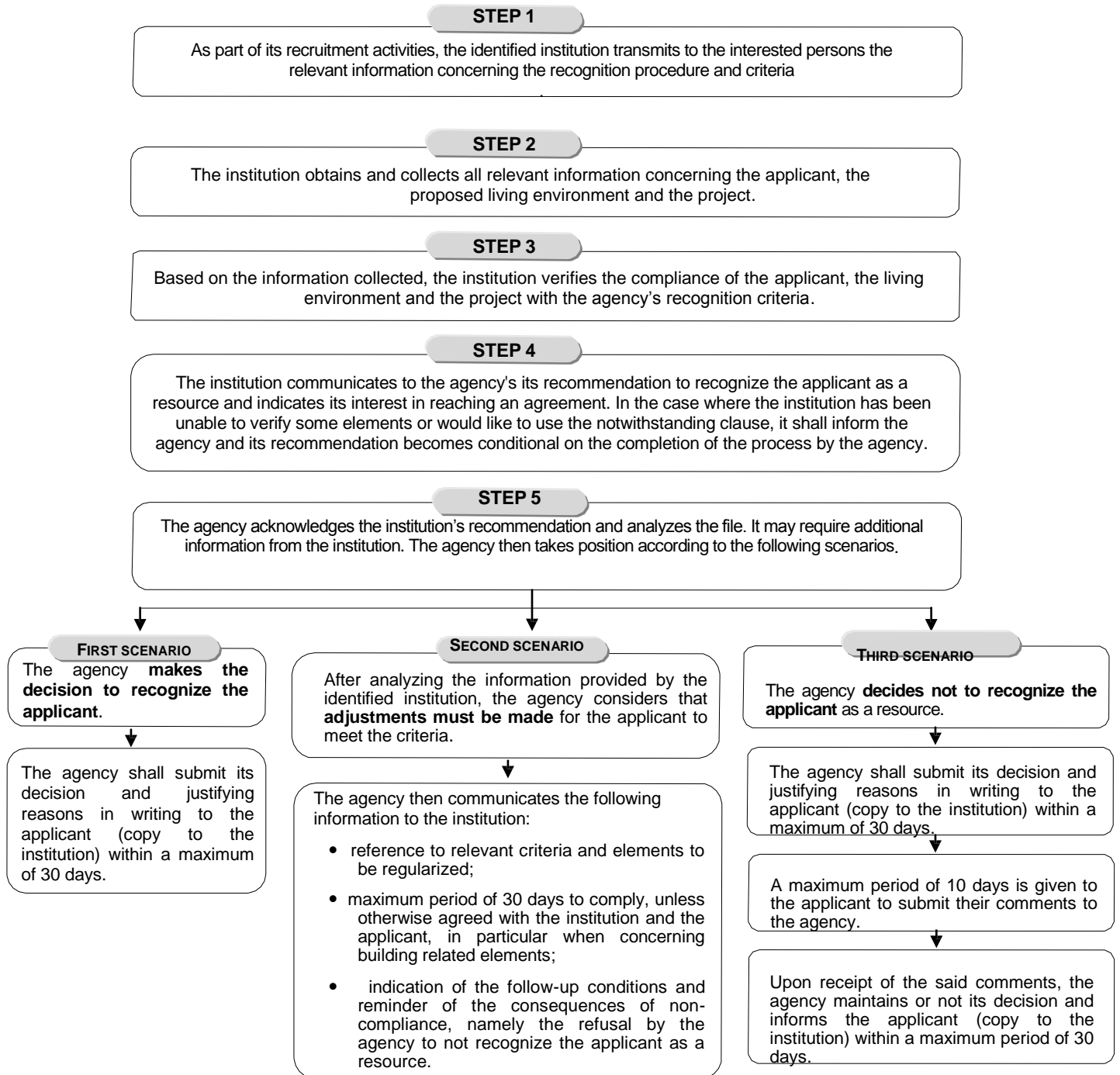


In the context of its administrative policy, the agency must determine the different steps of the recognition process it intends to follow and communicate them.

Given the expected cooperation from public institutions in the region, consultation regarding this procedure can certainly contribute to the success of its application.

As a reference, Figure 1 illustrates the steps that the agency could present in its recognition procedure.

Figure 1
PROPOSED PROCEDURE FOR RECOGNITION



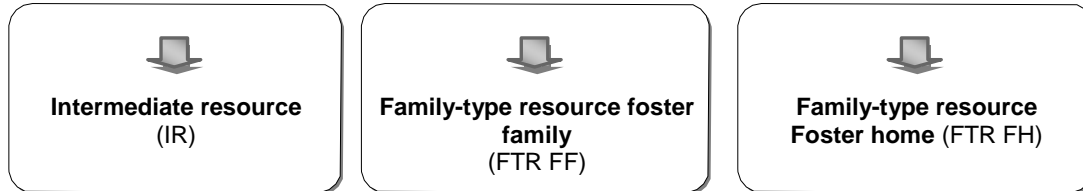
Remark: It is the agency's responsibility to determine the form of the recommendation sent by the institution, the terms surrounding the information to be transmitted to the agency, the rules for preserving information, etc.

c.

6.2 CERTIFICATE OF RECOGNITION

The certificate of recognition is an official document (physical or digital) issued to an applicant for becoming a resource and signed by the agency's competent authority.

Three types of certificate can be issued to a resource by an agency:



However, at the express request of an institution and for a particular situation, a certificate may be issued to a FTR with a dual status, that of foster family (FF) and foster home (FH), including if it is clinically appropriate to allow a minor user who reaches adulthood to remain for a period of time in the same resource.

The certificate of recognition contains the following information:



- Name of the issuing agency;
- Name of the natural person, legal person or partnership that constitutes the resource;
- Address of the physical place identified as the living environment or address of each apartment, where applicable;
- Type of resource:
 - Intermediate resource
 - Family-type resource – Foster family
 - Family-type resource – Foster home
- Exercise limitations for FTR, if applicable:
 - Proximity foster family
 - FTR in Aboriginal community
- As a reference, the type(s) of residential organizations of the intermediate resource shall be included in the certificate. This information is compulsory for IRFH.
- Issue date of the certificate of recognition;
- Signature of the authorized person from the agency.

Apart from supervised apartments, a certificate can thereby only be issued for a single living environment; with the address as evidence. Thus, in the case where the same natural or legal person would operate several separate living environments, each of them shall be subject to a distinct recognition.

The certificate of recognition shall not contain information on the type of user or the number of recognized places assigned to a resource; these elements are the responsibility of the institution and resource in the context of their business relationship.

The agency will send the certificate of recognition to the resource, with a copy to the institution.

6.3 RESOURCES OUTSIDE THE TERRITORY



Exceptionally, a public institution identified by the agency can recruit and evaluate a resource whose proposed living environment is located outside its region. The decision to recognize this resource shall belong to the agency from the region where the institution is located.

Similarly, it is also possible for a public institution identified by the agency to conclude a specific or particular agreement with a resource recognized by an agency from another region. Prior to doing this, the institution must obtain recognition from the agency in its area, which shall make its decision based on its own criteria.

In both situations and prior to making any decision in terms of recognition, it is essential that the agency contact the agency from the other region concerned, where applicable, to obtain its approval for the project at hand, especially considering the use of this resource and by users who are referred to services provided by the local service network in the region where it is located. Relevant agreements may be concluded.

This exchange will be even more important if the resource already has a contractual relationship with another institution in the region, as mentioned in the following lines.

6.4 SHARE RESOURCES



Recognition issued by the agency to a resource is valid for the signing of several specific or particular agreements with several identified institutions in its region.

However, according to the requirement under section 306³⁵ of the AHSSS, the agency shall first authorize the use of the services of the same resource by several institutions and shall see to it that “[...] the institutions concerned agree on the professional follow-up of the users and on the payments made to the resource.”

³⁵ See Appendix in this Guide: Extracts from the “Act respecting health services and social services”.

In the case where the institution wishes to use a resource which already has a contractual relationship with an institution from another region, the agency in its exchanges with the agency from the other region (see *6.3 Resources outside the territory*), shall verify the institution's agreement. The agencies concerned, in collaboration with the institutions, shall also produce a letter of agreement stating the terms of cooperation between the two institutions and the rules and procedures relating to the professional follow-up of users and on the payments made to the resource.

6.5 MAINTENANCE OF RECOGNITION CRITERIA



The agency is responsible for establishing rules and procedures for monitoring that compliance with the recognition criteria is maintained.

The agency shall therefore determine the procedure it intends to use to make sure, over time that the resource continues to meet the criteria from which it earned its recognition. The institutions and resources are informed of this procedure and contribute to its realization.

The institution shall notify the agency of any change in the resource, if it believes that certain recognition criteria can no longer be met.

The issue of maintaining criteria can also occur if a resource is in the regional resource bank (see *6.9 Regional Resource Bank*) following the end of a specific or particular agreement. According to the period during which the resource has been inactive, the agency shall ensure, on the one hand, that compliance with the recognition criteria has been maintained, and on the other that the information written on the certificate is still accurate.

6.6 DURATION OF CERTIFICATE OF RECOGNITION



A resource is recognized so long as it has not been subject to a revocation or suspension by the agency, even if the specific or particular agreement concluded with the institution has been cancelled or not renewed.

In general, recognition is maintained so long as the resource continues to meet the agency's criteria for recognition.

However, it shall be possible for the resource to request a modification or withdrawal of recognition.

6.7 MODIFICATION OF RECOGNITION

In the event a resource wishes to make changes to the certificate of recognition, a request to this effect must be submitted in writing to the agency stating:

- the nature of the modification (name of the natural person, legal person or partnership to whom the certificate is issued, address of the physical location identified as the living environment, resource type, etc);
- the opinion of the institution and resource concerning this modification.

In the event that the nature of the modification could affect one or several of the criteria for recognition, the agency shall update their information or undertake a reassessment of the relevant criteria.

Once the relevant information obtained and compliance with the criteria is ensured, the agency shall amend the certificate and send it to the resource (with a copy to the institution).

6.8 WITHDRAWAL OF RECOGNITION



It is possible that a resource wishes to abandon its recognition, partly because of a withdrawal or abandonment of business.

It is therefore important that the agency adopt and implement a mechanism so that the resource can communicate this request in writing to the agency, including the effective date of this withdrawal.

If the resource still has a contractual relationship with an institution, the agency shall verify the impact of the resource's decision on the users entrusted, prior to confirming to the resource the update and withdrawal of recognition.

Where applicable, the agency shall preserve the resource's request for withdrawal of recognition and remove the resource from the register of recognized resources per type of clientele.

6.9 REGIONAL BANK OF RESOURCES

As previously mentioned, unless recognition has been suspended or revoked, it is maintained even if there is a cancellation or non-renewal of the specific or particular agreement that bound the resource and the institution. Thus, on the basis of recognition, the resource could reach a new agreement with an identified institution and continue to act as is.



To allow use by an institution in the region of already recognized resources, the agency shall create a regional bank of recognized resources that institutions could use for their future needs.

Once the agency is notified of the cancellation or non-renewal of a specific agreement or particular agreement between an institution and a recognized resource, a letter proposing to the resource to include them in the regional bank shall then be sent, together with the list of institutions in the region with which it may contract. A form shall be enclosed which could be used by the resource not wishing to be part of such a bank, or preferring to relinquish recognition. An institution that cancels or does not renew an agreement may collaborate in this process, especially when informed by the resource of its wish to be included in the bank.

However, the continued recognition by the agency and the inclusion of the resource in such a bank shall not create any obligation for the agency or identified public institutions to conclude a new agreement with this resource.

In the event that a new draft agreement with an institution is considered, a meticulous assessment that recognition criteria have been maintained shall be conducted at the same time as the update of the assessment by the institution. The agency shall thus be assured that certain criteria, including those regarding judicial history, still comply.

The name of the resource could be maintained in the regional bank for a period of two years, after which the agency would determine whether or not recognition is maintained.

7. SUSPENSION OR REVOCATION OF RECOGNITION



Since amendments were made to the *Act respecting the representation of resources*, the AHSSS establishes more clearly an agency's right to suspend or revoke recognition (sections 305 and following)³⁶.

The possibility of suspending or revoking recognition contributes to maintaining the quality of services offered to users by resources.

Thus, in the context of monitoring whether criteria are maintained or based on information received, the agency may have to look into a resource's situation to determine whether it is in violation of recognition criteria or, more generally, whether it is providing a quality living environment and quality support or assistance services to users who are entrusted to them.

The AHSSS does not provide the motives that could be invoked by the agency to suspend or revoke a resource's recognition, nor requires any procedure by the agency.

³⁶ See Appendix in this Guide: Extracts from the "*Act respecting health services and social services*".

It is therefore each agency's responsibility to establish such motives, determine the procedure for suspension or revocation of recognition it intends to use and communicate them, in particular to recognized resources of the region.

It is important to emphasize that the agency is responsible for the decision to suspend or revoke a resource's recognition without regard to decisions that may otherwise be taken by the institutions as part of agreements concluded with these resources.

7.1 MOTIVES FOR SUSPENDING OR REVOKING RECOGNITION

The agency must therefore adopt criteria to suspend or revoke the recognition issued to a resource.

Such criteria should be flexible enough to adapt to different situations that may require an intervention by the agency with a recognized resource, while indicating the cause or reason that could justify such an intervention.

The motives established by the agency shall concern the compliance with recognition criteria it has established and, more generally, the resource's offer of providing a quality living environment and quality support or assistance services to users, particularly in terms of safety.

For example, the following motives may be invoked to suspend or revoke recognition:



- The resource no longer complies with a recognition criterion from which it had been recognized;
- The resource received its certificate of recognition based on misrepresentation or by distorting an important fact;
- The resource is no longer able, due to its financial situation, to perform its obligations;
- The resource, in the opinion of the institution, has failed to provide a quality living environment and quality support or assistance services to users;
- There are reasons to believe that the health, safety or well-being of users is threatened.

As previously mentioned, there is no automatic link between the end of the agreement and the end of the recognition. It is also possible that the cancellation, non-renewal or the end of a specific or particular agreement represents an opportunity allowing the agency to collect information about the resource and initiate the suspension or revocation procedure, or at least conduct an analysis of its relevance.

7.2 PROCEDURES FOR SUSPENDING OR REVOKING RECOGNITION



The agency shall establish a procedure to be followed when considering the suspension or revocation of recognition of a recognized resource in the region.

Each procedure shall be adapted according to the modes of operation of the agency. However, without being complex, this procedure shall comply with the principles of procedural fairness towards the resource, which are:

- the resource's right to be informed of the agency's intention and the motives invoked, and, where applicable, the content of the complaints concerning the resource;
- the opportunity for the resource to present its views to the agency within a reasonable time period and, where applicable, to produce documents to complete the file;
- notification to the resource of a written and motivated decision by the agency.

Any procedure must be preceded by a step to allow the agency to receive and analyze the information concerning the resource. The information can come from various sources, e.g. information provided by the public, a partner in the local service network or from a complaint. In most cases, the information shall flow through the person responsible for the institution who has concluded a specific or particular agreement with the resource, given its legal mandate in terms of monitoring whether the recognition criteria have been maintained.

The agency's different responsibilities in terms of its authorization to amend, terminate or prevent the renewal of a specific agreement (sect. 55 of the ARR), or to examine a misunderstanding with the non-targeted resources (sect. 307³⁷ of the AHSSS) shall also be significant sources of information.

In all cases, the agency shall carefully analyze the information received prior to deciding whether to undertake a procedure. This analysis will be based in particular on:

- its recognition criteria;
- the quality of the living environment and support or assistance services offered by the resource;
- the health, safety and well-being of the user who is assigned to this resource.

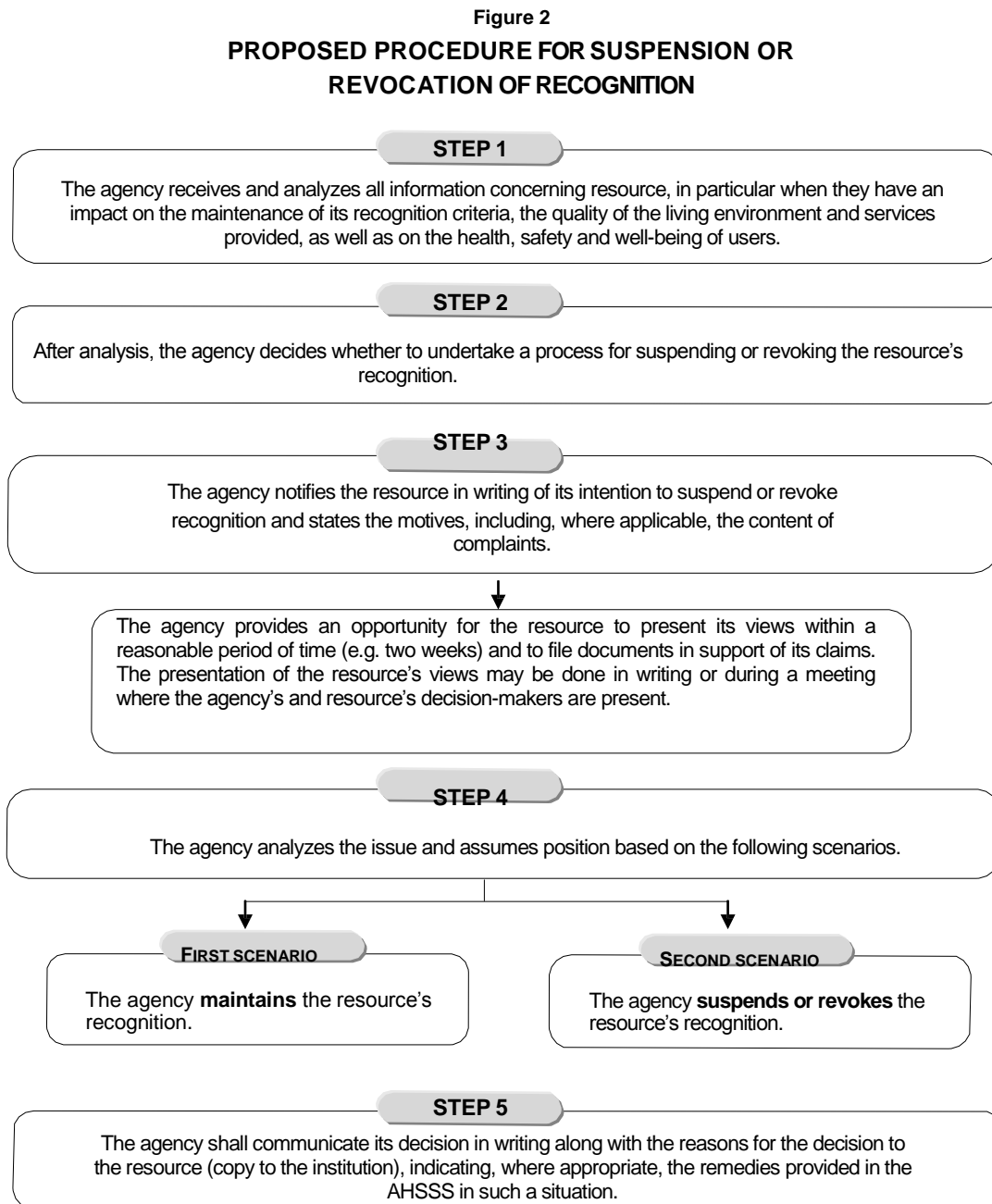
If the agency does not undertake a process for suspension or revocation of recognition, it is maintained.

Although the agency is solely responsible for the implementation of the suspension or revocation procedure, and ultimately of the decision, the procedure must nevertheless take into account the effects of this decision on each institution that has concluded a specific or particular agreement with the resource and on the users who were entrusted.

³⁷ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

In addition, the agency shall promptly notify each relevant institution of the suspension or revocation procedure and of the decision, in accordance with applicable laws.

For example, Figure 2 shows the different steps that the agency may apply in its procedure.



Remark: At any time, the agency may obtain additional information regarding the situation under analysis.

7.3 EFFECTS



The suspension or revocation of recognition withdraws the right of the natural person, legal person or partnership to carry out the roles and responsibilities of a resource.

The suspension or revocation of recognition automatically ends any specific or particular agreement between an institution and a resource.

In the event the resource has received recognition by an agency from another region, in compliance with applicable laws, the agency shall inform the persons concerned of its decision to withdraw the resource's recognition.

7.4 REMEDY FOR THE RESOURCE

Sections 305.1 and 305.2 of the AHSSS allow for a resource whose recognition is suspended or revoked by an agency to contest that decision before the Administrative Tribunal of Québec (ATQ). These sections provide for:

Section 305.1

An intermediate resource whose recognition is suspended or revoked by an agency may contest that decision before the Administrative Tribunal of Québec within 60 days after being notified of the decision.

Section 305.2

An agency whose decision is contested is a party to the proceeding within the meaning of section 101 of the *Act respecting administrative justice* (chapter J-3) and must, among other things, send the documents and information referred to in the first paragraph of section 114 of that Act to the secretary of the Tribunal within 30 days after receiving a copy of the motion.

The agency is party to this procedure and shall demonstrate the soundness of its decision.

It is therefore important that the agency have a strong case including in particular:

- facts from which the decision was taken concerning the resource;
- information, documents and testimony considered;
- compliance with procedural fairness by the agency.

Moreover, it should be noted that under section 35 of the ARR, any group agreement binding the Minister and the various associations representing these resources provides for the terms of compensation *“[...] for loss of income and other benefits sustained because of a suspension or revocation of recognition subsequently contested before and annulled by the Administrative Tribunal of Québec [...]”*.

National agreements between the minister and representative bodies not covered by the ARR resources contain similar terms.

8. RECOGNIZED RESOURCE REGISTER PER TYPE OF CLIENTELE



Section 304³⁸ of the AHSS provides that the agency shall keep a register of recognized resources according to the type of clientele.

The maintenance of such a register is not in itself a new responsibility for the agency, but it becomes an essential tool in terms of traceability and dissemination of certain information about the resources.

This register shall also contribute to the objective of maintaining in a regional data bank of recognized and available resources in order to reach an agreement with an institution.

It is important that this register be maintained rigorously, particularly with regard to the quality and reliability of the information it contains.

Moreover, as a document held by an agency, it is subject to the principles of the *Act respecting access to documents held by public bodies and the Protection of personal information* (RSQ, c. A-2.1).

9. ADMINISTRATIVE POLICY

Based on the contents of this guide, the agency must adopt for its region an administrative policy for recognizing resources and ensure its dissemination.

It should minimally include the following:

- The recognition procedure;
- The list of identified institutions in its region;
- Recognition criteria, including the terms surrounding the derogation from such criteria;
- The rules and procedures for monitoring the maintenance of criteria;
- The creation of the regional resource bank;
- The procedures for modifying or withdrawing recognition;
- The motives for suspending and revoking recognition and an application procedure;
- The creation of a recognized resource register according to the type of clientele.

³⁸ See Appendix in this Guide: Extracts from the “*Act respecting health services and social services*”.

Chapter 4

OTHER RESPONSIBILITIES

1. FOUNDATION

In addition to the responsibilities related to the rules and procedures governing access to services and recognition of resources, the legislator assigns other important responsibilities to the agency. These relate to events that may occur during the contractual relationship between a public institution and a resource.

Thus, the AHSSS provides that the agency shall:

Section 304 (paragraph 4)

Ensure that mechanisms for concerted action between institutions and their intermediate resources are established and put into operation, in particular with regard to group agreements entered into under the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements* (chapter R-24.0.2) or under section 303.1.

Section 307 (subparagraph 1)

[...] review of a decision made by the public institution to which the resource is attached to settle any misunderstanding concerning them.³⁹

In addition, the *Act respecting the representation of resources* (ARR) now gives responsibility to the agency when a public institution contractually bound to a resource covered by the ARR wishes to amend, terminate before the end of the term or prevent renewal of a specific agreement with this resource.

These responsibilities of the agency contribute to the maintenance of a relationship that is based in particular on good faith, compliance with contractual commitments, cooperation and collaboration between a public institution and a resource.

Also, the exercise by the agency of these other responsibilities helps to promote stability of users in their living environment and quality of services that are offered.

³⁹ Upon entry into force of section 119 of the ARR, only intermediate resources referred to in section 303.1 of the AHSSS shall be affected by the application of the procedure for dealing with misunderstandings

2. MECHANISMS FOR CONCERTED ACTION

2.1 CONTEXT



The fourth paragraph of section 304⁴⁰ of the AHSSS assigns the agency with the responsibility of ensuring that the mechanisms for concerted action between institutions and resources are established and put into operation.

The responsibility assigned to the agency in 1992 remains just as important today. It effectively allows the agency, both locally and regionally, to ensure that mechanisms are implemented for exchanges which promote the maintenance and preservation of relationships between institutions and resources, in particular preventing problems and finding solutions to these issues.

Since the entry into force of the amendments by the ARR, the agency's responsibility is exercised by taking into account the different and national and group agreements between the Minister and representative associations or representative organizations for resources.

2.2 CONTENT OF NATIONAL AND GROUP AGREEMENTS

Without making a list, it should be noted that the agreements provide for some mechanisms for concerted action that the institution shall implement, including the formation of a local consultative committee.

The agreements may propose other mechanisms for concerted action.

In addition, in the information section of certain collective agreements, the Minister agrees that each agency should develop *a mechanism for regional concerted action with a mandate to promote exchanges between resources, associations and institutions for the organization of services in resources in compliance with the framework.*

2.3 IMPLEMENTATION

The exercise of this responsibility therefore requires the agency:

- first, to determine the mechanisms for concerted action to be implemented by institutions or by the agency itself in the national and group agreements in force in the region;
- second, to establish a mechanism for obtaining from each institution in its region a confirmation of the implementation of identified mechanisms or, where applicable, ensuring there is a timetable for doing so;
- and finally, to monitor the functioning of these mechanisms with the institution and intervene if necessary.

⁴⁰ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

In terms of mechanisms for concerted action under its responsibility, the agency should, in collaboration with the institutions, associations representing resources and the resources, implement them. If necessary, the agency may also establish a procedure for using them and communicate this to the institutions.

2.4 FOLLOW-UP

As this responsibility is closely linked to the application of national and group agreements, it shall be important for the agency to monitor their evolution in order to make adjustments in respect of the various mechanisms for concerted action which the agency must ensure implementation and functioning in its region.

3. ANALYSIS OF MISUNDERSTANDINGS

3.1 CONTEXT

Section 307⁴¹ of the AHSSS provides for and oversees the agency's responsibility in terms of examining misunderstandings:

Every person responsible for an intermediate resource [as referred to in section 303.1]⁴² may apply to the agency for review of a decision made by the public institution to which the resource is attached to settle any misunderstanding concerning them.

The agency must, when examining the application, give the institution and the person responsible for the resource the opportunity to present their views.

After examining the application, the agency shall transmit its decision to the institution and to the person responsible for the intermediate resource.

This responsibility is not new, but must henceforth be exercised only at the request of certain intermediate resources⁴³ and in a different legal, regulatory and administrative context where other remedies available to resources coexist, in particular in applicable national agreements.

3.2 RELATED RESOURCES

Changes to the AHSSS by the ARR have restricted the application of section 307 of the AHSSS first for intermediate resources and, upon entry into force of section 119 of the ARR, for intermediate resources referred to in section 303.1⁴⁴ of the AHSSS.

Intermediate resources shall therefore be subject to a national agreement between the Minister and one of the representative organizations of these resources and they may apply to the agency for a review.

⁴¹ See Appendix in this Guide: Extracts from the "*Act respecting health services and social services*".

⁴² Not in force at the date of publication of this guide.

⁴³ Upon entry into force of section 119 of the ARR, only intermediate resources referred to in section 303.1 of the AHSSS shall be affected by the application of the procedure for dealing with misunderstandings.

⁴⁴ See Appendix in this Guide: Extracts from the "*Act respecting health services and social services*".

Thus, the agency is not required to receive and process, under section 307⁴⁵ of the AHSSS a request for review from:

- a FTR;
- an IR as referred to in the ARR⁴⁶.

3.3 DECISION BY THE INSTITUTION

The application for review to the agency:

- shall relate to a decision taken by the institution with which the resource is attached to settle a misunderstanding concerning them;
- shall not relate to a preliminary decision of the institution concerning a project or issue still under study;
- shall be such as to settle a misunderstanding concerning the resource itself, and not third parties.

The interpretation of the concept of misunderstanding has been the subject of many interpretations in the past. Some would exclude a situation at the end of contractual agreement (cancellation or non-renewal, etc), while others included it.

The Minister's position was to promote access by resources to the application of section 307 of the AHSSS and include situations where there is an end to a contractual agreement in the notion of misunderstanding of section 307 of the AHSSS.

The Minister remains open in the current context, but believes however that this issue will be less critical in the future. In fact, national agreements with the Minister provide for an arbitration mechanism in certain situations where there is an end to a particular agreement giving access to an effective remedy to intermediate resources involved. There should therefore be fewer applications to the agency for review of these issues.

In this respect, and to avoid multiple debates in these matters, as in other issues, it still seems useful that the agency does not intervene with respect to an application for review concerning a decision awaiting processing by the civil arbitration procedure of the national agreement, including other situations concerning the particular agreement that may be pending before a court or a situation that has already been settled between the parties.

⁴⁵ See Appendix in this Guide: Extracts from the "*Act respecting health services and social services*".

⁴⁶ This statement shall be effective only upon the entry into force of section 119 of the ARR.

3.4 IMPLEMENTATION



To promote the implementation of the agency's responsibility with regard to the review of misunderstandings, the agency shall establish and transmit to the institutions and resources of the region the procedure it intends to apply.

The agency's consideration for the content of this procedure should take into account the procedure put in place prior to the legislative changes by making the necessary or desirable adjustments. Cases of non-intervention by the agency as mentioned above could be included as well as other regional ways to proceed.

However, some elements appear essential in order to meet the agency's legal obligations, including procedural fairness.

3.4.1 DESIGNATING A PERSON RESPONSIBLE



The agency must appoint the person responsible for the application for review of a decision covered by section 307⁴⁷ of the AHSSS.

It is important that this responsible person does not exercise, within the agency, functions that are incompatible with its responsibilities related to the application for review. Any responsibility arising from the direct management of intermediate resource files as referred to in section 303.1⁴⁸ of the AHSSS is considered incompatible.

3.4.2 APPLICATION FOR REVIEW

The agency shall ensure that relevant intermediate resources understand to whom they may file an application for review, as well as the information and documents necessary for the study. Forms for this purpose may be made available to resources by the agency, where applicable.

The agency must also implement any means allowing the resource to receive assistance in formulating of its application and determining the relevant information or documents, as needed.



The agency shall confirm in writing when the review file is opened both to the resource and the relevant institution.

This confirmation should include the nature of the decision concerning the application for review and remind the main steps regarding the review procedure.

At this time, the agency may ask the institution to transmit any information or document relevant to the application for review.

⁴⁷ See Appendix in this Guide: Extracts from the "Act respecting health services and social services".

⁴⁸ *Idem*.

3.4.3 ANALYSIS OF THE APPLICATION

The analysis of the application shall be carried out by the person responsible who may be accompanied by one or more persons designated by the agency.

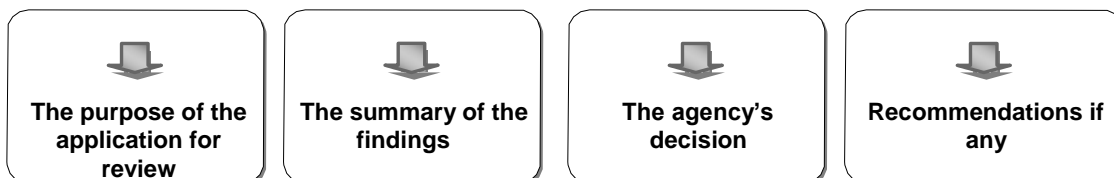
The analysis of the application is carried out in accordance with legal, regulatory and administrative frameworks regarding intermediate resources, including the applicable national and particular agreements. The information and documents transmitted by the resource or the institution, at the beginning of the proceedings or thereafter, shall be considered.

The AHSSS requires that the agency allows both the institution and resource the opportunity to present their views regarding the application for review. The means for doing this are numerous and it is up to the agency to implement the means they prefer and that are appropriate to the nature of the application.

3.4.4 DECISION

The agency should provide a written decision to the resource and the institution as soon as possible.

The decision shall include:



At any time, the agency's decision shall preserve the confidentiality of any information concerning users.

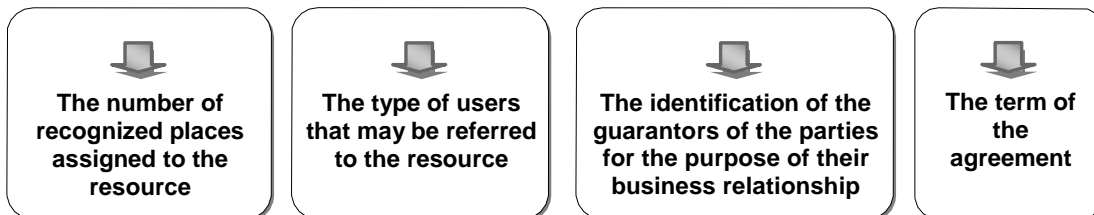
4. AUTHORIZATION TO AMEND, TERMINATE BEFORE THE END OF THE TERM OR PREVENT THE RENEWAL OF A SPECIFIC AGREEMENT

4.1 CONTEXT

Section 55 of the *Act respecting the representation of resources* defines and manages the business relationship between a public institution and a resource under that Act by the conclusion of an individual contract identified as the "specific agreement".

Without a thorough analysis of its nature and content, it should be noted that such a specific agreement may not contravene the provisions of the group agreement negotiated between the Minister and the resource's representative association.

In addition, a specific agreement must pertain exclusively to the following four elements:



The agency does not normally intervene in the conclusion of a specific agreement between the institution and the resource, as well as in its management.

However, paragraph three of section 55 of the ARR provides for an intervention by the agency on certain occasions:

A public institution that has signed a specific agreement may not amend it, terminate it before its expiry or prevent its renewal without the authorization of the agency concerned.

4.2 NATURE AND EFFECT

The requirement to obtain an authorization has the effect of giving the agency some control over decisions by the institution to amend, terminate before expiry or prevent the renewal of a specific agreement, while preserving the autonomy of the institution in the management of its business relationship with the resource.

Obtaining the agency's authorization is an essential condition for the validity of the decisions of the institution on these issues. It must thereby be obtained by the institution prior to the decision.

If the agency's authorization has not been obtained by the institution, either because it failed to request it or because the agency has refused authorization, the institution *will be unable to legally implement the measure for which prior authorization is required*⁴⁹.

Accordingly, any decision to amend, terminate before expiry or prevent the renewal of the specific agreement made by an institution without having been subject to prior authorization from the agency in due form shall be null.

⁴⁹ Translated from: ISSALIS, Pierre, LEMIEUX, Denis. *L'action gouvernementale – Précis de droit des institutions administratives*, 3^e Édition, Yvon Blais, 2009, p. 167.

4.3 OBJECTS

Prior authorization by the agency focuses exclusively on the decision by the institution to:

- amend the specific agreement;
- terminate the specific agreement before its expiry, also designated as cancellation of the specific agreement;
- prevent the renewal of the specific agreement.

This requirement of prior authorization does not extend to other decisions of the institution in terms of the specific agreement, for example, the decision to enter into a specific agreement with a recognized resource, the determination of its content or decisions concerning contract management.

No prior authorization by the agency is required to amend, terminate before expiry of the term or prevent the renewal of a particular agreement between a public institution and a resource not covered under the ARR.

4.4 FILE

In order to grant or not prior authorization, the institution must send an authorization request to the agency, together with any document and all the information necessary to analyze the proposed decision and take position.

Thus, the institution should send the agency an **authorization file** with the relevant information, including the following elements:



- The nature of the desired authorization request;
- A copy of the specific agreement with the resource, indicating the clauses of the agreement concerned by the authorization request;
- Identification of the group agreement applicable to the resource and, if necessary, the relevant clauses of the group agreement;
- The motives for the expected decision;
- The position of the resource concerning this decision, including, where applicable, any investigation or administrative process or exchange process with the resource;
- The consequences of this decision on the organization of services;
- Any other relevant element for understanding the decision expected by the institution for which prior authorization is required.

The institution can also, if such a document is likely to help the agency's analysis of the file, transmit a current account of the situation of the resource in terms of its obligations to provide a quality living environment and quality support or assistance services to users.

The agency could also require from the institution any additional information necessary for analysis.

4.5 ANALYSIS

The ARR is silent on how the agency must exercise its responsibility. The agency therefore has discretion to act.

To make a decision regarding the institution's application for authorization, the agency shall proceed with the analysis of the authorization file the institution has transmitted.

Analysis of the authorization file by the agency should allow them to assess the expected decision by the institution, in particular its compliance with the legal, administrative and contractual framework concerning the resources, including compliance with the applicable group agreement and the specific agreement with the relevant resource.

The agency's exercise of prior authorization may vary according to:

- the nature of the authorization requested;
- the factual situation at issue;
- how the agency wishes to exercise this responsibility.

The agency could consider the following questions:

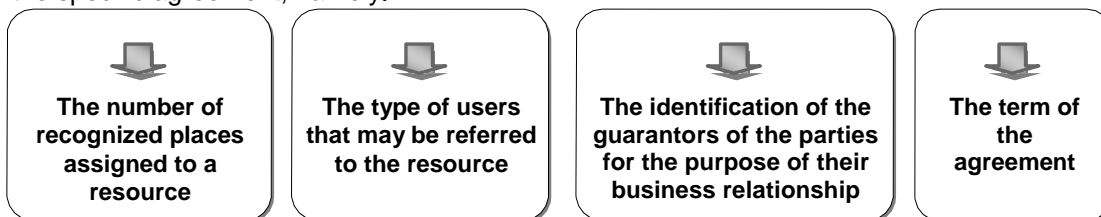


- Is the institution's decision authorized by law or, contractually, by the group or particular agreement?
- Has the decision been made by a person or a committee within the institution that can legally make this decision?
- Are there any prerequisite conditions for the institution's decision (e.g. agreement by the resource, transmission of a notice or the existence of a serious motive, etc)? Have they been respected?
- Do the facts support the expected decision? Or is it a pretext?
- Is the decision marked by arbitrariness, abuse of rights?
- Is the decision consistent with the institution's mission or with regional orientations in terms of services, etc?

Certain specific elements for each object covered by section 55 of the ARR shall receive particular consideration during the analysis for authorization process.

4.5.1 AMENDMENT

The agency shall ensure that the proposed amendment involves one of the four exclusive elements to the specific agreement, namely:



Moreover, it should be noted that certain specific agreement frameworks included in group agreements negotiated between the Minister and the associations representing certain resources provide that amendments can be made to any of the four elements, by mutual agreement between the parties. The agency shall then verify this in the course of its analysis.

4.5.2 TERMINATION BEFORE EXPIRY OF THE TERM

The agency shall verify the term provided by the parties in the specific agreement and shall confirm whether or not it has been reached.

Furthermore, it is important to verify in the specific agreement the circumstances under which the parties can terminate an agreement before the expiry of the term. Currently, certain specific agreement frameworks included in group agreements provide for termination of the specific agreement by mutual agreement between the parties, in the occurrence of particular events or for a serious motive. These elements are part of the obligations of the parties and may be verified by the agency.

4.5.3 PREVENTING THE RENEWAL OF THE SPECIFIC AGREEMENT

The agency can verify whether the specific agreement has a renewal clause and, where appropriate, the conditions of its exercise.

It is possible, as provided for in the different specific agreement frameworks included in the group agreements, that a specific agreement is not renewable. In other cases, the renewal can be avoided by sending a notice within a period determined by the specific agreement or for a motive.

It is therefore the agency's responsibility to acquire the content of the specific agreement concerning renewal while conducting its analysis.

4.6 DECISION

Once the analysis is complete, the agency shall grant or refuse authorization to the institution and send its position in writing. In the case of a refusal, the agency shall also transmit the motives supporting its decision.

In the event the agency is unable to make a decision due to a lack of information, it shall contact the institution to ask for additional documents or information within a specified period. The agency's decision is deferred until the institution has responded to its request.

However, the agency's responsibility for authorization does not permit it to change the institution's decision. Even if the agency considers the institution's decision to be wrong, it cannot substitute its own decision over that of the institution. The agency shall therefore decide to authorize based on the decision or refuse it.

4.7 PROCEDURE

The ARR provides for no specific procedure or requirement for the institution to obtain the agency's authorization.



Therefore, it shall be the agency's responsibility to determine and adopt an authorization procedure to amend, terminate before the expiry of the term or prevent the renewal of a specific agreement, and transmit it to the institutions in the region.

However, this procedure shall provide for:



- the terms for transmitting the application for authorization by the institution and the content of the authorization file that must be attached;
- the possibility of obtaining documents or additional information from the institution;
- the delays with which the agency may act, provided that certain emergencies requiring a prompt decision by the agency may occur;
- the transmission of a written decision to the institution, including the motives in case of refusal.

Furthermore, it is suggested that the agency clearly identifies the persons in charge of analyzing the application for authorization and for making a decision on their behalf.

CONCLUSION

This guide was developed in the same spirit as railroad workers installing the tracks as they moved forward. The quality of this approach is that the content of the guide was inspired and influenced by national and group agreements which were concluded over the last year, the work concerning the drafting of the *Framework - Intermediate resources and family-type resources*, through various experiences, initiatives and several very interesting questions from our partners.

The Ministère hopes that the final product will meet the objectives, namely, to communicate its orientations, contribute to the harmonization of practices and provide agencies with the tools necessary so they may carry out their responsibilities including access to services and recognition of resources.

There are still challenges with the implementation by the agencies of new ways to meet the legal, regulatory, contractual and administrative foundations, as mentioned in this guide.

REFERENCES

AGENCE DE LA SANTÉ ET DES SERVICES SOCIAUX DE LAVAL. *Cadre de référence en matière de reconnaissance des ressources intermédiaires et de type familial*, 2006.

AGENCE DE LA SANTÉ ET DES SERVICES SOCIAUX DE LA CAPITALE-NATIONALE. *Cadre de référence en matière de reconnaissance des ressources de type familial de la région de la Capitale-Nationale*, 2007.

AGENCE DE LA SANTÉ ET DES SERVICES SOCIAUX DE LA CAPITALE-NATIONALE. *Normes environnementales applicables aux ressources de type familial de la région de la Capitale-Nationale*, 2006.

ASSOCIATION QUÉBÉCOISE DES ÉTABLISSEMENTS DE SANTÉ ET DE SERVICES SOCIAUX. *Politique sur la gestion intégrée des risques*, 2012.

CENTRE D'EXPERTISE EN SANTÉ DE SHERBROOKE. *Outil d'évaluation multiclientèle SMAF® et Tableau de soins*, 1988.

COUR SUPÉRIEURE DU QUÉBEC. *Jugement de l'Honorable Marc St-Pierre dans la cause opposant des associations de ressources et des agences et établissements*, 2013.

DICTIONNAIRE DE LA LANGUE FRANÇAISE. [<http://www.linternaute.com/dictionnaire/fr/>].

GOVERNEMENT DU QUÉBEC. *Code civil du Québec*, L.Q., c. 64, 1991.

GOVERNEMENT DU QUÉBEC. *Loi sur la représentation des ressources de type familial et de certaines ressources intermédiaires et sur le régime de négociation d'une entente collective les concernant*, L.Q. chapitre R-24.0.2, 2009.

GOVERNEMENT DU QUÉBEC. *Loi sur le bâtiment, code de construction*, L.Q., chapitre B-1.1, a. 173, 176, 176.1, 178, 179, 185 et 192.

GOVERNEMENT DU QUÉBEC. *Loi sur les contrats des organismes publics*, L.Q., chapitre C-65.1.

GOVERNEMENT DU QUÉBEC. *Loi sur les produits alimentaires*, L.Q., chapitre P-29.

GOVERNEMENT DU QUÉBEC. *Loi sur les services de santé et les services sociaux*, L.Q., c. S-4.2, 2012.

GOVERNEMENT DU QUÉBEC. *Projet de loi n° 21, chapitre 28, Loi modifiant le Code des professions et d'autres dispositions législatives dans le domaine de la santé mentale et des relations humaines*, 2009.

GOVERNEMENT DU QUÉBEC. *Projet de loi n° 90, chapitre 33, Loi modifiant le Code des professions et d'autres dispositions législatives dans le domaine de la santé*, 2002.

GOVERNEMENT DU QUÉBEC. *Rapport d'enquête sur les événements entourant la fermeture du Pavillon Marquette et sur l'examen du processus d'attribution des places dans les ressources intermédiaires au Québec*, 2011.

GOVERNEMENT DU QUÉBEC. *Règlement sur la classification des services offerts par une ressource intermédiaire et une ressource de type familial*, L.Q., c. S-4.2, r. 3.1.

GOVERNEMENT DU QUÉBEC. *Règlement sur les conditions d'obtention d'un certificat de conformité et les normes d'exploitation d'une résidence privée pour aînés*, 2013.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Bilan statistique du suivi des recommandations des dossiers actifs des visites d'appréciation de la qualité*, 2013.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Cadre de référence sur les ressources intermédiaires*, 2001.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Chez soi le premier choix : la politique de soutien à domicile*, 2003.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Chez soi le premier choix : précisions pour favoriser l'implantation de la politique de soutien à domicile*, 2004.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Circulaire 2012-013, Vérification des antécédents judiciaires de toute personne désirant exercer des fonctions ou sa profession au sein d'un établissement de santé*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente collective conclue entre le ministre et l'ADREQ-CSD*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente nationale conclue entre le ministre et l'ARIHQ*, 2013.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente collective conclue entre le ministre et la FFARIQ*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente nationale conclue entre le ministre et la FRIJQ*, 2013.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente collective conclue entre le ministre et la FSSS-CSN*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente collective conclue entre le ministre et le RARA*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente collective conclue entre le ministre et le SCFP-FTQ*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. CPNSSS. *Entente collective conclue entre le ministre et l'UES-800*, 2012.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *De l'intégration sociale à la participation sociale – Politique de soutien aux personnes présentant une déficience intellectuelle, à leurs familles et aux autres proches*, 2001.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Guide d'utilisation de l'Instrument de détermination et de classification des services de soutien ou d'assistance*, 2013.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *La force des liens, Plan d'action en santé mentale 2005-2010*, 2005.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *La pratique professionnelle et la ressource de type familial – Guide d'orientation*, 2003.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Le Plan d'action 2005 2010 sur les services aux aînés en perte d'autonomie: un défi de solidarité*, 2005.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Manuel d'application du Règlement sur les conditions d'obtention d'un certificat de conformité et les normes d'exploitation d'une résidence privée pour aînés*, 2013.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Manuel d'application du Règlement sur les conditions d'obtention d'un certificat de conformité de résidence pour personnes âgées*, 2007.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Manuel de référence sur la protection de la jeunesse*. 2010.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Miser sur une saine alimentation : une question de qualité*, 2009.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Orientations ministérielles relatives à l'utilisation exceptionnelle des mesures de contrôle : contention, isolement et substances chimiques*, 2002.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Pour une véritable participation à la vie de la communauté – Orientations ministérielles en déficience physique, Objectifs 2004-2009*, 2003.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Un geste porteur d'avenir – Des services aux personnes présentant un trouble envahissant du développement, à leurs familles et à leurs proches*, 2003.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX DU QUÉBEC. *Règlement sur la classification des services offerts par une ressource intermédiaire et une ressource de type familial*, 2012.

MINISTÈRE DE L'ÉDUCATION DU QUÉBEC. *La vérification des antécédents judiciaires, Guide à l'intention des commissions scolaires et des établissements d'enseignement privés du Québec*, 2006.

VÉRIFICATEUR GÉNÉRAL DU QUÉBEC. *Rapport du Vérificateur général du Québec à l'Assemblée nationale pour l'année 2012-2013, Vérification de l'optimisation des ressources*, 2012.

APPENDIX

Extracts from the Act Respecting Health Services and Social Services

Section 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.

Section 100

The function of institutions is to ensure the provision of safe, continuous and accessible quality health or social services which respect the rights and spiritual needs of individuals and which aim at reducing or solving health and welfare problems and responding to the needs of the various population groups. To that end, institutions must manage their human, material, information, technological and financial resources effectively and efficiently and cooperate with other key players, including community organizations, to act on health and social determinants and improve the supply of services to the public. In addition, a local authority must elicit and facilitate such cooperation.

Section 301

A public institution identified by the agency may call upon the services of an intermediate resource for the purpose of carrying out the mission of a centre operated by the institution.

Section 302

An intermediate resource is a resource that is operated by a natural person as a self-employed worker or by a legal person or a partnership and is recognized by an agency for the purpose of participating in the maintenance of users otherwise registered for a public institution's services in the community or in their integration into the community by providing them with a living environment suited to their needs, together with the support or assistance services required by their condition.

The immovable or dwelling premises in which the services of an intermediate resource are provided is not deemed to be a facility maintained by the public institution to which the resource is attached, except for the purposes of the *Youth Protection Act* (chapter P-34.1), in which case it is considered to be a place where foster care is provided by an institution operating a rehabilitation centre.

Section 303

In order to foster an adequate framework and the regional implementation of intermediate resources, and to ensure sufficient flexibility for the emergence of new resources, the Minister shall propose to agencies a classification of the services offered by intermediate resources based on the degree of support or assistance required by users.

The Minister shall also identify the policy to be followed by agencies in determining the rules and procedures governing access to the services provided by intermediate resources, including the general criteria for admission to such resources.

The remuneration for each type of service listed in the classification established under the first paragraph is determined:

- (1) in accordance with the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements* (chapter R-24.0.2) in the case of intermediate resources represented by an association recognized under that Act;
- (2) by the Minister, with the authorization of the Conseil du trésor and on the conditions it determines, in the case of intermediate resources to whom that Act applies but who are not represented by an association recognized under that Act; or
- (3) in accordance with section 303.1, in the case of intermediate resources to whom that Act does not apply.

Section 303.1

The Minister may, with the authorization of the Conseil du trésor and on the conditions it determines, enter into an agreement with one or more bodies representing intermediate resources, other than those to whom the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements* (chapter R-24.0.2) applies, on the following subjects:

- (1) minimum and specific conditions for the delivery of services by those intermediate resources;
- (2) the modes and scale of remuneration for those services, taking into account the classification established by the Minister under section 303 as well as various measures, terms and conditions applicable to the payment of the remuneration;
- (3) the funding, implementation and maintenance of programs and services that meet the needs of all resources the body represents, particularly with regard to training and professional development;
- (4) the setting up of a joint committee either to ensure the administrative follow-up of the agreement, the provision of adequate training and professional development to maintain existing resources and renew them, or for any other purpose deemed useful or necessary by the parties.

Such an agreement is binding on the agencies, the institutions and all intermediate resources covered by the agreement, whether or not they are members of the body that entered into the agreement.

If no agreement is entered into under this section, the mode and scale of remuneration for the services, as well as the various measures, terms and conditions applicable to the payment of the remuneration are determined by the Minister, with the authorization of the Conseil du trésor and subject to the conditions it determines.

Section 304

The agency shall, in addition to establishing the rules and procedures governing access to services provided by intermediate resources in its region:

- 1° specify the criteria for recognizing intermediate resources, recognize them and keep a register of recognized resources classified according to the types of clientele;
- 2° identify the public institutions in its region which may call upon the services of intermediate resources and which must ensure the professional follow-up of the users referred to the resources;
- 3° (*paragraph repealed*);
- 4° ensure that mechanisms for concerted action between institutions and their intermediate resources are established and put into operation, in particular with regard to group agreements entered into under the *Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements* (chapter R-24.0.2) or under section 303.1.

Section 305

Public institutions identified by the agency shall themselves recruit and assess intermediate resources with a view to their recognition by the agency.

Section 305.1

An intermediate resource whose recognition is suspended or revoked by an agency may contest that decision before the Administrative Tribunal of Québec within 60 days after being notified of the decision.

Section 305.2

An agency whose decision is contested is a party to the proceeding within the meaning of section 101 of the *Act respecting administrative justice* (chapter J-3) and must, among other things, send the documents and information referred to in the first paragraph of section 114 of that Act to the secretary of the Tribunal within 30 days after receiving a copy of the motion.

Section 305.3

The intermediate resource may, during the proceeding, be assisted or represented by the resource association recognized for the representation unit to which the resource belongs or by the representative body of which the resource is a member.

Section 306

With the authorization of the agency, several institutions may call upon the services of the same intermediate resource. The agency shall, however, see to it that the institutions concerned agree on the professional follow-up of the users and on the payments made to the resource.

Section 307

Every person responsible for an intermediate resource may apply to the agency for review of a decision made by the public institution to which the resource is attached to settle any misunderstanding concerning them.

The agency must, when examining the application, give the institution and the person responsible for the resource the opportunity to present their views.

After examining the application, the agency shall transmit its decision to the institution and to the person responsible for the intermediate resource.

Section 310

A public institution identified by the agency may call upon the services of a family-type resource for the placement of adults or elderly persons.

Subject to the third paragraph, only an institution operating a child and youth protection centre may recruit and call upon the services of such a resource for the placement of children. It shall see to it that professional follow-up is provided to the child by the institution best suited to assist him.

An institution which operates a rehabilitation centre for mentally or physically impaired persons or persons with a pervasive developmental disorder may, for its clientele, recruit and call upon the services of family-type resources for children provided, however, that the placement in such resources is made in accordance with the provisions of section 357 and of the regulation made under paragraph 10 of section 505.

Section 311

Family-type resources comprise foster families and foster homes.

Section 312

One or two persons receiving in their principal place of residence a maximum of nine children in difficulty entrusted to them by a public institution in order to respond to their needs and afford them living conditions fostering a parent-child relationship in a family-like environment may be recognized as a foster family.

One or two persons receiving in their principal place of residence a maximum of nine adults or elderly persons entrusted to them by a public institution in order to respond to their needs and afford them living conditions as close to a natural environment as possible may be recognized as a foster principal place of residence.

Section 313

Activities and services provided by a family-type resource are deemed not to be a commercial enterprise or a means to make profit.

Section 314

The provisions of sections 303, 304 to 306 and 308 apply, with the necessary modifications, to family-type resources.

Section 354

In addition to the rules governing access to the services offered by intermediate resources and family-type resources it establishes under sections 303, 304 and 314, the agency shall also determine, in accordance with the orientations identified for that purpose by the Minister, the general rules governing access to the various services offered by the institutions of its region.

The agency shall, in addition, foster the implementation, by the institutions concerned, of mechanisms of access to services considered necessary by the institutions to ensure a prompt and adequate response to the users' needs.

Section 355

The agency shall determine the procedure for setting up mechanisms to coordinate access to the services provided by residential and long-term care centres, rehabilitation centres of the class specified by the agency, intermediate resources attached to institutions and family-type resources of its region.

The agency must also ensure that the mechanisms of access to services take the socio-cultural and linguistic characteristics of the users into account.

Section 356

Every institution concerned with a mechanism of access to services established pursuant to section 355 must submit its criteria of access to services to the agency for approval, in particular with respect to the admission and discharge of users and the policies for their transfer. However, the Minister may require that an institution, by reason of its special vocation, submit its criteria and policies directly to him for approval. The Minister shall in that case obtain the opinion of the agency.

Section 358

Each agency shall ensure that the institutions of the region carry out their functions of reception, assessment and referral of users, and that intermediate resources and family-type resources are developed in harmony with the capacity of the population concerned to accept them.

Section 431

With a view to improving the health and well-being of the general public, the Minister shall determine priorities, objectives and orientations in the field of health and social services and see to their implementation.

He shall, in particular:

- (1) establish health and social services policies, see that the policies are implemented and applied by the agencies, and that they are assessed;
- (2) prepare a multi-year strategic plan in accordance with section 431.1;
- (3) allocate human, material, information, technological and financial resources equitably among the regions and monitor their utilization;
- (4) see to the promotion of teaching and research;
- (5) develop management frameworks for human, material and financial resources;
- (6) establish policies and orientations relating to the workforce in the health and social services network, monitor their implementation and evaluate them;
 - (6.1) take measures to ensure users the safe provision of health services and social services;
 - (6.2) from the content of the local registers referred to in section 183.2, establish and maintain a national register of incidents and accidents having occurred during the provision of health services and social services for the purpose of monitoring and analyzing the causes of incidents and accidents, ensuring that measures are taken to prevent such incidents and accidents from recurring and ensuring that control measures are implemented, where appropriate;
- (7) ensure inter-regional coordination of health services and social services, especially in order to make such services more accessible to all segments of the population of the regions of Québec;
- (8) take the measures that are best suited to ensure the protection of public health, and ensure national and inter-regional coordination;
- (9) determine the orientations with which the procedure for the application of control measures adopted by an institution under section 118.1 must be consistent;
- (10) distribute the guidelines for the standards of access, integration, quality, effectiveness and efficiency to the agencies and institutions;
- (11) assess the results of implementing the strategic plan and ensure the accountability of the network management based on the guidelines made public by the Minister;
- (12) determine the service areas of the integrated university health networks; and
- (13) assess and evaluate health and social services.