

Revision of the  
professional system

The impacts of

# Bill 21



This brochure is intended for the FIQ local teams.  
It is the result of a collaboration between the  
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# Bill 21

The first stage of the work on the modernization of the professional system in the healthcare field resulted in the passing of an Act to amend the Professional Code and other legislative provisions as regards the health sector, commonly known as Bill 90, in 2002. Although this Act came into effect in 2003, it has not reached its optimum deployment, in particular concerning the development of collective prescriptions. Efforts must continue to be made in this direction.

Moreover, it is crucial to revise the professional activities in the field of mental health and human relations to entrust the activities involving a risk of prejudice to the professionals who possess the necessary knowledge and skills and to regulate the practice of psychotherapy. These changes are aimed at optimizing the care and the services offered to the Québec population and to ensure the public's protection. This second stage of updating the professional activities was finally completed in June 2009 with the passing of the Act to amend the Professional Code and other legislative provisions in the field on mental health and human relations: Bill 21.

Bill 21, in effect since September 20, 2012, has significant impacts on the practice and organization of work of the healthcare professionals working in mental health. Vigilance is needed to ensure that the changes made to their roles, tasks, duties and responsibilities during reorganizations of work respect the letter and the spirit of the Act. In addition, the organization of work should promote autonomy, development and the recognition of knowledge, experience and the expertise of the healthcare professionals in order to have better results in the care given to a very vulnerable clientele.

Therefore, it is necessary to be familiar with the main changes brought about by Bill 21 in order to grasp the opportunities that it presents and thus be able to better intervene in organization of work.

## Professions covered

- Nurse
- Psychologist
- Social worker
- Marriage and family therapists
- Vocational guidance counsellor
- Psychoeducator
- Occupational therapist
- Physician
- Speech-language pathologist/audiologist

## Purpose

- Guarantee the competency, accountability and integrity of the professional system in mental health and human relations

## Objectives

- Abolish certain barriers in order to promote professional decartmentalization
- Introduce flexibility and streamline the legal and regulatory framework
- Increase interdisciplinarity and multidisciplinary
- Recognize and optimize the use of skills

## Main changes

- A redefinition of the scopes of practice adapted to modern practice for each profession
- Activities reserved for each profession (obligation for eligible stakeholders to be a member of their professional order in order to perform certain reserved activities)
- Shared reserved activities
- Common activities (information, promotion of health, prevention, including suicide prevention)
- Conditions associated with certain reserved activities (training, experience)
- A mechanism for recognition of vested rights for certain stakeholders, members or not of a professional order, with the goal of avoiding a break in services (registration on a registry, continuous education regarding the permitted reserved activities)
- Framework for psychotherapy: definition, the practice of and the title of psychotherapist is reserved for physicians and psychologists and for the members of the professional orders that can hold a psychotherapist permit and the administration of these permits by the *Ordre des psychologues du Québec* and the creation of an interdisciplinary advisory council on the practice of psychotherapy

# The amendments

## Reserved activities

1. Assessment of mental disorders
2. Assessment of mental retardation
3. Assessment of neuropsychological disorders
4. Assessment of a person suffering from a mental or neuropsychological disorder attested by the diagnosis or evaluation of an authorized professional
5. Assessment of a person further to a decision of the Director of Youth Protection or a tribunal in the application of the Youth Protection Act
6. Assessment of an adolescent further to a tribunal decision in the application of the Youth Criminal Justice Act
7. Determination of an intervention plan for a person who suffers from a mental disorder or exhibits suicidal tendencies and who resides in a facility run by an institution operating a rehabilitation centre for young persons with adjustment problems
8. Assessment of a person with regard to child custody and access rights
9. Assessment of a person who wishes to adopt a child
10. Undertaking the psychosocial assessment of a person with regard to the protective supervision of a person of full age or with regard to a mandate given in anticipation of the mandator's incapacity
11. Assessment of a handicapped student or a student with a social maladjustment with a view to formulating an intervention plan according to the Education Act
12. Assessment of a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required
13. Making decisions on the use of restraint or isolation measures according to the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons

1. *Must hold an attestation of additional training from her professional order.*
2. *Must have the training and the experience required by regulation of her professional order.*
3. *Must hold an attestation of training from her professional order.*

Psychol.	S.W.	M.F.T.	G.C	Psychoed.	O.T.	Nurse	Physician	Speech./ audiol.
X			X <sup>1</sup>			X <sup>2</sup>	X	
X			X				X	
X <sup>3</sup>							X	
X	X	X	X	X	X	X	X	
	X			X				
X	X			X				
	X			X				
X	X	X						
X	X	X						
	X							
X			X	X	X		X	X
X	X			X	X	X	X	X
X	X			X	X	X	X	

Table taken from the *Guide explicative PL N° 21, Office des professions du Québec*, p. 87.

# Assessments at the heart of the reserved activities in Bill 21

The activities reserved for the professionals refer to the assessments linked to the identification of disorders, to the protection of vulnerable clients and clients that are vulnerable in certain legal contexts.

“An assessment implies making a clinical judgment on an individual’s situation using the information that the professional has and communicating the conclusions of this judgment. The professionals perform assessments within the framework of their respective scope of practice.

The reserved assessments can only be performed by skilled professionals.”  
*(Office des professions du Québec, Guide explicatif PL n° 21, September 2012, p. 27)*

This implies specific knowledge and skills, the clinical judgment of the professional and the communication of this judgment. The reserved assessments, as well as the communication of their conclusion, are connected to a higher risk of prejudice and they require an expertise. The professional is accountable for her assessment and her conclusions.

## What is not reserved by Bill 21

- The determination of an intervention plan (except for the determination of an intervention plan for an individual with mental disorders or is a suicidal risk who lives in an institution operating a rehabilitation centre for young persons with adjustment problems)
- The detection, screening, evaluation, contribution to the diagnosis or the conclusion of an identification of a disorder
- The use of assessment tools by the professionals of different disciplines who remain responsible for the choice of assessment tools according to the scope of their practice



# The nurse's scope of practice

## General scope of practice

The general scope of practice of a nurse has already been amended by Bill 90. Bill 21 only required an adjustment in the description of her scope consistent with the revised description of the scope of practice of the other professionals in the field of mental health and human relations, that is, “a person interacting with her environment”, reflecting the work performed with individuals, couples, families, groups, communities and organizations.

“The practice of nursing consists of assessing health, determining and carrying out the nursing care and treatment plan, providing nursing and medical care and treatment in order to maintain and restore the health of a person in interaction with his environment and prevent illness, and providing palliative care.” (*Nurses Act, R.S.Q., chapter 1-8, sec. 36*)

## Activities reserved for a nurse

Bill 21 adds three activities to the fourteen already reserved for a nurse in section 36 of the Nurses Act (R.S.Q., chapter 1-8, sec. 36) since 2002. These three activities are reserved and shared with other professionals.

### First activity

“15° deciding to use isolation measures in accordance with the Act respecting health services and social services (chapter S-4.2) and the Act respecting health services and social services for Cree Native persons (chapter S-5);”

Isolation is a control measure with a high risk of prejudice. In an institution, the activity must be performed within the framework of the rules or policies in the institution. It is a last-resort measure.

Contrary to the activity on the decision for the use of restraint measures already reserved for a nurse without restriction of location, the reserved activity of deciding to use isolation measures is reserved when it is taken in a facility maintained by an institution in the sense of the Act respecting health services and social services and the Act respecting health services and social services for Cree Native persons.

### **What is not reserved by Bill 21**

- The decision to use the measure in an emergency situation
- An intervention in schools
- Police services
- Correctional officers
- Ambulance services outside an institution
- The application of an isolation measure, as with a restraint measure, when these planned measures are documented in the intervention plan (the measures must be applied according to the protocol adopted by the board of directors in an institution)

### **Second activity**

“16° assessing mental disorders, except mental retardation, if the nurse has the university degree and clinical competence in psychiatric nursing care required under a regulation made in accordance with paragraph g of section 14;”

The qualified nurse must hold a graduate degree, such as a master’s in nursing science with a major in mental health and the clinical experience required by the *Ordre des infirmières et infirmiers du Québec* (OIIQ). The assessment is performed according to the ICD (International Classification of Diseases) and the DSM (Diagnostic and Statistical Manual on Mental Disorders). It includes a

degree of complexity and technicality requiring specific knowledge and skills. This assessment is considered to be a risk of serious prejudice.

### **What is not reserved by Bill 21**

- The use of classification systems of mental disorders as well as the developed tools, such as the *Indice de gravité d'une toxicomanie* (IGT) (Index Addiction Severity), to the extent that this does not lead to the assessment of mental disorders, but rather leads in the direction of an appropriate treatment
- The assessment of addiction problems
- The assessment of a crisis situation
- The appraisal of the dangers (risk of attempted suicide or homicide)

### **Third activity**

“17° assessing a child not yet admissible to preschool education who shows signs of developmental delay, in order to determine the adjustment and rehabilitation services required.”

This reserved activity is aimed at specifying the nature and if possible the intensity of the difficulties or to conclude the presence of a disorder in order to orient the rehabilitation and adaptation services required.

### **What is not reserved by Bill 21**

- The detection, screening and evaluation of the global development of the preschool age child.

It is important to remember that the first reserved activity for a nurse in Bill 90, “assess the physical and mental condition of a symptomatic person” may be performed on all people, whether they have already been diagnosed or not.

# Measures to prevent any disruption in services

## **The transitional provisions for the vested rights of the members of a professional order**

### **The situation of nurses**

Nurses who, on September 20, 2012, performed an activity now reserved only for social workers, such as “the psychosocial assessment of a person with regard to the protective supervision of a person of full age or with regard to a mandate given in anticipation of the mandator’s incapacity” and the employer requires her to continue to perform this activity are registered by the employer on a list that is sent to the *Ordre des travailleurs sociaux et thérapeutes conjugaux et familiaux du Québec* (OTSTCFQ). These nurses must pay the registration fees to the OTSTCFQ and follow six hours of continuous training every two years.

In the event that the employer does not require the nurse to perform this activity, the nurses can ask the employer to register their names on the OTSTCFQ list and they can preserve this right for the purpose of eventually performing it. The OTSTCF registration fees and the obligation of continuous training apply.

## **The transitional provisions for vested rights for persons not eligible for a professional order**

### **The specific situation of technicians on the mental health/psychiatric teams in relation to the three activities reserved for the nurse**

The *Rapport des coprésidents de la Table d'analyse de la situation des techniciens œuvrant dans le domaine de la santé mentale et des relations humaines* (February 2011), the product of the work undertaken in 2009 and in which the FIQ participated, made it possible to specify the duties assigned to the technicians in special education (SET), in social assistance (SAT) and in delinquency intervention (TDI) in particular. This report also highlighted the pertinence of allowing an eventual sharing of the activities reserved for professionals by Bill 21 and the pertinence of integrating these technicians into the professional system.

Ultimately, the technicians were not integrated into the professional system. However, the transitional provision for vested rights stipulated in Bill 21 can apply to certain SETs who perform the activities now reserved for professionals. That is the case of only one of the three activities reserved for the nurse. In that, the *Office des professions du Québec* followed the recommendations in the report.

### **Assessment of mental disorders**

This activity is not covered by the provision on vested rights.

### **The assessment of a child not yet admissible to preschool education who shows signs of developmental delay**

After analysis of the training programme and the interventions in the field, the SETs do not have the skills to perform this activity. However, certain SETs can benefit from the vested rights clause if they performed the activity on September 20, 2012 and they were registered on the registry of the professional order concerned.

### **The decision to use restraints or isolation measures within the framework of the application of an Act respecting health services and social services and an Act respecting health services and social services for Cree Native persons**

The technicians contribute to the decision, but do not perform the reserved activity. That activity is not covered by the provision on vested rights.

## What about the licensed practical nurse?

Even if the licensed practical nurse is not directly covered by Bill 21, her general scope of practice still allows her to:

“[...] participate in the assessment of a person’s state of health and in the carrying out of a care plan, provide nursing and medical care and treatment to maintain or restore health and prevent illness, and provide palliative care;” (*Professional Code, R.S.Q., chapter C-26, sec. 37p*)

This descriptive field of professional practice, as well as the reserved activities that can be performed within the scope of their professional practice confirm the significant contribution of licensed practical nurses in mental health and the place they can continue to occupy in this field.

It is therefore important to have the scope of practice and the skills of the licensed practical nurse in mental health recognized in all reorganizations of work in mental health in progress or to come.

# The framework of psychotherapy

## Definition of psychotherapy in Bill 21

“Psychotherapy is psychological treatment for a mental disorder, behavioural disturbance or other problem resulting in psychological suffering or distress, and has its purpose to foster significant changes in the client’s cognitive, emotional or behavioural functioning, his interpersonal relations, his personality or his health. Such treatment goes beyond help aimed at dealing with everyday difficulties and beyond a support or counselling role.”

Psychotherapy is already part of the physician’s and psychologist’s professional scope of practice. Like certain members of other professional orders in the field of mental health and human relations, some nurses can perform psychotherapy if they hold a psychotherapy permit from the *Ordre des psychologues du Québec*, according to the regulation issued by the *Office des professions du Québec*. A mechanism for the recognition of vested rights has been implemented for those persons who performed psychotherapy on September 20, 2012. Certain conditions apply and are explained in the *Guide explicatif de la Loi 21* (Explanatory Guide to Bill 21).

## What is not reserved by Bill 21

- A support meeting
- Support intervention
- Marriage and family intervention
- Psychological education
- Rehabilitation
- Clinical follow-up
- Coaching
- Crisis intervention

## Organization of work, an essential key

Turmoil, changes and the successive reorganizations in the health and social services sector have not ended with Bill 21 which has just come on the scene in the institutions in the health and social services network.

The deployment of Bill 21 will require adaption, accommodations, reflections and actions in our workplaces to ensure that the practice of all the professionals and non professionals in the field of mental health and human relations takes place within the interdisciplinary teams concerned with the health of the population, the quality and the safety of the care and services.

The explanatory document on the Bill is not a guide on organization of work. However, the latitude that the employers have in the use of their labour force and the composition of the work teams must ensure that the reorganizations and rearrangements imposed by Bill 21 going into effect respect professional autonomy, competencies and the specificities of nurses and licensed practical nurses in their valuable contribution to the health and care given to the clientele in mental health and in psychiatry.

The organization of work and the care is therefore a determining factor in attaining the best results possible for this particularly vulnerable clientele.

For the FIQ, a better knowledge of the scopes of practice of the healthcare professionals remains the key in the optimum use of their skills in all the areas of intervention, whether it is in the community or in the hospital setting and in the residential setting, and at all levels of dispensation of care and services: in first-line, second-line and third-line care.



*For the FIQ,  
the application of Bill 21  
must respect the professional autonomy,  
the skills and the specificities of  
the nurses and licensed practical nurses  
who work in mental health  
and in psychiatry.*

Decree 780-2012 regarding the coming into effect of Bill 21, *Gazette officielle du Québec*, July 18, 2012, 144<sup>e</sup> year, n° 29. [Online]

[[http://www.opq.gouv.qc.ca/fileadmin/documents/Reglements\\_recents/PL%2021%20-%20Loi%20-%20Dispo-l%C3%A9gislatives%20-%20Sant%C3%A9%20mentale%20et%20relations%20humaines.pdf](http://www.opq.gouv.qc.ca/fileadmin/documents/Reglements_recents/PL%2021%20-%20Loi%20-%20Dispo-l%C3%A9gislatives%20-%20Sant%C3%A9%20mentale%20et%20relations%20humaines.pdf)] (November 16, 2012)

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Bill 21 (200, chapter 28) - Act to amend the Professional Code and other legislative provisions in the field of mental health and human relations.

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