

## PRESS RELEASE

---

For immediate release

The Act respecting the protection of persons whose mental state presents a danger to themselves or to others (P-38.001)

### **THE QUÉBEC OMBUDSPERSON WOULD LIKE THE ACT TO BE APPLIED MORE RIGOROUSLY**

Québec City, February 18, 2011 – Earlier today, the Québec Ombudsman published its report on the implementation of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (P-38.001). The Act, applicable in exceptional circumstances only, governs the confinement of individuals against their will, in health and social services institutions, in cases where their mental state presents a danger. Because the Act places a limitation on the fundamental right to freedom, it must be applied strictly and monitored rigorously. In light of the deficiencies observed during its investigations, the Québec Ombudsman wishes to draw the attention of the Minister of Health and Social Services to certain discrepancies between the provisions of the Act and the way in which they are implemented. It has also made recommendations to the Minister, in order to remedy the problems observed.

#### **The Québec Ombudsman's observations**

During its investigations, the Québec Ombudsman observed some significant differences in the way the Act is applied by different institutions, regions and stakeholders. For example, the lack of consistency and coherence is apparent in the way the notion of danger is interpreted by the various people involved in the process (ambulance attendants, police officers, physicians, social workers and the legal community). The Québec Ombudsman also found that the notes entered in the user's medical record are often incomplete and do not show whether the user's rights have been respected, or even whether the confinement is justified.

#### **The Québec Ombudsman's recommendations**

To remedy these deficiencies and ensure that the Act is applied more rigorously in the interests of the people it is designed to protect, the Québec Ombudsman recommends:

1. That the Act respecting health services and social services be amended in order to require the Department to prepare ministerial orientations concerning the confinement process, and to require the institutions:
  - to adopt a by-law concerning the implementation of the Act;
  - to report on the application of the by-law;
  - to ensure that the user’s record contains proper documentation that can be used to ascertain the need for confinement and ensure that all rights have been respected.
  
2. That the ministerial orientations provide for:
  - the introduction of province-wide training for all stakeholders by the Ministère de la Santé et des Services sociaux, in collaboration with the Ministère de la Justice and the Ministère de la Sécurité publique;
  - guidelines regarding the notion of danger;
  - accountability on the part of boards of directors and regional agencies;
  - a reminder of the obligation to obtain consent for the psychiatric evaluation;
  - the collection and analysis of information on the application of the Act.
  
3. That P-38.001 be amended to require the Minister of Health and Social Services to publish a five-yearly report on the implementation of the Act.

The Québec Ombudsman’s report is designed to contribute to the process of reflection undertaken by the Minister of Health and Social Services concerning the rights of people whose mental state presents a danger to themselves or to others. According to Québec Ombudsperson Raymonde Saint-Germain, “the Act is applicable in exceptional circumstances only, and places limitations on a fundamental right. It is therefore vital that it be implemented in a consistent and exemplary way, regardless of the stakeholder, the institution or the region concerned”.

The Québec Ombudsman’s report is available at <http://www.protecteurducitoyen.qc.ca/en/major-cases-and-documentation/special-reports/index.html>

**Source:** The Québec Ombudsman

**Information:**

Joanne Trudel, Communications Manager

418 644-0510

[joanne.trudel@protecteurducitoyen.qc.ca](mailto:joanne.trudel@protecteurducitoyen.qc.ca)

[www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca)