

National Collaborating Centre for  
Healthy Public Policy

education housing income  
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# THE QUEBEC PUBLIC HEALTH ACT'S SECTION 54

## BRIEFING NOTE

NATIONAL COLLABORATING CENTRE  
FOR HEALTHY PUBLIC POLICY

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PRELIMINARY VERSION – FOR DISCUSSION



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The National Collaborating Centre for Healthy Public Policy (NCCHPP) seeks to increase the expertise of public health actors across Canada in healthy public policy through the development, sharing and use of knowledge. It is one of six centres funded by the Public Health Agency of Canada located across Canada, each with a mandate for knowledge synthesis, translation and exchange in a different area of public health.

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This document is available in its entirety in electronic format (PDF) on the National Collaborating Centre for Healthy Public Policy website at: [www.ncchpp.ca](http://www.ncchpp.ca)

This is a preliminary document. We invite reader feedback, which can be sent to [ncchpp@inspq.gc.ca](mailto:ncchpp@inspq.gc.ca)

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## OVERVIEW

Since the 2002 adoption of Quebec's *Public Health Act's* section 54, Quebec government bodies proposing laws or regulations must first go through a health impact assessment (HIA) process.

This paper provides a brief review of section 54. It describes the context of its adoption as law, the procedures introduced by the Quebec government to help in its implementation, and some of the results achieved to date.

Specifically, the paper addresses the following questions:

1. **How did health impact assessment come to be adopted in Quebec?**
  - Its history
  - Its formulation
2. **How has the measure been implemented? What are the roles of the:**
  - Ministère de Santé et des Services sociaux (MSSS)
  - Government ministries and agencies
  - Institut national de santé publique (INSPQ)
3. **What results have been achieved in the past five years?**

The information presented in this paper is drawn from various studies of section 54 and on the issue of health impact assessment (HIA) in Quebec by the *ministère de la Santé et des Services sociaux* (Ministry of Health and Social Services). This review was complemented by semi-structured interviews with key actors directly involved in the development and implementation of section 54 of the *Public Health Act*.

The analysis is limited by the fact that this measure is relatively new and the data are partial. In addition, the paper presents preliminary findings from evaluations of the implementation processes, some of which are in formation, and produced by the actors involved in the implementation. Despite its limitations, we believe that this paper can provide those working on healthy public policy with valuable information on section 54 and its progress.

## INTRODUCTION

Why health impact assessment?

Public policies, no matter the sector of government in which they are adopted, can directly or indirectly affect the health and well-being of the population.

From a public health perspective, it is therefore important that governments adopt measures to ensure that the potential impacts of policies on the determinants of health are taken into account by all sectors of government.

Health impact assessment (HIA) is a process that allows policy-makers to do this. Internationally, various governments already use this approach with a view to ensuring healthy public policies. Although Canadian public health actors have undertaken various initiatives to achieve healthy public policies over the years, health impact assessments have rarely been done in Canada until now.

## SECTION 54 OF THE PUBLIC HEALTH ACT

In Quebec, section 54 of the *Public Health Act*, adopted in June 2002<sup>1</sup>, obliges government ministries and agencies to ensure that the legislative provisions they adopt do not adversely affect the health of the population. It also gives the Minister of Health and Social Services the capacity to provide advice promoting health to other government ministries or agencies upon his or her own initiative.

## BACKGROUND

How did health impact assessment (HIA) come to be adopted in Quebec?

In 1992, the policy document *Politique de santé et de bien-être*<sup>2</sup> recognized that intersectoral initiatives were necessary to improve the health of the population. This idea served as a guiding principle in the public health document, *Priorités nationales de santé publique : 1997-2002*.<sup>3</sup>

In 2000, the *Commission d'étude sur les services de santé et les services sociaux* (Clair Commission) explicitly recommended the systematic assessment of the impacts of public policies on health.

A further catalyst to change was that, by 2001, the existing law on public health was over 30 years old. It was, therefore, necessary to update it in light of more recent public health priorities and strategies.

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<sup>1</sup> The *Public Health Act*, was adopted in December 2001.

<sup>2</sup> Ministère de la Santé et des Services sociaux (MSSS). (1992). *Politique de santé et de bien-être*. Quebec.

<sup>3</sup> Ministère de la Santé et des Services sociaux (MSSS). (1997). *Priorités nationales de santé publique : 1997-2002*. Quebec.

In order to propose guidelines for the amendment of the Act and to formulate new provisions, the *ministère de la Santé et des Services sociaux* created the *Groupe de travail sur l'élaboration de la loi sur la santé publique*, (the public health act working group). The new legislation that this group would recommend had to encompass all of the essential facets of public health: protection, promotion, prevention and monitoring. Section 54 is a measure aimed at establishing a legal basis for the promotion and prevention facets.

For measures relying on intersectoral initiatives<sup>4</sup>, the working group turned to the Ottawa Charter for Health Promotion and the priorities stipulated in the Jakarta Declaration on Leading Health Promotion into the 21st Century.

The working group also reviewed existing legislative provisions at the international level. It found few examples of legislation devoted specifically to prevention and health promotion but discovered an extensive body of literature on health impact assessment (HIA) initiatives, undertaken by a number of countries, targeting the promotion of healthy public policy.

Some examples used by the working group are British Columbia's experience, as well as initiatives in the environmental health sector which, for several years, has sought to include health impact assessments in environmental impact assessments.

The working group also used the Gothenburg Consensus<sup>5</sup> as the underlying reference for its proposal, specifically concerning the legal obligation of government ministries to consult the *ministère de la Santé et des Services Sociaux* when they draft legislation and regulations.

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<sup>4</sup> Ministère de la Santé et des Services sociaux (MSSS). (1999). Des pistes en vue de l'élaboration de la loi sur la santé publique: Working paper of the Groupe de travail sur l'élaboration de la loi sur la santé publique. Quebec.

<sup>5</sup> The Gothenburg Consensus was established by European countries that put together their common experience in the area of the health impact assessment, as well as in the more established fields of the environmental impact assessment of projects or programs.  
European Centre for Health Policy. (1999). Health Impact Assessment: Main concepts and suggested approach. *Gothenburg Consensus Paper*. Brussels: WHO-Regional Office for Europe.

WHAT DOES SECTION  
54 STIPULATE ?

Section 54 of the *Public Health Act* stipulates that:

“The Minister is by virtue of his or her office the advisor of the Government on any public health issue. The Minister shall give the other ministers any advice he or she considers advisable for health promotion and the adoption of policies capable of fostering the enhancement of the health and welfare of the population.

In the Minister's capacity as government advisor, the Minister shall be consulted in relation to the development of the measures provided for in an Act or regulation that could have significant impact on the health of the population”<sup>6</sup>.

The first subsection of section 54 confirms the Minister of Health and Social Services' role as an advisor to the government. However, it adds an additional dimension by making official the Minister's power of initiative to proactively issue advice to colleagues in all branches of government. He or she may invoke this power with the aim of fostering the development and adoption of healthy public policies<sup>7</sup>.

Subsection 2 establishes the obligation of all government ministries and agencies to consult the Minister when they develop legislation or regulations that may significantly affect the health and well-being of the population.

**How has the  
measure been  
implemented?**

In order to implement section 54, the *Ministère de la Santé et des Services sociaux* (MSSS) has:

A MULTIFACETED  
STRATEGY

- established two positions;
- established a network of ministerial representatives;
- developed tools to support the assessment of legislation and regulations on health;
- set up a research program; and
- set up a collaboration agreement with the *Institut national de santé publique du Québec* (INSPQ).<sup>8</sup>

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<sup>6</sup> Public Health Act, R.S.Q. c. S-2.2, c.60 a.54  
([http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/S\\_2\\_2/S2\\_2.html](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/S_2_2/S2_2.html))

<sup>7</sup> Ministère de la santé et des Services sociaux. (2005), Article 54 de la Loi de santé publique du Québec : Bilan de mise en œuvre (juin 2002 à janvier 2005), août 2005, Document interne, p. 11.

<sup>8</sup> Ministère de la Santé et des Services sociaux. (2002). Stratégie pour soutenir le développement de politiques publiques favorables à la santé: Document de présentation interne. Quebec

**SUPPORT TO THE MINISTRY CONDUCTING THE HIA** According to this model, the ministry or agency responsible for the draft legislation or regulations is obliged to carry out health impact assessments.

The MSSS supports the ministry or agency conducting the HIA and provides the technical support and tools necessary.

**NETWORK OF DEPARTMENTAL REPRESENTATIVES** To help ministries in this new role, the MSSS has established and maintains a network of ministerial representatives who promote the various existing tools in their respective ministries, and support the application of such tools.

The representatives inform the MSSS of problems encountered in the application of section 54 as it relates to their ministry's set of tools, and recommend adjustments that may be required. The representatives meet approximately twice per year. The MSSS publishes a newsletter, *Le 54*, specifically for them.

In parallel to this network of representatives, the MSSS has established an internal procedure to receive, distribute and process requests pertaining to section 54.

**TOOLS AND GUIDES** The MSSS produced its own health impact assessment guide based on impact assessment models elaborated in Europe and adapted to intragovernmental needs<sup>9</sup>.

This guide describes the five stages of the HIA process:

1. Screening
2. Scoping and summary analysis
3. In-depth analysis
4. Decision-making
5. Evaluation

The first two stages, screening, and scoping & summary analysis, are the responsibility of the government ministries and agencies proposing the legislation or regulation in question.

If the initial screening stage shows that an adverse impact on health is likely,

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<sup>9</sup> Ministère de la Santé et des Services sociaux. (2006). Guide pratique : Évaluation d'impact sur la santé lors de l'élaboration de projet de loi et de règlement au Québec. Québec, 30 p.

further stages are carried out. If a positive impact on health is anticipated, the ministry or agency may pursue an abridged form of the analysis, in order to justify or give priority to a measure.

When no impact is anticipated, the process is taken no further.

The second stage, scoping and summary analysis is intended to clarify:

- the potential impact of the proposed measure,
- the groups concerned, and
- the sources of information used in the analysis.

Ministries or agencies carry out this stage, using the tools that the MSSS provides.

They may request assistance from the MSSS or from the health care network. If a broader analysis is required, a request is submitted to the Deputy Minister's office which sends it to the appropriate experts in the MSSS, the INSPQ or other organizations that offer the requisite expertise.

#### EVOLUTION OF TOOLS AND METHODS

Since its implementation in 2002, the impact assessment guide has been modified, following consultations with ministerial representatives and following a knowledge synthesis of the various tools developed in Europe.<sup>10</sup>

In addition, the MSSS has produced a document on the determinants of health, in order to heighten awareness in all government departments and agencies of the non-medical determinants of health and the link between their respective missions and the health of the population<sup>11</sup>.

#### RESEARCH PROGRAM

To broaden knowledge with respect to healthy public policy and to the processes involved, the MSSS has allocated funds for research.

In 2002, the MSSS jointly elaborated a research program with the Fonds de la recherche en santé du Québec (FRSQ)<sup>12</sup> and the Fonds québécois de la recherche sur la société et la culture (FQRSC).<sup>13</sup>

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<sup>10</sup> Ministère de la santé et des services sociaux (MSSS), G. Hamel, L'évaluation des impacts sur la santé : synthèse des connaissances et orientations pour l'action, juin 2004, 88 pages.

<sup>11</sup> Ministère de la Santé et des Services sociaux. (2006). La santé, autrement dit... Pour espérer vivre plus longtemps et en meilleure santé. Québec, 24 p.

<sup>12</sup> The *Fonds de la recherche en santé du Québec* (FRSQ) implements government strategies regarding health research as defined by the *Quebec Research and Innovation Strategy*. It plays a key role in the planning and coordination of health research in Quebec. Source: [www.frsq.gouv.qc.ca](http://www.frsq.gouv.qc.ca).

The research program:

- supports the development of tools to assess the impact of public policy;
- consolidates and broadens the capacity for interdisciplinary and multidisciplinary research and expertise in Quebec;
- supports applied research to evaluate, *a priori* and *a posteriori*, the impact of policies, legislation and regulations on health and well-being;
- supports the development of collaboration between researchers, the INSPQ, research program partners and other government ministries and agencies; and
- fosters the transfer of knowledge to decision-makers.

The MSSS and its partners have selected four areas of research:

- 1) public policy and lifestyle habits<sup>14</sup>;
- 2) an assessment of the impact of government initiatives on health and well-being<sup>15</sup>;
- 3) concepts and methods<sup>16</sup>; and
- 4) Poverty and social exclusion<sup>17</sup>.

A call for research proposals has been launched in each area of research. This has stimulated the development of new research capacity through, among other things, the establishment of a new research group dedicated to healthy public policy, the *Groupe d'étude sur les politiques publiques et la santé* (GÉPPS). This study group has developed a multifaceted, collaborative research program (concepts and methods) that fosters understanding of both the policy-making process and effective knowledge transfer.

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<sup>13</sup> The Fonds québécois de la recherche sur la société et la culture (FQRSC) is devoted to the development of research and innovation in Quebec, in the humanities, social sciences, arts and literature. To this end, the FQRSC provides funding for research and the training of researchers in these fields and fosters the dissemination and transfer of knowledge. It also establishes the partnerships necessary for the advancement of scientific knowledge focusing on social problems. Source: [www.fqrsc.gouv.qc.ca](http://www.fqrsc.gouv.qc.ca).

<sup>14</sup> There are three research projects for this area of study and the funding is from January 2006 to December 2007.

<sup>15</sup> There are also three research projects and the funding has started in December 2007 to December 2009.

<sup>16</sup> Funding for this research team has started in December 2004 and goes to November 2010.

<sup>17</sup> There are eleven research projects for this area of study and the funding is from January 2007 to December 2009.

AGREEMENT WITH  
THE INSPQ

The *Institut national de santé publique du Québec* (INSPQ) was established in 1998 to support the MSSS and regional public health authorities in fulfilling their public health mandates.<sup>18</sup> The INSPQ is a public health expertise and reference centre in Quebec with over 500 employees. It offers training and consulting services and provides screening, laboratory and research services.

One facet of the INSPQ's mission focuses specifically on the assessment of the impact of public policy on the health of the population, and the submission of such findings to the Minister of Health and Social Services.

From the outset, the INSPQ has participated in the MSSS' deliberations on section 54 and has participated in the revision of the tools elaborated by the MSSS. It is a member of the steering and follow-up committee that oversees the research groups that obtain funding, participates in the development of areas of research, and collaborates in the drafting of reports.

The MSSS and the INSPQ have an agreement specifically devoted to the application of section 54. This agreement covers both of its subsections: support for the MSSS' advisory role with respect to other government ministries, and support for the process to evaluate the impact of legislation and regulations on health. More specifically, the agreement focuses on:

- establishing the role of the MSSS with respect to the intragovernmental impact assessment process and to the research program;
- developing tools to facilitate access to expertise and knowledge; and
- monitoring healthy public policy.

SUPPORT FOR THE  
MINISTER'S  
ADVISORY ROLE

One of the INSPQ's key roles is to produce advisory notices and knowledge syntheses on public health problems that can be modified through public policy, and on the policies, themselves. The MSSS chooses the advisory notices and syntheses, and submits them for discussion with the INSPQ through a committee comprised of the directors of both organizations. It is noteworthy that the advisory notices are submitted by the CEO of the INSPQ, directly to the Minister. The advisory notices are then published after a delay of 90 days. The professional and scientific researchers at the INSPQ are responsible for drafting the notices and an inter-branch body, including the CEO, examines issues related to this mandate.

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<sup>18</sup>Legislation stipulates that the mission of the *Institut national de santé publique du Québec* is to provide support to the MSSS, to regional public health authorities and to other institutions, by making available its expertise and specialized laboratory and screening services Source: <http://www.inspq.qc.ca/english/default.asp?A=7>

SUPPORT FOR THE  
HEALTH IMPACT  
ASSESSMENT  
PROCESS

The INSPQ plays a key role with respect to HIA, centred on monitoring and knowledge transfer, to both the MSSS and to ministerial representatives. Funding from the MSSS has supported the establishment and operation of a web portal devoted to public policy, and a newsletter, which produces an environmental scan of healthy public policy initiatives.<sup>19</sup>

Its other mandates, such as providing support for the regions outside of major cities, fostering international collaboration, and providing administration for the National Collaborating Centre for Healthy Public Policy<sup>20</sup>, all represent opportunities to publicize and generate expertise in the area of healthy public policy. These initiatives all further the objectives of section 54.

**How has the  
implementation  
been achieved?**

In 2003, one year after section 54 came into effect, the MSSS asked the *Observatoire de l'administration publique* at the *École nationale d'administration publique* (ÉNAP) to conduct a study of all of the government ministries and agencies covered by section 54<sup>21</sup>.

CERTAIN  
MINISTRIES  
INITIALLY  
EXPRESSED  
RESERVATIONS

The study's objectives were to analyze the extent to which the impact assessment process had been implemented, and to gauge overall receptiveness to this new measure, by means of interviews with senior civil servants in 18 government ministries and agencies.

The study revealed that some ministries and agencies showed limited adherence to the principles covered by section 54, and that they demonstrated a lack of knowledge with respect to both the impact assessment process and to determinants of health and well-being (the main obstacles to implementation). Moreover, in line with the existing literature on the subject, it confirmed that ministries and agencies with a social mission adhered more extensively to the approach than those with an economic mission.

This information enabled the MSSS to adjust its strategies; for example, by producing an awareness and information handbook on health determinants, geared to different government ministries.

The handbook, launched in 2006 by the *Directeur national de santé publique* (Chief Public Health Officer), makes the first report on health determinants, the *Rapport national sur l'état de santé de la population du Québec: Produire la santé*, accessible to a wider audience<sup>22</sup>.

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<sup>19</sup> [www.politiquespubliques.inspq.qc.ca](http://www.politiquespubliques.inspq.qc.ca)

<sup>20</sup> The Centre is one of six public health collaboration centres funded by the Public Health Agency of Canada, which seeks to support the development of the skills of public health agents in Canada.

<sup>21</sup> Observatoire de l'administration publique de l'ÉNAP. (2003). Identification des enjeux sociétaux et sectoriels pour l'opérationnalisation du programme de transfert de connaissance et de recherche sur les politiques publiques favorables à la santé et au bien-être. Québec.

<sup>22</sup> Ministère de la Santé et des Services sociaux (2005). *Rapport national sur l'état de santé de la population du Québec : Produire la santé*. Québec, 110 p.

IMPACT  
ASSESSMENTS

The MSSS's efforts to heighten the awareness and support of government ministries and agencies by means of intragovernmental tools and procedures have facilitated the implementation of the impact assessment process. During the 2004-2005 fiscal year, the MSSS recorded 39 requests for consultations from other ministries<sup>23</sup>. This rose to 63 requests in 2005-2006.<sup>24</sup>

The following aspects of the 63 requests are noteworthy:

- six of the requests focused on draft legislation, 23 on draft regulations, and 36 on proposed policies, decrees or reports;
- government ministries and agencies were asked to amend nine of the proposals;
- 93% of the requests came directly from the *Conseil exécutif* (Executive Council) ; and
- nearly half of the requests had been the topic of prior discussion with the ministries and agencies concerned
- Other health impact assessments are realized without the MSSS being formally notified.

A TREND TOWARDS  
EARLIER,  
PROACTIVE  
CONSULTATION

During the first two years in which requests were recorded, it was noted that the majority came from one of the three Cabinet secretariats (The *Secrétariat du développement social, éducatif et culturel*) which, having examined the reports submitted by the ministries and agencies, concluded that health impact assessments were warranted. The ministry or agency concerned and the MSSS were then asked to remedy the issues in question.

By 2005-2006, the *Direction générale de la santé publique* of the MSSS observed that certain ministries were consulting the MSSS earlier on in the policy development process, and that this was occurring more frequently. For example, the *ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec* (Ministry of Agriculture, Fisheries and Food) consulted the MSSS concerning a document for public consultation during a Commission on the future of agriculture and agri-business in Quebec, the *Commission sur l'avenir de l'agriculture et de l'agroalimentaire québécois* (2007).

This suggests a trend towards acceptance and integration of the process.

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<sup>23</sup> A consultation is requested for the purpose of obtaining a formal or informal opinion of draft legislation or regulations.

<sup>24</sup> When this document went to press, the MSSS had received 22 requests during the 2006-2007 fiscal year. The total number of requests is expected to exceed the 63 requests received in 2005-2006.

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- General consultation**  
Committee on Social Affairs, hearings held on September 18, 19 and 20, 2001  
Came into effect as *Public Health Act*, April 19, 2002, with certain exceptions, including s. 54
- Effective date of section 54**  
June 18, 2002
- Key actors**
- Ministère de la Santé et des Services sociaux**  
Dr Alain Poirier, Sous-ministre adjoint à la santé publique  
Lyne Jobin, Service des orientations en santé publique  
Marc-André Maranda, Direction du programme de santé publique
- MSSS Web Site: Organizational structure of the ministère de la Santé et des Services sociaux:  
<http://publications.msss.gouv.qc.ca/acrobat/f/documentation/organigramme/Visio-MSSS.pdf>
- Institut national de santé publique du Québec**  
Dr Richard Massé, Direction générale  
Dr Pierre Bergeron, Direction Systèmes de soins et politiques publiques  
Geneviève Lapointe, Direction Systèmes de soins et politiques publiques
- INSPQ Web Site:  
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- National Collaborating Centre for Healthy Public Policy**  
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- Groupe d'étude sur les politiques publiques et la santé (GÉPPS)**  
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