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Health-care institutions: What is your responsibility when your are faced with a harassing and disruptive visitor?

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Last June 16, the Superior Court of Québec[1] rendered a safeguard order in an injunction proceeding in favour of a health-care institution the purpose of which was to set conditions for the visits of the daughter of a user of the institution who was an incapable person lodged there, as well as her interactions with the user and the staff.

In this case, the daughter was in profound disagreement with all of the decisions made by the persons with power of attorney over the person and property of the user, namely, her two other children, regarding the choice of her place of lodging and the care that was to be provided to her.

During her daily visits, this person acted aggressively toward the care workers, going so far as to enter into the nurses' station, placing herself in front of the door to prevent them from going out, yelling at them, and following them outside the institution. Also, she ignored the care plans set up by the institution's multidisciplinary team for the user's health and prevented the care from being adequately provided to her, jeopardizing her health and safety.

Despite the attempts of the health-care institution's management to reach an agreement with this person to set guidelines for her visits and ensure that she complied with precise rules of conduct (e.g.: not interfere with the care, not intimidate the employees), she did not change her behaviour. The situation became intolerable and unmanageable for the clinical staff and the managers involved.

Given the circumstances, it became necessary for the health-care institution to file an application for a permanent injunction seeking a safeguard order due to the urgency of the situation.

To decide on the application for a safeguard order, judge Lise Bergeron of the Superior Court had to weigh the visiting rights of the user's child, the user's right to receive care in a safe environment (s. 100 of the Act respecting health services and social services) and the employees' right to work in an environment free from harassment (s. 81.19 of the *Act respecting labour standards*).

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In her analysis, judge Bergeron held that where a person's visits are preventing a health-care institution from fulfilling the obligations imposed on it by law by placing a user in a risky situation and exposing its employees to harassment, the court is justified in considerably restricting the visiting rights of such person, imposing strict rules on them, and authorizing an institution to implement the necessary measures to ensure they are complied with.

Consequently, judge Bergeron ordered the beneficiary's daughter to:

> refrain from being within the property limits of the institution except for authorized visits to be held on Wednesdays from 1:00 p.m. to 3:00 p.m., under the supervision of a security guard;
> go to the nurses' station upon her arrival for and departure after her authorized visits;
> abide by the care plan put in place by the institution for the patient;
> not interfere with the care provided to the patient;
> and not communicate with the institution's employees, except in a situation requiring the urgent intervention of such a person.

To prevent such a situation from becoming intolerable for the users and staff members, a health-care institution must take prompt action against a person who displays disruptive behaviour by implementing clear, justified and documented control measures while prioritizing the user's rights.

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1. *Centre intégré universitaire de santé et de services sociaux de la Capitale-Nationale (CIUSSS)* c. *J.D.*, 2016 QCCS 2858.

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