



Position Paper #61

Canadian Regulation of Abortion

Anti-choice people often say that Canada has no abortion laws or even “zero regulation”, as if abortion care is a total free-for-all with no oversight whatsoever. In fact, there's plenty of regulation. Canada just doesn't have *criminal* laws restricting abortion, and we don't need any.¹

The definition of **regulation** is: “*a law, rule, or other order prescribed by authority, especially to regulate conduct.*”². Given that, we put together the following comprehensive list of regulations by governing authorities and professional associations. The lists include laws, policies, guidelines, codes, etc. that relate to abortion specifically, or that apply to all healthcare generally, including abortion.³

Laws:

1. Charter of Rights and Freedoms: Rights to bodily security, conscience, life, and privacy are violated if abortion is restricted (R. v. Morgentaler, 1988).
2. Case law on abortion: All cases decided in favour of women's rights and equality, and against fetal rights, thereby strengthening the legal right to abortion.
3. Canada Health Act: Mandates funding, accessibility, etc. for medically necessary care – all provinces/territories have deemed abortion as medically necessary.
4. Health-related acts and regulations in each province that govern all healthcare in general. None appear to have anything specific to abortion, except # 5, 6 next.
5. NB's Regulation 84-20 in the *Medical Services Payment Act* limiting funded surgical abortions to hospitals. (This regulation violates the *Canada Health Act*.)
6. BC's *Abortion Services Statutes Amendment Act*, 2001, requiring 34 hospitals across BC to provide abortion facilities and services. Part 2.1 - Hospitals Providing Abortion Services.

¹ See Position Paper #64, Why Canada Needs No Legal Restrictions: <http://www.arcc-cdac.ca/postionpapers/64-why-abortion-needs-no-restrictions.pdf>

² Dictionary.com: <https://www.dictionary.com/browse/regulation>

³ We may still have missed something – please email us if we did: info@arcc-cdac.ca.

7. *Freedom of Information and Protection of Privacy Act* provisions that limit the disclosure of information relating to abortion – in BC: Section 22.1 and Ontario: Chapter 5, Exemptions and Exclusions, Section 33.
8. Safe access zone laws in five provinces protecting patients, providers, and clinics from protesters (BC, AB, ON, QC, NL).
9. Criminal Code definition of "human being": (Section 223) Defines legal personhood as beginning only when fully born alive.

Policies, Guidelines, Codes, etc.

1. Canadian Medical Association: Induced Abortion policy.
2. Health Canada: Product Monograph for Mifegymiso (medical abortion).
3. Provincial Colleges of Physicians and Surgeons: Practice guidelines around termination of pregnancy (Alberta, Quebec), and unwanted pregnancy (Saskatchewan).
4. Society of Obstetricians and Gynecologists of Canada: Clinical Practice Guidelines for surgical abortion and medical abortion (not available on website for non-members).
5. National Abortion Federation: Clinical Policy Guidelines (North America).
6. Canadian Medical Association: Code of Ethics and Professionalism (general).
7. College of Physicians and Surgeons of Ontario: Professional Obligations and Human Rights policy, requiring doctors to provide an effective referral for services they object to.
8. Provincial health authorities: A few might have policies related to abortion but none could be found online.
9. Hospitals: Some hospitals have a 12-week gestational limit for aspiration (surgical) abortions, as set by the provincial College.⁴ These decisions are based on the additional skills required and potential for complications with increasing gestational age, and possibly lack of providers. Not many providers are trained in abortion methods after 12 weeks, and even fewer after 20 weeks.

⁴ Shaw D, Norman WV. When there are no abortion laws: A case study of Canada. *Best Practice & Research Clinical Obstetrics and Gynaecology*, <https://doi.org/10.1016/j.bpobgyn.2019.05.010>