



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.

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 have been decided in favour of women’s rights and equality, and against fetal rights, thereby strengthening the legal right to abortion. (Court-made law is called the “common law” and is just as binding as statutory law, provided there is no conflict between them.)
3. Canada Health Act. This law 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. New Brunswick's Regulation 84-20 in the Medical Services Payment Act. The regulation limits funded surgical abortions to hospitals, but this violates the *Canada Health Act*.

¹ See Position Paper #64, Why Canada Needs No Legal Restrictions: <https://www.arcc-cdac.ca/wp-content/uploads/2020/06/64-why-abortion-needs-no-restrictions.pdf>

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

6. British Columbia's *Abortion Services Statutes Amendment Act*, 2001. The law requires 34 hospitals across BC to provide abortion facilities and services. [Part 2.1 - Hospitals Providing Abortion Services](#).
7. *Freedom of Information and Protection of Privacy Act* provisions. Two provinces limit the disclosure of information relating to abortion – BC: [Section 22.1](#) and Ontario: [Chapter 5, Exemptions and Exclusions, Section 33](#).
8. [Safe access zone laws](#) in six provinces. These laws protect patients, providers, and clinics from protesters (BC, AB, ON, QC, NL, NS).
9. [Criminal Code definition of "human being"](#) (Section 223). This section defines legal personhood as beginning only when fully born alive.

Policies, Guidelines, Codes, etc.

1. Provincial Colleges of Physicians and Surgeons: Practice guidelines around termination of pregnancy ([Alberta](#), [Quebec](#)), and unwanted pregnancy ([Saskatchewan](#)).
2. Society of Obstetricians and Gynecologists of Canada: Clinical Practice Guidelines for surgical abortion and medical abortion (not available on website for non-members).
3. National Abortion Federation: [Clinical Policy Guidelines](#) (North America).
4. Health Canada: [Product Monograph for Mifegymiso](#) (medical abortion).
5. Canadian Medical Association: [Code of Ethics and Professionalism](#) (general).³
6. 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.
7. Provincial health authorities: A few might have policies related to abortion but none could be found online.
8. 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.

³ Note: The Canadian Medical Association rescinded its 1988 *Induced Abortion* policy in 2020 because it provided clinical guidance that was largely obsolete. It will not be replaced.

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>