

**THE LAW IS ON OUR SIDE
LAWS AND REGULATIONS THAT PROTECT YOUR LEGAL RIGHTS IN
CANADA AND BRITISH COLUMBIA**

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Note:

This summary of laws are only excerpts from various statutes. It is highly recommended that individuals refer to the most recent statute in its entirety and be aware of, understand and correctly use those statutes for their own purposes.

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FEDERAL LAWS AND STATUTES

CONSTITUTION ACT, 1982¹

Canadian Charter of Rights and Freedoms

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

Rights and freedoms in Canada

1 The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

Fundamental freedoms

2 Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

Democratic Rights

Democratic rights of citizens

3 Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

¹ <https://laws-lois.justice.gc.ca/eng/const/page-12.html#docCont>

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Mobility Rights

Mobility of citizens

6 (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

Rights to move and gain livelihood

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

(a) to move to and take up residence in any province; and

(b) to pursue the gaining of a livelihood in any province.

Legal Rights

Life, liberty and security of person

7 Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Search or seizure

8 Everyone has the right to be secure against unreasonable search or seizure.

Treatment or punishment

12 Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

Equality before and under law and equal protection and benefit of law

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Other rights and freedoms not affected by Charter

26 The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Application of Charter

Application of Charter

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32 (1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Canadian Bill of Rights²

S.C. 1960, c. 44

Preamble

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

Bill of Rights

² <https://laws-lois.justice.gc.ca/eng/acts/c-12.3/page-1.html>

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Recognition and declaration of rights and freedoms

1 It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

- (a)** the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b)** the right of the individual to equality before the law and the protection of the law;
- (c)** freedom of religion;
- (d)** freedom of speech;
- (e)** freedom of assembly and association; and
- (f)** freedom of the press.

Construction of law

2 Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the [*Canadian Bill of Rights*](#), be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a)** authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b)** impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c)** deprive a person who has been arrested or detained
 - (i)** of the right to be informed promptly of the reason for his arrest or detention,
 - (ii)** of the right to retain and instruct counsel without delay, or
 - (iii)** of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;

Savings

5 (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

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Jurisdiction of Parliament

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

Criminal Code³

R.S.C., 1985, c. C-46

Selected definitions from Section 2 include:

bodily harm means any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature; (*lésions corporelles*)

complainant means the victim of an alleged offence; (*plaignant*)

offensive weapon has the same meaning as *weapon*; (*arme offensive*)

terrorism offence means

- (a)** an offence under any of sections 83.02 to 83.04 or 83.18 to 83.23,
- (b)** an indictable offence under this or any other Act of Parliament committed for the benefit of, at the direction of or in association with a terrorist group,
- (c)** an indictable offence under this or any other Act of Parliament where the act or omission constituting the offence also constitutes a terrorist activity,
- or
- (d)** a conspiracy or an attempt to commit, or being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a), (b) or (c); (*infraction de terrorisme*)

victim means a person against whom an offence has been committed, or is alleged to have been committed, who has suffered, or is alleged to have suffered, physical or emotional harm, property damage or economic loss as the result of the commission or alleged commission of the offence and includes, for the purposes of sections 672.5, 722 and 745.63, a person who has suffered physical or emotional harm,

³ <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-1.html>

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property damage or economic loss as the result of the commission of an offence against any other person. (*victim*)

weapon means any thing used, designed to be used or intended for use

- (a) in causing death or injury to any person, or
- (b) for the purpose of threatening or intimidating any person

and, without restricting the generality of the foregoing, includes a firearm and, for the purposes of sections 88, 267 and 272, any thing used, designed to be used or intended for use in binding or tying up a person against their will; (*arme*)

21 (1) Every one is a party to an offence who

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

Common intention

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

25.1 (1) The following definitions apply in this section and sections 25.2 to 25.4.

Principle

(2) It is in the public interest to ensure that public officers may effectively carry out their law enforcement duties in accordance with the rule of law and, to that end, to expressly recognize in law a justification for public officers and other persons acting at their direction to commit acts or omissions that would otherwise constitute offences.

Overt act

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(4) Where it is treason to conspire with any person, the act of conspiring is an overt act of treason.

Definitions

83.01 (1) The following definitions apply in this Part.

terrorist activity means

(b) an act or omission, in or outside Canada,

(i) that is committed

(A) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and

(ii) that intentionally

(A) causes death or serious bodily harm to a person by the use of violence,

(B) endangers a person's life,

(C) causes a serious risk to the health or safety of the public or any segment of the public,

(D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or

(E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with

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customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law. (*activité terroriste*)

Obstructing or violence to or arrest of officiating clergyman

176 (1) Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than two years or is guilty of an offence punishable on summary conviction who

(a) by threats or force, unlawfully obstructs or prevents or endeavours to obstruct or prevent an officiant from celebrating a religious or spiritual service or performing any other function in connection with their calling, or

(b) knowing that an officiant is about to perform, is on their way to perform or is returning from the performance of any of the duties or functions mentioned in paragraph (a)

(i) assaults or offers any violence to them, or

(ii) arrests them on a civil process, or under the pretence of executing a civil process.

Disturbing religious worship or certain meetings

(2) Every one who wilfully disturbs or interrupts an assemblage of persons met for religious worship or for a moral, social or benevolent purpose is guilty of an offence punishable on summary conviction.

Idem

(3) Every one who, at or near a meeting referred to in subsection (2), wilfully does anything that disturbs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction.

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Criminal negligence

219 (1) Every one is criminally negligent who

- (a) in doing anything, or
- (b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

Invasion of Privacy

183 In this Part,

private communication means any oral communication, or any telecommunication, that is made by an originator who is in Canada or is intended by the originator to be received by a person who is in Canada and that is made under circumstances in which it is reasonable for the originator to expect that it will not be intercepted by any person other than the person intended by the originator to receive it, and includes any radio-based telephone communication that is treated electronically or otherwise for the purpose of preventing intelligible reception by any person other than the person intended by the originator to receive it; (*communication privée*)

Interception

184 (1) Every person who, by means of any electro-magnetic, acoustic, mechanical or other device, knowingly intercepts a private communication is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction.

Offences Against the Person and Reputation

Duties Tending to Preservation of Life

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Duty of persons to provide necessities

215 (1) Every one is under a legal duty

(a) as a parent, foster parent, guardian or head of a family, to provide necessities of life for a child under the age of sixteen years;

(b) to provide necessities of life to their spouse or common-law partner; and

(c) to provide necessities of life to a person under his charge if that person

(i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and

(ii) is unable to provide himself with necessities of life.

Duty of persons undertaking acts dangerous to life

216 Every one who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

Duty of persons undertaking acts

217 Every one who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

Duty of persons directing work

217.1 Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

Criminal negligence

219 (1) Every one is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

Definition of *duty*

(2) For the purposes of this section, ***duty*** means a duty imposed by law.

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Causing death by criminal negligence

220 Every person who by criminal negligence causes death to another person is guilty of an indictable offence and liable

- (a)** where a firearm is used in the commission of the offence, to imprisonment for life and to a minimum punishment of imprisonment for a term of four years; and
- (b)** in any other case, to imprisonment for life.

Administering noxious thing

245 (1) Every person who administers or causes to be administered to any other person or causes any other person to take poison or any other destructive or noxious thing is guilty

- (a)** of an indictable offence and liable to imprisonment for a term of not more than 14 years, if they did so with intent to endanger the life of or to cause bodily harm to that person; or
- (b)** of an indictable offence and liable to imprisonment for a term of not more than two years or of an offence punishable on summary conviction, if they did so with intent to aggrieve or annoy that person.

Overcoming resistance to commission of offence

246 Every one who, with intent to enable or assist himself or another person to commit an indictable offence,

- (a)** attempts, by any means, to choke, suffocate or strangle another person, or by any means calculated to choke, suffocate or strangle, attempts to render another person insensible, unconscious or incapable of resistance, or
- (b)** administers or causes to be administered to any person, or attempts to administer to any person, or causes or attempts to cause any person to take a stupefying or overpowering drug, matter or thing,

is guilty of an indictable offence and liable to imprisonment for life.

Uttering threats

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264.1 (1) Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat

- (a) to cause death or bodily harm to any person;
- (b) to burn, destroy or damage real or personal property; or
- (c) to kill, poison or injure an animal or bird that is the property of any person.

Assault

265 (1) A person commits an assault when

- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or
- (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

Application

(2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

Consent

(3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of

- (a) the application of force to the complainant or to a person other than the complainant;
- (b) threats or fear of the application of force to the complainant or to a person other than the complainant;
- (c) fraud; or
- (d) the exercise of authority.

Assault

266 Every one who commits an assault is guilty of

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- (a) an indictable offence and is liable to imprisonment for a term not exceeding five years; or
- (b) an offence punishable on summary conviction.

Assault with a weapon or causing bodily harm

267 Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who, in committing an assault,

-
- (b) causes bodily harm to the complainant, or
-

Torture

269.1 (1) Every official, or every person acting at the instigation of or with the consent or acquiescence of an official, who inflicts torture on any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Definitions

(2) For the purposes of this section,

torture means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person

- (a) for a purpose including
 - (i) obtaining from the person or from a third person information or a statement,
 - (ii) punishing the person for an act that the person or a third person has committed or is suspected of having committed, and
 - (iii) intimidating or coercing the person or a third person, or

(b) for any reason based on discrimination of any kind,

but does not include any act or omission arising only from, inherent in or incidental to lawful sanctions. (*torture*)

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No defence

(3) It is no defence to a charge under this section that the accused was ordered by a superior or a public authority to perform the act or omission that forms the subject-matter of the charge or that the act or omission is alleged to have been justified by exceptional circumstances, including a state of war, a threat of war, internal political instability or any other public emergency.

Hate Propaganda

Public incitement of hatred

319 (1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

- (a)** an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b)** an offence punishable on summary conviction.

Wilful promotion of hatred

(2) Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of

- (a)** an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b)** an offence punishable on summary conviction.

Defences

(3) No person shall be convicted of an offence under subsection (2)

- (a)** if he establishes that the statements communicated were true;
- (b)** if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text;
- (c)** if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or

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(d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

Extortion

346 (1) Every one commits extortion who, without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or cause anything to be done.

Intimidation

423 (1) Every one is guilty of an indictable offence and liable to imprisonment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that he or she has a lawful right to do, or to do anything that he or she has a lawful right to abstain from doing,

(a) uses violence or threats of violence to that person or their intimate partner or children, or injures the person's property;

(b) intimidates or attempts to intimidate that person or a relative of that person by threats that, in Canada or elsewhere, violence or other injury will be done to or punishment inflicted on him or her or a relative of his or hers, or that the property of any of them will be damaged;

...

(f) besets or watches the place where that person resides, works, carries on business or happens to be; or

...

Genetic Non-Discrimination Act⁴

S.C. 2017, c. 3

⁴ <https://laws-lois.justice.gc.ca/eng/acts/G-2.5/page-1.html>

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2 The following definitions apply in this Act.

disclose includes to authorize disclosure. (*communiquer*)

genetic test means a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or prognosis. (*test génétique*)

Genetic test

3 (1) It is prohibited for any person to require an individual to undergo a genetic test as a condition of

- (a)** providing goods or services to that individual;
- (b)** entering into or continuing a contract or agreement with that individual; or
- (c)** offering or continuing specific terms or conditions in a contract or agreement with that individual.

Disclosure of results

4 (1) It is prohibited for any person to require an individual to disclose the results of a genetic test as a condition of engaging in an activity described in any of paragraphs 3(1)(a) to (c).

Written consent

5 It is prohibited for any person who is engaged in an activity described in any of paragraphs 3(1)(a) to (c) in respect of an individual to collect, use or disclose the results of a genetic test of the individual without the individual's written consent.

Offences and Punishment

Contravention of sections 3 to 5

7 Every person who contravenes any of sections 3 to 5 is guilty of an offence and is liable

- (a)** on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding five years, or to both; or
- (b)** on summary conviction, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding twelve months, or to both.

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Canadian Human Rights Act⁵

R.S.C., 1985, c. H-6

Purpose

2 The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

Prohibited grounds of discrimination

3 (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

Discriminatory Practices

Denial of good, service, facility or accommodation

5 It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public

(a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or

(b) to differentiate adversely in relation to any individual,

⁵ <https://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html>

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Employment

7 It is a discriminatory practice, directly or indirectly,

- (a)** to refuse to employ or continue to employ any individual, or
- (b)** in the course of employment, to differentiate adversely in relation to an employee,

on a prohibited ground of discrimination.

Discriminatory policy or practice

10 It is a discriminatory practice for an employer, employee organization or employer organization

- (a)** to establish or pursue a policy or practice, or
- (b)** to enter into an agreement affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any other matter relating to employment or prospective employment,

that deprives or tends to deprive an individual or class of individuals of any employment opportunities on a prohibited ground of discrimination.

Publication of discriminatory notices, etc.

12 It is a discriminatory practice to publish or display before the public or to cause to be published or displayed before the public any notice, sign, symbol, emblem or other representation that

- (a)** expresses or implies discrimination or an intention to discriminate, or
- (b)** incites or is calculated to incite others to discriminate

if the discrimination expressed or implied, intended to be expressed or implied or incited or calculated to be incited would otherwise, if engaged in, be a discriminatory practice described in any of sections 5 to 11 or in section 14.

Complaints

4

0 (1) Subject to subsections (5) and (7), any individual or group of individuals having reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice may file with the Commission a complaint in a form acceptable to the Commission.

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Privacy Act⁶

R.S.C., 1985, c. P-21

Purpose

2 The purpose of this Act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.

Definitions

3 In this Act,

personal information means information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing,

- (a)** information relating to the race, national or ethnic origin, colour, religion, age or marital status of the individual,
- (b)** information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c)** any identifying number, symbol or other particular assigned to the individual,
- (d)** the address, fingerprints or blood type of the individual,
- (e)** the personal opinions or views of the individual except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual by a government institution or a part of a government institution specified in the regulations,
- (f)** correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence,
- (g)** the views or opinions of another individual about the individual,
- (h)** the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual by an institution or a part of an institution referred to in paragraph (e), but excluding the name of the other

⁶ <https://laws-lois.justice.gc.ca/ENG/ACTS/P-21/page-1.html>

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individual where it appears with the views or opinions of the other individual,
and

(i) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual,

Collection of personal information

4 No personal information shall be collected by a government institution unless it relates directly to an operating program or activity of the institution.

Use of personal information

7 Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be used by the institution except

(a) for the purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose; or

(b) for a purpose for which the information may be disclosed to the institution under subsection 8(2)

Disclosure of personal information

8 (1) Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with this section.

Personal Information Protection and Electronic Documents

Act⁷

S.C. 2000, c. 5

Definitions

2 (1) The definitions in this subsection apply in this Part.

⁷ <https://laws-lois.justice.gc.ca/eng/acts/P-8.6/page-1.html#h-416885>

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personal health information, with respect to an individual, whether living or deceased, means

- (a) information concerning the physical or mental health of the individual;
- (b) information concerning any health service provided to the individual;
- (c) information concerning the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- (d) information that is collected in the course of providing health services to the individual; or
- (e) information that is collected incidentally to the provision of health services to the individual. (*renseignement personnel sur la santé*)

personal information means information about an identifiable individual.
(*renseignement personnel*)

**Principles Set Out in the National Standard of Canada Entitled Model Code for the
Protection of Personal Information, CAN/CSA-Q830-96**

4.1 Principle 1 — Accountability

An organization is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization's compliance with the following principles.

...

4.3 Principle 3 - Consent

The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.

Note: In certain circumstances personal information can be collected, used, or disclosed without the knowledge and consent of the individual. For example, legal, medical, or security reasons may make it impossible or impractical to seek consent. When information is being collected for the detection and prevention of fraud or for law enforcement, seeking the consent of the individual might defeat the purpose of collecting the information. Seeking consent may be impossible or inappropriate when the individual is a minor, seriously ill, or mentally incapacitated. In addition, organizations that do not have a direct relationship with the individual may not always be able to seek consent. For example,

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seeking consent may be impractical for a charity or a direct-marketing firm that wishes to acquire a mailing list from another organization. In such cases, the organization providing the list would be expected to obtain consent before disclosing personal information.

4.3.1 Consent is required for the collection of personal information and the subsequent use or disclosure of this information. Typically, an organization will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use (for example, when an organization wants to use information for a purpose not previously identified).

4.3.2 The principle requires “knowledge and consent”. Organizations shall make a reasonable effort to ensure that the individual is advised of the purposes for which the information will be used. To make the consent meaningful, the purposes must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.

4.3.3 An organization shall not, as a condition of the supply of a product or service, require an individual to consent to the collection, use, or disclosure of information beyond that required to fulfil the explicitly specified, and legitimate purposes.

4.3.4 The form of the consent sought by the organization may vary, depending upon the circumstances and the type of information. In determining the form of consent to use, organizations shall take into account the sensitivity of the information. Although some information (for example, medical records and income records) is almost always considered to be sensitive, any information can be sensitive, depending on the context. For example, the names and addresses of subscribers to a newsmagazine would generally not be considered sensitive information. However, the names and addresses of subscribers to some special-interest magazines might be considered sensitive.

4.3.5 In obtaining consent, the reasonable expectations of the individual are also relevant. For example, an individual buying a subscription to a magazine should reasonably expect that the organization, in addition to using the individual’s name and address for mailing and billing purposes, would also contact the person to solicit the renewal of the subscription. In this case, the organization can assume that the individual’s request constitutes consent for specific purposes. On the other hand, an individual would not reasonably expect that personal information given to a health-care professional would be given to a company selling health-care products, unless consent were obtained. Consent shall not be obtained through deception.

4.3.6 The way in which an organization seeks consent may vary, depending on the circumstances and the type of information collected. An organization should generally seek express consent when the information is likely to be considered sensitive. Implied consent would generally be appropriate when the information is less sensitive. Consent can also be

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given by an authorized representative (such as a legal guardian or a person having power of attorney).

4.3.7 Individuals can give consent in many ways. For example:

- (a)** an application form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and the specified uses;
- (b)** a checkoff box may be used to allow individuals to request that their names and addresses not be given to other organizations. Individuals who do not check the box are assumed to consent to the transfer of this information to third parties;
- (c)** consent may be given orally when information is collected over the telephone; or
- (d)** consent may be given at the time that individuals use a product or service.

4.3.8 An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. The organization shall inform the individual of the implications of such withdrawal.

**Crimes Against Humanity and War Crimes Act⁸
S.C. 2000, c. 24**

- 4 (1)** Every person is guilty of an indictable offence who commits
- (a)** genocide;
 - (b)** a crime against humanity; or
 - (c)** a war crime.

Definitions

(3) The definitions in this subsection apply in this section.

crime against humanity means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime contre l'humanité*)

⁸ <https://laws.justice.gc.ca/eng/acts/C-45.9/page-1.html#h-114623>

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Intimidation

23 Every person who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that the person has a lawful right to do, or to do anything that the person has a lawful right to abstain from doing, in relation to a proceeding of the International Criminal Court, causes the person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them

- (a)** is guilty of an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b)** is guilty of an offence punishable on summary conviction.

SCHEDULE (Subsection 2(1))

Provisions of Rome Statute

ARTICLE 6

Genocide

For the purpose of this Statute, *genocide* means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a)** killing members of the group;
- (b)** causing serious bodily or mental harm to members of the group;
- (c)** deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d)** imposing measures intended to prevent births within the group;
- (e)** forcibly transferring children of the group to another group.

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ARTICLE 7

Crimes against humanity

1 For the purpose of this Statute, *crime against humanity* means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a)** murder;
- (b)** extermination;
- (c)** enslavement;
- (d)** deportation or forcible transfer of population;
- (e)** imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f)** torture;
- (g)** rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h)** persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i)** enforced disappearance of persons;
- (j)** the crime of apartheid;
- (k)** other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2 For the purpose of paragraph 1:

(a) *attack directed against any civilian population* means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

...

(e) *torture* means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the

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accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

...

(g) *persecution* means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

(h) *the crime of apartheid* means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

PARAGRAPH 2 OF ARTICLE 8

War crimes

2 For the purpose of this Statute, *war crimes* means:

(a) grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

...

(ii) torture or inhuman treatment, including biological experiments;

(iii) wilfully causing great suffering, or serious injury to body or health;

...

(xxi) committing outrages upon personal dignity, in particular humiliating and degrading treatment;

Quarantine Act⁹

S.C. 2005, c. 20

⁹ <https://laws-lois.justice.gc.ca/eng/acts/Q-1.1/page-3.html#docCont>

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Screening technology

14 (1) Any qualified person authorized by the Minister may, to determine whether a traveller has a communicable disease or symptoms of one, use any screening technology authorized by the Minister that does not involve the entry into the traveller's body of any instrument or other foreign body.

Refusal to be screened

(2) If a traveller refuses to be screened with the screening technology and the person using it is not a screening officer or quarantine officer, the person shall immediately inform a screening officer or quarantine officer of the refusal.

Release

32 A quarantine officer shall not detain a traveller if

- (a)** the quarantine officer has reasonable grounds to believe that the traveller does not pose a risk of significant harm to public health;
- (b)** the traveller is transferred to a public health authority under section 33;
- (c)** the release of the traveller is ordered under subsection 29(6) or section 30; or
- (d)** the quarantine officer has reasonable grounds to believe that other reasonable means are available to prevent or control a risk of significant harm to public health.

Federal Papers

Immunization is voluntary in Canada.

Click on the link and go to Page 3.

https://publications.gc.ca/collections/collection_2016/aspc-phac/HP3-1-23-S4-eng.pdf

“Unlike some countries, immunization is not mandatory in Canada; it cannot be made mandatory because of the Canadian Constitution. Only three provinces have legislation or

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regulations under their health-protection acts to require proof of immunization for school entrance. Ontario and New Brunswick require proof for diphtheria, tetanus, polio, measles, mumps, and rubella immunization. In Manitoba, only measles vaccination is covered. It must be emphasized that, in these three provinces, exceptions are permitted on medical or religious grounds and reasons of conscience; legislation and regulations must not be interpreted to imply compulsory immunization.”

Note that in Canada, Manitoba no longer has any form of mandatory vaccination requirement.

PROVINCIAL LAWS AND STATUTES

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT¹⁰ [RSBC 1996] CHAPTER 165

Purposes of this Act

2 (1) The purposes of this Act are to make public bodies more accountable to the public and to protect personal privacy by

- (a) giving the public a right of access to records,
- (b) giving individuals a right of access to, and a right to request correction of, personal information about themselves,
- (c) specifying limited exceptions to the rights of access,
- (d) preventing the unauthorized collection, use or disclosure of personal information by public bodies, and
- (e) providing for an independent review of decisions made under this Act.

Schedule 1 (Note: see section 1)

Definitions

In this Act:

"personal identity information" means any personal information of a type that is commonly used, alone or in combination with other information, to identify or purport to identify an individual;

"personal information" means recorded information about an identifiable individual other than contact information;

¹⁰ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96165_07

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**PRIVACY ACT¹¹
[RSBC 1996] CHAPTER 373**

Violation of privacy actionable

1 (1) It is a tort, actionable without proof of damage, for a person, wilfully and without a claim of right, to violate the privacy of another.

(2) The nature and degree of privacy to which a person is entitled in a situation or in relation to a matter is that which is reasonable in the circumstances, giving due regard to the lawful interests of others.

(3) In determining whether the act or conduct of a person is a violation of another's privacy, regard must be given to the nature, incidence and occasion of the act or conduct and to any domestic or other relationship between the parties.

(4) Without limiting subsections (1) to (3), privacy may be violated by eavesdropping or surveillance, whether or not accomplished by trespass.

**PERSONAL INFORMATION PROTECTION ACT¹²
[SBC 2003] CHAPTER 63**

Definitions

1 In this Act:

"personal information" means information about an identifiable individual and includes employee personal information but does not include

- (a) contact information, or
- (b) work product information;

Purpose

2 The purpose of this Act is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

Consent required

¹¹ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_96373_01

¹² https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/03063_01

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6 (1) An organization must not

- (a) collect personal information about an individual,
- (b) use personal information about an individual, or
- (c) disclose personal information about an individual.

(2) Subsection (1) does not apply if

- (a) the individual gives consent to the collection, use or disclosure,
- (b) this Act authorizes the collection, use or disclosure without the consent of the individual, or
- (c) this Act deems the collection, use or disclosure to be consented to by the individual.

Provision of consent

7 (1) An individual has not given consent under this Act to an organization unless

- (a) the organization has provided the individual with the information required under section 10 (1), and
- (b) the individual's consent is provided in accordance with this Act.

(2) An organization must not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information beyond what is necessary to provide the product or service.

(3) If an organization attempts to obtain consent for collecting, using or disclosing personal information by

- (a) providing false or misleading information respecting the collection, use or disclosure of the information, or
- (b) using deceptive or misleading practices

any consent provided in those circumstances is not validly given.

Offences and penalties

56 (1) Subject to subsection (2), an organization or person commits an offence if the organization or person

- (a) uses deception or coercion to collect personal information in contravention of this Act,
- (b) disposes of personal information with an intent to evade a request for access to the personal information,

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- (c) obstructs the commissioner or an authorized delegate of the commissioner in the performance of his or her duties or powers under this Act,
- (d) knowingly makes a false statement to the commissioner, or knowingly misleads or attempts to mislead the commissioner, in the course of the commissioner's performance of his or her duties or powers under this Act,
- (e) contravenes section 54, or
- (f) fails to comply with an order made by the commissioner under this Act.

(2) An organization or person that commits an offence under subsection (1) is liable,

- (a) if an individual, to a fine of not more than \$10 000, and
- (b) if a person other than an individual, to a fine of not more than \$100 000.

(3) A person or organization is not liable to prosecution for an offence against this or any other Act because the person or organization complies with a requirement of the commissioner under this Act.

HEALTH CARE (CONSENT) AND CARE FACILITY (ADMISSION) ACT¹³
[RSBC 1996] CHAPTER 181

1 In this Act:

"health care" means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other purpose related to health, and includes

- (a) a series or sequence of similar treatments or care administered to an adult over a period of time for a particular health problem,
- (b) a plan for minor health care that
 - (i) is developed by one or more health care providers,
 - (ii) deals with one or more of the health problems that an adult has and may, in addition, deal with one or more of the health problems that an adult is likely to have in the future given the adult's current health condition, and
 - (iii) expires no later than 12 months from the date consent for the plan was given, and
- (c) participation in a medical research program approved by an ethics committee designated by regulation;

¹³ https://www.bclaws.gov.bc.ca/civix/document/id/consol27/consol27/00_96181_01

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Presumption of capability

- 3 (1) Until the contrary is demonstrated, every adult is presumed to be capable of
- (a) giving, refusing or revoking consent to health care, and
 - (b) deciding to apply for admission to a care facility, to accept a facility care proposal, or to move out of a care facility.

Consent rights

- 4 Every adult who is capable of giving or refusing consent to health care has
- (a) the right to give consent or to refuse consent on any grounds, including moral or religious grounds, even if the refusal will result in death,
 - (b) the right to select a particular form of available health care on any grounds, including moral or religious grounds,
 - (c) the right to revoke consent,
 - (d) the right to expect that a decision to give, refuse or revoke consent will be respected, and
 - (e) the right to be involved to the greatest degree possible in all case planning and decision making.

General rule — consent needed

- 5 (1) A health care provider must not provide any health care to an adult without the adult's consent except under sections 11 to 15.
- (2) A health care provider must not seek a decision about whether to give or refuse substitute consent to health care under section 11, 14 or 15 unless he or she has made every reasonable effort to obtain a decision from the adult.

Elements of consent

- 6 An adult consents to health care if
- (a) the consent relates to the proposed health care,
 - (b) the consent is given voluntarily,
 - (c) the consent is not obtained by fraud or misrepresentation,
 - (d) the adult is capable of making a decision about whether to give or refuse consent to the proposed health care,
 - (e) the health care provider gives the adult the information a reasonable person would require to understand the proposed health care and to make a decision, including information about

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- (i) the condition for which the health care is proposed,
 - (ii) the nature of the proposed health care,
 - (iii) the risks and benefits of the proposed health care that a reasonable person would expect to be told about, and
 - (iv) alternative courses of health care, and
- (f) the adult has an opportunity to ask questions and receive answers about the proposed health care.

**PUBLIC HEALTH ACT¹⁴
[SBC 2008] CHAPTER 28**

Must not cause health hazard

15 A person must not willingly cause a health hazard, or act in a manner that the person knows, or ought to know, will cause a health hazard.

Must seek advice if infected or exposed

- 17** (1) If a person is informed by a health professional, or by a person acting on the instructions of a health professional, that the person
- (a) is an infected person, or has custody or control of a person who is an infected person or of a thing that is an infected thing, and ...
- (2) A person who receives information under subsection (1) must
- (a) take reasonable steps to avoid transmission of the infectious agent or hazardous agent, ...

General emergency powers

54 (1) A health officer may, in an emergency, do one or more of the following:

...

- (k) collect, use or disclose information, including personal information,
 - (i) that could not otherwise be collected, used or disclosed, or
 - (ii) in a form or manner other than the form or manner required.

¹⁴ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/08028_01#part1

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Confidentiality of personal information

91 (1) A person who has custody of, access to or control over personal information under this Act must not disclose the personal information to any other person except as authorized under this or any other enactment.

(2) A person referred to in subsection (1) is not, except in a proceeding under this Act, compellable to disclose or provide evidence about personal information the person has custody of, access to or control over.

**TRESPASS ACT¹⁵
[RSBC 2018] CHAPTER 3**

Trespass prohibited

2 (1) Subject to section 3, a person who does any of the following commits an offence:

- (a) enters premises that are enclosed land;
- (b) enters premises after the person has had notice from an occupier of the premises or an authorized person that the entry is prohibited;
- (c) engages in activity on or in premises after the person has had notice from an occupier of the premises or an authorized person that the activity is prohibited.

Defences to trespass charge

3 A person may not be convicted of an offence under section 2 in relation to premises if the person's action or inaction, as applicable to the offence, was with

- (a) the consent of an occupier of the premises or an authorized person,
- (b) other lawful authority, or
- (c) colour of right.

International Codes and Conventions

The Nuremburg Code^{16 17}

¹⁵ <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18003>

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See University of Alberta description “Although the legal force of the document was not established and it was not incorporated directly into either the American or German law, the Nuremberg Code and the related Declaration of Helsinki are the basis for Health Canada and US Regulations.”

The Nuremberg Code (1947)

Permissible Medical Experiments

The great weight of the evidence before us to effect that certain types of medical experiments on human beings, when kept within reasonably well-defined bounds, conform to the ethics of the medical profession generally. The protagonists of the practice of human experimentation justify their views on the basis that such experiments yield results for the good of society that are unprocurable by other methods or means of study. All agree, however, that certain basic principles must be observed in order to satisfy moral, ethical and legal concepts:

1. The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

¹⁶ <https://www.ualberta.ca/research/research-support/quality-management-in-clinical-research/foundational-documents/nuremberg-code.html>

¹⁷ <http://www.cirp.org/library/ethics/nuremberg/>

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2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.
3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results justify the performance of the experiment.
4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.
5. No experiment should be conducted where there is an a priori reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.
6. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.
7. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability or death.
8. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.
9. During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.
10. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

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Declaration of Helsinki¹⁸

Most recently updated and adopted in 2013 excerpts include:

General Principles

3. The Declaration of Geneva of the WMA binds the physician with the words, “The health of my patient will be my first consideration,” and the International Code of Medical Ethics declares that, “A physician shall act in the patient’s best interest when providing medical care.”

4. It is the duty of the physician to promote and safeguard the health, well-being and rights of patients, including those who are involved in medical research. The physician’s knowledge and conscience are dedicated to the fulfilment of this duty.

...

7. Medical research is subject to ethical standards that promote and ensure respect for all human subjects and protect their health and rights.

9. It is the duty of physicians who are involved in medical research to protect the life, health, dignity, integrity, right to self-determination, privacy, and confidentiality of personal information of research subjects ...

Risks, Burdens and Benefits

16. In medical practice and in medical research, most interventions involve risks and burdens.

Medical research involving human subjects may only be conducted if the importance of the objective outweighs the risks and burdens to the research subjects.

....

Scientific Requirements and Research Protocols

21. Medical research involving human subjects must conform to generally accepted scientific principles, be based on a thorough knowledge of the scientific literature, other

¹⁸ <https://www.wma.net/policies-post/wma-declaration-of-helsinki-ethical-principles-for-medical-research-involving-human-subjects/>

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relevant sources of information, and adequate laboratory and, as appropriate, animal experimentation. The welfare of animals used for research must be respected.

....

Research Ethics Committees

23. The research protocol must be submitted for consideration, comment, guidance and approval to the concerned research ethics committee before the study begins. This committee must be transparent in its functioning, must be independent of the researcher, the sponsor and any other undue influence and must be duly qualified. It must take into consideration the laws and regulations of the country or countries in which the research is to be performed as well as applicable international norms and standards but these must not be allowed to reduce or eliminate any of the protections for research subjects set forth in this Declaration.

The committee must have the right to monitor ongoing studies. The researcher must provide monitoring information to the committee, especially information about any serious adverse events. No amendment to the protocol may be made without consideration and approval by the committee. After the end of the study, the researchers must submit a final report to the committee containing a summary of the study's findings and conclusions.

....

Privacy and Confidentiality

24. Every precaution must be taken to protect the privacy of research subjects and the confidentiality of their personal information.

Informed Consent

25. Participation by individuals capable of giving informed consent as subjects in medical research must be voluntary. Although it may be appropriate to consult family members or community leaders, no individual capable of giving informed consent may be enrolled in a research study unless he or she freely agrees.

26. In medical research involving human subjects capable of giving informed consent, each potential subject must be adequately informed of the aims, methods, sources of funding, any possible conflicts of interest, institutional affiliations of the researcher, the anticipated benefits and potential risks of the study and the discomfort it may entail, post-study provisions and any other relevant aspects of the study. The potential subject must be informed of the right to refuse to participate in the study or to withdraw consent to participate at any time without reprisal. Special attention should be given to the specific information needs of individual potential subjects as well as to the methods used to deliver the information.

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After ensuring that the potential subject has understood the information, the physician or another appropriately qualified individual must then seek the potential subject's freely-given informed consent, preferably in writing. If the consent cannot be expressed in writing, the non-written consent must be formally documented and witnessed.

All medical research subjects should be given the option of being informed about the general outcome and results of the study.

27. When seeking informed consent for participation in a research study the physician must be particularly cautious if the potential subject is in a dependent relationship with the physician or may consent under duress. In such situations the informed consent must be sought by an appropriately qualified individual who is completely independent of this relationship.

28. For a potential research subject who is incapable of giving informed consent, the physician must seek informed consent from the legally authorised representative. These individuals must not be included in a research study that has no likelihood of benefit for them unless it is intended to promote the health of the group represented by the potential subject, the research cannot instead be performed with persons capable of providing informed consent, and the research entails only minimal risk and minimal burden.

29. When a potential research subject who is deemed incapable of giving informed consent is able to give assent to decisions about participation in research, the physician must seek that assent in addition to the consent of the legally authorised representative. The potential subject's dissent should be respected.

30. Research involving subjects who are physically or mentally incapable of giving consent, for example, unconscious patients, may be done only if the physical or mental condition that prevents giving informed consent is a necessary characteristic of the research group. In such circumstances the physician must seek informed consent from the legally authorised representative. If no such representative is available and if the research cannot be delayed, the study may proceed without informed consent provided that the specific reasons for involving subjects with a condition that renders them unable to give informed consent have been stated in the research protocol and the study has been approved by a research ethics committee. Consent to remain in the research must be obtained as soon as possible from the subject or a legally authorised representative.

31. The physician must fully inform the patient which aspects of their care are related to the research. The refusal of a patient to participate in a study or the patient's decision to withdraw from the study must never adversely affect the patient-physician relationship.

32. For medical research using identifiable human material or data, such as research on material or data contained in biobanks or similar repositories, physicians must seek

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informed consent for its collection, storage and/or reuse. There may be exceptional situations where consent would be impossible or impracticable to obtain for such research. In such situations the research may be done only after consideration and approval of a research ethics committee.

Use of Placebo

33. The benefits, risks, burdens and effectiveness of a new intervention must be tested against those of the best proven intervention(s), except in the following circumstances:

Where no proven intervention exists, the use of placebo, or no intervention, is acceptable; or

Where for compelling and scientifically sound methodological reasons the use of any intervention less effective than the best proven one, the use of placebo, or no intervention is necessary to determine the efficacy or safety of an intervention

and the patients who receive any intervention less effective than the best proven one, placebo, or no intervention will not be subject to additional risks of serious or irreversible harm as a result of not receiving the best proven intervention.

Extreme care must be taken to avoid abuse of this option.

The Universal Declaration of Bioethics and Human Rights¹⁹

Principles

Within the scope of this Declaration, in decisions or practices taken or carried out by those to whom it is addressed, the following principles are to be respected.

Article 3 – Human dignity and human rights

1. Human dignity, human rights and fundamental freedoms are to be fully respected.
2. The interests and welfare of the individual should have priority over the sole interest of science or society.

Article 4 – Benefit and harm

¹⁹ http://portal.unesco.org/en/ev.php-URL_ID=31058&URL_DO=DO_TOPIC&URL_SECTION=201.html

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In applying and advancing scientific knowledge, medical practice and associated technologies, direct and indirect benefits to patients, research participants and other affected individuals should be maximized and any possible harm to such individuals should be minimized.

Article 5 – Autonomy and individual responsibility

The autonomy of persons to make decisions, while taking responsibility for those decisions and respecting the autonomy of others, is to be respected. For persons who are not capable of exercising autonomy, special measures are to be taken to protect their rights and interests.

Article 6 – Consent

1. Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should, where appropriate, be express and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.

2. Scientific research should only be carried out with the prior, free, express and informed consent of the person concerned. The information should be adequate, provided in a comprehensible form and should include modalities for withdrawal of consent. Consent may be withdrawn by the person concerned at any time and for any reason without any disadvantage or prejudice. Exceptions to this principle should be made only in accordance with ethical and legal standards adopted by States, consistent with the principles and provisions set out in this Declaration, in particular in Article 27, and international human rights law.

3. In appropriate cases of research carried out on a group of persons or a community, additional agreement of the legal representatives of the group or community concerned may be sought. In no case should a collective community agreement or the consent of a community leader or other authority substitute for an individual's informed consent.

Article 9 – Privacy and confidentiality

The privacy of the persons concerned and the confidentiality of their personal information should be respected. To the greatest extent possible, such information should not be used or disclosed for purposes other than those for which it was collected or consented to, consistent with international law, in particular international human rights law.