

# HUMAN RIGHTS, EXEMPTIONS & INFORMED CONSENT CONSIDERATIONS

## ADDENDUM: LAWS PROTECTING MEDICAL EXEMPTION(S) & INFORMED CONSENT

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**[I]** The **Constitution of Canada** (French: *Constitution du Canada*) is the supreme law in Canada. It outlines Canada's system of government and the civil and human rights of those who are citizens of Canada and non-citizens in Canada. The **Canadian**

**Charter of Rights and Freedoms of 1982** is part of '*Canada's Constitution*'. In terms of **Medical & Psychosocial Exemptions**, we are particularly concerned with **Sections 1, 2, & 7:**

1. **Guarantee of rights and freedoms – SECTION 1.**  
"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"
2. **Fundamental freedoms – SECTION 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."
7. **Life, liberty & security of the person – SECTION 7.**  
"Canadian Charter of Rights and Freedoms "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."
15. **Equality rights – SECTION 15.**  
"C15. (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. (2) Section (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

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**[II]** Provincial **Human Rights Commissions** use the **Canadian Human Rights Act, 1976-77, c.33, s.1** to monitor and punish all forms of discrimination (including harassment, which is a specialized form of discrimination) from province to province. People with MEDICAL EXEMPTIONS can not be discriminated against, or harassed, by public services, businesses, etc.

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**[III]** The **Constitution of Canada** (French: *Constitution du Canada*) is the supreme law in Canada. The **Genetic Non-Discrimination Act S.C. 2017, c. 3 Assented to 2017-05-04** An Act to prohibit and prevent genetic discrimination. 3 (1) It is criminal Law & 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. 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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**[IV]** **United Nations Educational, Scientific and Cultural Organization (UNESCO)** is a specialised agency of the UN aimed at promoting world peace & security through international cooperation in education, sciences, & culture.

UNESCO's '**Universal Declaration on Bioethics and Human Rights**' [19 October 2005] '**Article 6: Consent**,' **Section 1 . Section 2, & Section 3.**' are particularly important to understanding '**Informed Medical Consent**'.

6. **Article 6 – Consent**
  1. **Section 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 expressed and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.*'
  2. **Section 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. **Section 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.*'
27. **Article 27 – Limitations on the application of the principles:** '*If the application of the principles of this Declaration is to be limited, it should be by law, including laws in the interests of public safety, for the investigation, detection and prosecution of criminal offences, for the protection of public health or for the protection of the rights and freedoms of others. Any such law needs to be consistent with international human rights law.*'

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**[V]** The **Nuremberg Code** (German: Nurnberger Kodex) is a set of research ethics principles for human experimentation created as a result of the **Nuremberg** trials at the end of the Second World War.

1. '**Nuremberg Code [1947] POINT 1: The voluntary consent of the human subject is absolutely essential.**'