

NOTICE OF LIABILITY - REQUIRING PROOF OF VACCINE TO REMAIN IN SCHOOL

<DATE>

<YOUR FIRST LAST NAME>

<YOUR ADDRESS>

<YOUR CONTACT INFO>

<EMAIL/PHONE>

ATTN: <FIRST AND LAST NAME OF RESPONDENT>

RE: NOTICE OF LIABILITY FOR MANDATORY VACCINE

<*your first last name*>, a private human living soul, of lawful and legal age of majority; presents this notice of liability to <*first, last name of person who caused harm*> another private human living soul, of lawful and legal age of majority. If <*first, last name of person who caused harm*> does not rectify the matter of breach of privacy, breach of informed consent, loss of education for my child <*your child's first, last name*> there will be a civil proceeding to seek compensation and a request in civil court for an equity decision to rectify the matter by way of an order for <*first, last name of person who caused harm*> to cease and desist requirement that one produce proof of vaccine before education is permitted.

STATEMENT OF FACTS

1. <*full name of person*> was told they must provide proof of vaccination to enter the school facility.
2. <*full name of person name*> stated that this is private medical information that they did not have to disclose pursuant to their natural and legal right to privacy.
3. <*first, last name of person who caused harm*> advised <*you or your child's first last name*> the student would not be allowed to attend school unless they presented proof of their vaccine status.

HARM CAUSED

<*your child's first and last name*> suffered violation of the right to 1. Informed consent 2. Right to medical privacy, 3. A loss of education, 4. extortion by told to disclose medical information or be suspended and 5. Loss of education which is a right in Canada.

THE LAW

1. Case Law Implied Bill of Rights:
Summary: The Bank Taxation Act; The Credit of Alberta Regulation Act; and the Accurate News and Information Act, SCR 100, 1938
The Supreme Court of Canada ruled on the Reference re Alberta Statutes. It found that the Accurate News and Information Act, along with the others submitted to it for evaluation, was ultra vires (beyond the powers of) the Alberta government. In the case of the Accurate News and Information Act, the court found that the Canadian constitution included an "implied bill of rights" that protected freedom of speech as being critical to a parliamentary democracy. This determined that the provinces cannot override fundamental rights.
<https://www.canlii.org/en/ca/scc/doc/1938/1938canlii1/1938canlii1.html>

2. Health Care Consent Act, 1996 S.O:

Elements of consent

11 (1) The following are the elements required for consent to treatment:

- 1. The consent must relate to the treatment.*
- 2. The consent must be informed.*
- 3. The consent must be given voluntarily.*
- 4. The consent must not be obtained through misrepresentation or fraud.*

Informed consent

(2) A consent to treatment is informed if, before giving it,

(a) the person received the information about the matters set out in subsection (3) that a reasonable person in the same circumstances would require in order to make a decision about the treatment; and

(b) the person received responses to his or her requests for additional information about those matters.

Same

(3) The matters referred to in subsection (2) are:

- 1. The nature of the treatment.*
- 2. The expected benefits of the treatment.*
- 3. The material risks of the treatment.*
- 4. The material side effects of the treatment.*
- 5. Alternative courses of action.*
- 6. The likely consequences of not having the treatment.*

<https://www.ontario.ca/laws/statute/04p03>

3. Personal Health Information Protection Act, 2004, S.O. 2004

Elements of consent

18 (1) If this Act or any other Act requires the consent of an individual for the collection, use or disclosure of personal health information by a health information custodian, the consent,

(a) must be a consent of the individual;

(b) must be knowledgeable;

(c) must relate to the information; and

(d) must not be obtained through deception or coercion. 2004, c. 3, Sched. A, s. 18 (1)

Section 18 Conflict:

(2) In the event of a conflict between a provision of this Act or its regulations and a provision of any other Act or its regulations, this Act and its regulations prevail unless this Act, its regulations or the other Act specifically provide otherwise.

<https://www.ontario.ca/laws/statute/04p03#BK30>

4. Education Act, 1990 R.S.O.

Activities leading to possible suspension

306 (1) Subject to a regulation made under clause 316 (1.1) (a), a principal shall consider whether to suspend a pupil if he or she believes that the pupil has engaged in any of the following activities while at school, at a school-related activity or in other circumstances where engaging in the activity will have an impact on the school climate:

- 1. Uttering a threat to inflict serious bodily harm on another person.*
- 2. Possessing alcohol, illegal drugs or, unless the pupil is a medical cannabis user, cannabis.*
- 3. Being under the influence of alcohol or, unless the pupil is a medical cannabis user, cannabis.*

4. Swearing at a teacher or at another person in a position of authority.
5. Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school.
6. Bullying.
7. Any other activity that is an activity for which a principal may suspend a pupil under a policy of the board.

Interpretation of "Board" means:

"board" means a district school board or a school authority; ("conseil", "conseil scolaire")

Interpretation of "Minister" means:

"Minister" means the Minister of Education and Training; ("ministre")

<https://www.ontario.ca/laws/statute/90e02#BK3>.

Interpretation of "school authority" means:

- (a) a board of a district school area,
- (b) a board of a rural separate school,
- (c) a board of a combined separate school zone,
- (d) a board of a secondary school district established under section 67,
- (e) a board established under section 68, or
- (f) a board of a Protestant separate school; ("administration scolaire")

<https://www.ontario.ca/laws/statute/90e02#BK579>

5. Immunization of School Pupils Act, 1990 R.S.O:

Order for suspension re designated diseases

6 (1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order **may** require a person who operates a school in the area served by the medical officer of health to suspend from attendance at the school a pupil named in the order. R.S.O. 1990, c. I.1, s. 6 (1).

<https://www.ontario.ca/laws/statute/90i01>

4. Case law light to sue for breach of privacy:

Jones v. Tsige, 2012

Summary: The Ontario Court of Appeal declared that the common law in Canada recognizes a right to personal privacy, more specifically identified as a "tort of intrusion upon seclusion", as well as considering that appropriation of personality is already recognized as a tort in Ontario law.

<https://www.canlii.org/en/on/onca/doc/2012/2012onca32/2012onca32.html>

5. Criminal Code of Canada:

Enforcement of this bylaw is a crime under the following criminal codes:

- Section 346(1) - Extortion by the way of forcing the disclosure of personal health information or face suspension.

<https://laws-lois.justice.gc.ca/eng/acts/c-46/section-264.1.html>

6. The following case law for informed consent:

Parmley vs Parmley, 1945

Summary: Medical consent must be made freely and information about the risks must be given.

<https://www.canlii.org/en/ca/scc/doc/1945/1945canlii13/1945canlii13.html>

Hopp vs Lepp, 1980

Summary: Medical consent must be made freely and information about the risks must be given.

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2553/index.do>

R vs Ewanchuk, 1999

Summary: If no consent, then assault. Where there is a threat of harm or reprisal or pressure from an authority there is no consent and therefore the act is assault.

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1684/index.do>

7. Authorson v. Canada (Attorney General), 2000 ON SCC:

Summary: This case law shows breach of fiduciary duty by a public official is a tort if rights under Canadian Bill of Rights are violated.

<https://www.canlii.org/en/on/onsc/doc/2000/2000canlii22731/2000canlii22731.html?searchUrlHash=AAAAQAQIkJpbGwgb2YgUmlnaHRzlgAAAAAB&resultIndex=2>

8. Roncarelli v Duplessis, 1959, SCC:

Summary: Acting in excess of law creates personal liability.

... every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The Reports abound with cases in which officials have been brought before the courts, and made, in their personal capacity, liable to punishment, or to the payment of damages, for acts done in their official character but in excess of their lawful authority. A colonial governor, a secretary of state, a military officer, and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorize as is any private and unofficial person.”

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2751/index.do>

9. R. v. Eldorado Nuclear Ltd.; R. v. Uranium Canada Ltd, 1983, Supreme Court of Canada. 1985, SCC:

Summary: When a Crown agent acts outside of Crown purposes, and not on behalf of the state, there is no immunity of the Crown agent:

“The conclusion that a Crown agent is personally responsible for an unlawful act still leaves the question whether an act is unlawful. Where the unlawfulness or the wrongfulness of the act arises without any recourse to a statute, the Crown’s immunity from a statute, as expressed in s. 16 of the Interpretations Act, is irrelevant. If, for example, the agent commits a tortious act, it is the common law which characterizes it as unlawful. There is no immunity that the agent can claim.”

“Where the only source of unlawfulness is a statute, however, the analysis is entirely different...the preliminary question...is whether that person is bound by that statute...”

“When the agent steps outside the ambit of Crown purposes, however, it acts personally, and not on behalf of the state, and cannot claim to be immune as an agent of the Crown. This follows from the fact that s.16 of the Interpretations Act works for the benefit of the state, not for the benefit of the agent personally.”

The Court adopted this approach in the CBC v. The Queen 1983

“For all purposes of this Act...” the corporation “was not acting for the purposes entrusted to it under the Act... when the Corporation exercises its powers with a view to carrying out the purposes ...it acts as agent of Her Majesty and only as agent of Her Majesty. But, when it exercises its powers in a manner inconsistent with the purposes of the Act, it steps outside its agency role.

“The position at common law is not that those under de jure control are entitled to Crown immunity, but rather that immunity extends to those acting on behalf of the Crown.”

“This Court’s decision in Formea Chemicals Ltd. v. Polymer Corporation Ltd., supra, is also instructive. The case concerned s. 19 of the Patent Act, R.S.C. 1952, c. 203.... Martland J., speaking for the Court, equated “Government of Canada” with the Crown. <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/2486/index.do>

ATTEMPT TO RECTIFY THE MATTER

If **<first, last name of person who caused harm>** ceases and desists the unlawful mandate attempting to extort **<your child’s first, last name>** by means of forcing the disclosure of private medical information or facing suspension.

IF THE MATTER IS NOT RECTIFIED IN 7 DAYS

<your first last name> hereby gives notice if rectification as described above is not established after 7 days **<your first last name>** will pursue compensation in the amount of

1. \$5,000 for the loss of informed consent
2. \$5,000 for breach of medical privacy
3. \$5,000 for extortion, as per s346(1) of the Criminal Code of Canada
4. \$5,000 for loss of education

Total of this liability claim is \$20,000.

As well, **<your first last name>** will seek a court order to remedy this ongoing violation of privacy, the right to informed consent, attempted assault, incitement of public hatred and extortion and loss of education against **<first, last name of person who caused harm>**.

Signature: _____ Date: _____
Signature of Claimant