

From Chris Currie

I understand that a policy has been proposed requiring physicians to refer or perform abortions although this may be opposed to their own personal convictions. Has the policy been approved by the majority of physicians? Would it be possible to obtain a copy of the policy?

I find it difficult to support a policy that would require doctors to participate in the termination of a pregnancy which could be opposed to their personal moral code and their pledge to preserve life as a physician.

The policy may be challenged under to the Charter of Human Rights which protects the belief of all Canadian citizens including physicians. Those Catholic, Muslim, and Orthodox Jewish physicians would be forced by this policy to perform medical procedures that are contrary to their religion. I look forward to hearing from you on this matter.

From Dan Gotoskie

Dear Ms. Foti:

I recently left a message on your voice-mail stating my opposition to the college's proposed draft legislation which would submit a doctor's freedom of conscience to that of the patient for medical procedures which many in our society deem unnecessary.

At last count, I heard at least ten recipients of the "Order of Canada" had returned their medals to the Governor General because of the Morgentaler award. Does this point not resonate with the college? Those ten speak for me.

The 1988 ruling of the crown vs. Morgentaler decided that abortion was not a right by any constitutional understanding of the term. Our country still doesn't have an abortion law, so how can we punish doctors for not performing an act (or referring a patient for such) for which there is no law, morals aside? As for morality, one of the sub-tenets of freedom of religion is that adherents of faith be free to live out their secular vocation without coercion or punishment because they choose to withhold from performing certain practices. Abortion and euthanasia, for example, violate not just the faith of many a doctor, but their reason as well. I suspect these (conscientious

objectors) do not understand how "taking life" can be somehow understood to advance the cause of life; nor do I. I suspect they cannot live with such a contradiction; nor can I.

Beyond the comments above, I also object to the contradiction of seeing needy citizens have to pay for eye exams, while abortion is provided as a state-funded procedure. I know many who agree with my position. We see this as a violation of our sense of justice and good order. For the Ontario College of Physicians to put their weight behind these decisions like the above is completely unjustified.

Please consider my reflections. We need to keep our doctors, not bully them out of practice.

From Gary Knight

Thank you for your notification of a brief extension to the consideration of such an enormously portentous policy. The purported balancing of equality rights and religious freedom as enunciated in the Ontario Human Rights Code is a given; but two things must be considered for its proper application within fundamental justice. First, abortion is not an equality right as enunciated under any head of Canadian law. Second, the freedom of religion is not merely freedom to hold beliefs, but freedom from all forms of coercion or reprisals in consequence of having those beliefs.

The first of these points is not a private opinion but a determined fact, as even in the *R. v Morgentaler* decision of 1988 it was determined that abortion is not a right by any constitutional meaning of the term. This comports with the finding of the German high court (when having to ascertain the status of abortion after the fall of the Berlin wall) that no constitution has meaning where it does not envisage and enjoin its principles on generations not yet born, and that there can be no question of a right to abortion even if a state may enact exculpatory provisions -- as for instance Canada already has done for infanticide. The current absence of a law on abortion in Canada is no more a blanket endorsement than the absence of exculpatory clauses for blasphemy, adultery or other moral problems.

A third point is that more even than freedom of religion is a principle of freedom of conscience under section 2 of the Canadian Charter, to which the Ontario Human Rights Code is subordinate. Presumably the

College realizes that while it is an organization in Ontario, and the Ontario Human Rights Code deserves respect and observance, for greater certainty it is to be interpreted in the light of the Canadian Charter of Rights and Freedoms. Under this Charter persons are not to be tacitly or openly coerced to do or participate in anything, such as a life-terminating decision as a health-care practitioner. Just incidentally, the withholding of necessities of life: food, air and water is a decision to terminate life, even if the life ends "passively". Therefore the removal of a child from its mother's womb is still abortion when the child is given no access to its necessities of life. Moreover, the vacuity in federal law which does not attach the strictly legal term "human being" to the child in utero is not a medical or biological vacuity, still less a vacuity of what attracts care and conscience. In fact even in the thicket of law, the child in the womb is still called a child, and is in fact a person in the sense of one who attracts the protective interest of the state (also from R. v Morgentaler) from its inception.

Your organization is well advised to consider that (a) in due course a federal law may well be enacted that can specify very restrictive exculpations for abortion, as for euthanasia, and (b) the reasons given by federal officials and Members of Parliament, as sought-out by Physicians for Life and Nurses for Life, for not creating a separate statute to uphold and defend their conscience rights against the kind of coercion that your proposed policy may engender, is that it was not necessary: the Canadian Charter stands on its own. Should the CPSO proceed with an ill-advised policy, it will then invite Charter court challenges and very much controversy over the role of medicine in society.

Finally, let me point out that there is in fact no statutory foundation of law that obligates the federal government in any way to be transferring health-care dollars to the provinces for the procurement of abortions. Universality of medical care is established principle, but abortion as a therapeutic procedure is not recognized in law. Had the former (Mulroney) government bill C-43 been enacted, it would have created such a legal entitlement and obligation for funding. This was not done; so that a body of health-care providers acting unilaterally as though abortion was somehow mandated in medicine or law is taking an activist position. Such a position cannot help but attract very divisive public opinion, and through all the health professions.