

August 6, 2014

College of Physicians and Surgeons of Ontario
80 College Street
Toronto, ON M5G 2E2

Re: Human Rights Code Policy

Dear College of Physicians and Surgeons of Ontario,

The Section on General and Family Practice appreciates the opportunity to provide comment on the College's Physicians and the Ontario Human Rights Code policy that is currently being reviewed.

This policy provides important guidance to physicians on sensitive matters and has generated a great deal of interest and discussion amongst our members since it has come up for review. Overall, the Section feels that the policy in its current form seems to strike a reasonable balance between the moral and religious beliefs of physicians and the legal obligations and professional expectations related to the medical services they provide and has served the profession well since it was approved in 2008.

Essentially, the Section feels that we as physicians are professionals. We communicate with our patients on the complex issues they bring to us and we use our best judgement in making decisions around care together with our patients. The system and communities that we work in have well established networks with our other provider colleagues that enable us to provide the care our patients require when that need falls outside of our ability to provide that care as individual physicians.

Since this policy has come up for review, there have been significant concerns raised amongst our members that tighter guidelines will be placed upon physicians requiring them to provide types of care that conflict with their own personal morals and beliefs. This has led to a number of concerns being raised as to the possible outcomes related to any potential changes to this policy that would be more onerous on physicians. Questions that have come to our attention from our members include the following.

- Are we slowly heading to a system where individuals looking to enter the medical profession will be required to leave their moral and religious beliefs behind when they accept entry?
- What about more remote areas of practice? Will more prescriptive policies drive physicians to feel that they will have no choice but to practice in more urban settings?
- What happens if a physician becomes fearful for safety in their office due to the extreme nature of a particular patient's behaviour or uncomfortable with a patient who refuses to respect the rules of a physician's office that may or may not be related to an underlying medical condition? Will the physician lose the ability to end the doctor-patient relationship?
- Will a stricter policy make it more difficult to manage inappropriate patient demands such as those for narcotic pain medications as it may be construed by some patients as a denial based on discrimination.

College policies can have far-reaching impact above and beyond regulation of physicians in practice. As such, they need to be carefully thought out. A more strict approach to Physicians and the Human Rights Code could lead to situations where well qualified students are, in a sense, denied entry into medical school because of a potential inability to honour their personal, socially accepted religious beliefs due to patient demand. The Section believes it is important to ensure that the public continues to have access to care from the best and brightest minds and we are concerned that quality could suffer if we only accept medical students who are willing to compromise their personal values. At the same time, the Section is well aware of recent items in the media that might compel the College to consider changes to the current policy that would place more onerous expectations upon physicians to personally provide any and all treatment even when it is in direct conflict with their own personal morals and beliefs. However, the Section is not aware that there has been a pattern of complaints that relate to this matter that would document a more significant underlying or systemic problem in this area. As such, it would seem that the policy in its current form is adequate.

An area that was identified as a potential area to be improved upon is in regards to the definition of "disability" within the context of this policy. Mental illness has been raised as an example of a medical condition or disability that has a wide range of expression. It is felt that there may be some room to better define disability or provide some guidance to allow for the use of professional judgement when it comes to disability and a physician's ability to safely and appropriately provide care in their work environment.

Finally, a significant area for consideration has been raised about the importance of having clarity in regards to complaints being dealt with through the Ontario

Human Rights Commission and the role of the College. Physicians are always exposed to the risk that the decisions they make will be challenged by a complaint to the OHRC. If there is a complaint against a physician to the OHRC, this should be allowed to run its course without necessitating involvement of the College. The College should not become involved in additional areas outside of its jurisdiction. For complaints that come to both the OHRC and the College, the College policy should clarify when the College steps aside and waits to assess whether issues of professional conduct remain after the OHRC has made its decision.

The Section feels that the policy in its current form seems to give appropriate guidance to physicians in regards to our legal obligations and our professional expectations but also does not place physicians in an unreasonable position of being forced to provide certain care if it conflicts with their own moral and religious beliefs. The ability for physicians to say "no" without retribution must be preserved as long as those decisions are not based on discrimination. In the rare instance that an individual physician's professional conduct is felt to clearly fall outside of what is deemed to be reasonable, then the policy in its current form has sufficient substance to be able to deal with those individual situations.

The Section understands that this request for feedback is a preliminary consultation that is meant to assist the College as it begins its work to update this policy so we look forward to the opportunity to review the outcome of this work and once again provide input when it is recirculated for further comment.