February 18, 2015

College of Physicians and Surgeons of Ontario
re: Draft Policy Public Comment

TO WHOM IT MAY CONCERN.

Thank you for the opportunity to express comment on concerns arising from some of the proposed stipulations in the Draft Policy.

The chief concern I express relates to the intention to require medical professionals to refer (become complicit in), or if impracticable, perform, that which violates the conscience of the medical professional involved, where this may be in violation of his or her religious or moral belief. An attempt to justify this is made by opining that Charter freedom of conscience is not absolute. However, the degree to which this may or not be so is not to be determined by the CPSO but rather by the Courts.

There appears to be a significant oversight here, and which appears to assume that there is no overlap between the refusal to be party to certain types of procedures based on moral or religious values and the medical reasons which may be compatible with such refusal to provide or refer for service. I use the word service as it represents compliance with a patient request - such that could never be legitimately refused. For example, ordering food at a drive-through is a request for service, not care. The server has no interest in the customer's motives or long-term well-being and accordingly no discretion as long as payment is made. Accordingly, a diabetic is free to order up a meal which places himself or herself at serious risk, but the server has no discretion or responsibility for doing so, not being aware of the customer's condition. If a doctor prescribed such a meal, it could indicate malpractice.

On the other hand, prosecution and liability has been established and upheld where a server/proprietor of a drinking establishment has served or allowed to be served liquor to someone in a state of intoxication and where that person had no apparent means of transportation other than his or her personal vehicle and where subsequently he or she drove that vehicle and caused an accident resulting in property damage and personal injury or death.

In this case, a duty of care is placed by law on the server and for which he or she is liable if he fails to do so and harm ensues directly as a result. As such, in considering the request for alcohol, he must take into account the condition of the customer and the risks involved to himself and others should he comply with it. This is no less true of the medical profession.

If a server should be ordered, say under threat of loss of employment, to provide liquor to all customers upon demand without regard to any state of intoxication, a cause of action, while naming the server, would ultimately fall on the employer, the server having been compelled to so act under duress of an unlawful employer-initiated ultimatum.

In a real sense, the College here appears willing to take it upon themselves to become the superior authority in patient care, overriding the judgment of the care giver, where, in the opinion of the care giver, the treatment requested will or will likely result in either short-term and/or long term detriment to the patient. When a treatment results quite consistently in harm to a significant proportion of those requesting and receiving it, calling such a treatment "care" is dubious at best and pernicious at worst. Care, by definition is an approach that countenances the overall, short-term and long-term benefit to the well being of the patient in all aspects of their health. Anything less is care in name only and has no
legitimate place in the practice of medicine. Accordingly, you will find that most conscientious objection to certain procedures are not rooted in religion alone, but also in a compelling medical basis supported by virtually all major religions to act in the well being of the patient even where the patient may not understand the harms that may ensue. That is why they need responsible professional care. And overriding conscience is almost always to the detriment of responsible patient care.

AN ADMINISTRATIVE PARALLEL

The issues countenanced here are not confined to the field of medicine. There are other nearly identical and relevant scenarios that play out in other fields of endeavour and which would be useful to consider.

On February 12, 2015 in the Supreme Court of Newfoundland and Labrador, Justice Alphonsus E Faour found the Province of Newfoundland and Labrador had committed a "prima facie" act of religious discrimination against public servant Desiree A Dichmont and ordered the Human Rights Commission to conduct a thorough investigation into her complaint under that body. They had previously dismissed/failed to investigate her complaint as having insufficient evidence but where the Court found otherwise. This, I might add, is common when the complaint is brought forward by Christians.

Ms Dichmont, performing civil marriages, was ordered to perform same sex marriages but for which she sought religious accommodation as she was unable to perform them due to her religious beliefs. We are not discussing same sex marriage here, but the duty to accommodate difference, and which too often caters only to one side of the issue. As a result, the public's right to service was deemed to override her right to accommodation and she was accordingly forced out of her job. This is an all too common scenario in a country that boasts of tolerance.

The judge noted that a single entry point system (registry) could direct applicants to those who are willing to proceed and shield those who could not do so in good conscience. That would be fair to all, but which to date seems not to be a priority in most provinces. The accommodation principle seems to be functioning as a one way street and as such is poles removed from being even-handed.

I say this only to point out that a provincial Supreme Court has found that people of conscience need to have protection the same as anyone else and has ordered the HRC to proceed with the complaint. HRCs have not been very useful to faith-based individuals seeking redress, although they proceed with vigour against Christians often for asserting their fundamental freedoms. An Alberta HRC dismissed a complaint brought forward by Christians over a published song entitled "Kill the Christians." The HRC dismissed it as no serious threat. Had another politically-favoured group been targeted it might well have been a vastly different outcome. To suggest killing anyone else would have been called a hate crime. But back to the care issue:

SERVICE VERSUS CARE.

Some of the procedures most likely to raise objection are, among others, assisted suicide/euthanasia and which is not necessarily a closed issue yet, as well as abortion and sex reassignment surgery.

Before we proceed, we need to establish that what is legally permissible does not and should not necessarily be taken to be mandatory. Patient wish is not doctor's obligation at every point. I will confine my observations in the medical arena to abortion.
In 1988, the SCC decriminalized abortion, but did not elevate it to an inalienable fundamental right such as freedom of conscience which you seek to weaken. Indeed, the SCC asked Parliament to legislate abortion protection but which has not happened. That is on the legal side. And for an example at street level, even though tobacco is now decried as unhealthy, it is not criminalized. But that does not mean that government should pay for tobacco or ensure it is universally available, nor that every corner store be required to sell tobacco or be closed down. Similarly, pork is a legal product which anyone can order up at a restaurant. But what kind of oppressive government or agency would it be that required owners of a Jewish- or Muslim-owned restaurant either to refer clients to where pork was available or serve it themselves when both hold pork as an abomination? Is this how we accommodate conscience - by forcing people to violate it?

The medical community seems to have accepted the myth that politically-permissible abortion is by fiat medically necessary care. In large measure the facts - denial notwithstanding - show clearly otherwise. And for this, the medical associations stand accused of caving in to political ideology which results in serious harm to countless numbers of women.

Borowski Trial Regina SK 1983

Under former CCC s 251, abortion was not permissible in law without certification by a TAC to the effect that such an abortion was medically necessary. At that trial, reams of clinical evidence were introduced into the record where abortions had taken place and were certified pursuant to the medical necessity requirement. All evidence was non-identifying as to patient and service provider. However, in all cases, the clinical evidence showed no indication whatsoever that abortion was medically indicated, yet all were certified to be so. This allows only one conclusion; namely, doctors performing abortions consistently lied and falsified documents to indicate medical necessity for abortion where none existed.

In some provinces, post Morgentaler, medical necessity was still pre-requisite for funding eligibility. Accordingly, doctors were required to certify medical necessity in order to be covered by provincial medicare. In Alberta, abortions are funded at virtually 100% and have been for many years. In a letter to me, former Health Minister Gary Mar explained that doctor certification of medical necessity satisfied the requirement for medicare funding. He also told me that the best way to reduce abortions in Alberta was to reduce unplanned pregnancy, thereby admitting that unplanned pregnancy was a significant cause of abortion in the province. But unplanned pregnancy is not a medical cause. It is a social/political cause.

Any reasonable person, considering the facts would conclude that the doctors were falsely certifying many abortions as medically necessary when they were not. And the Minister of Health appeared to be aware of this. Yet no investigation has been made into the existence of criminal medicare fraud in this regard.

HENRY MORGENTALER, pioneer of abortion rights in Canada had no interest in confining abortion to medical necessity. He wanted abortion on demand the same as any other routine procedure. Of all people, he had the most at stake to push the idea of abortion being a medical necessity. But in one thing at least, he was more honest than our medical societies today. He acknowledged that as a physician, abortion would be necessary in less than 1% of instances.

Thus, if doctors willing to cause preborn children's deaths are equally willing to declare falsely that it is medically required in order to secure funding, it is understandable that thousands, no doubt millions of
Canadian women would like to have some respect shown for their choice of a doctor. And many such Canadian women want no part of dealing with a doctor who has no respect for pre born life and do not wish to have such a doctor place their hands upon their bodies. Does the CPSO respect these women's right of choice?

When we were expecting our 5th child, it appeared that my wife was becoming enlarged more than normal, so we consulted a general practitioner. We thought it might be twins and mentioned this to him. The first thing the doctor suggested to us was the option of abortion. We got up and left as my wife would never allow someone with such disregard for the helpless to even touch her.

May I ask you, under your proposed draft, would you therefore deny my wife and me and countless others like us the choice to go to a doctor who has respect for the pre born child if in fact you seek to eliminate all such doctors from the practice of family medicine - and in which case there would be no place else to go? Do you call this choice and respect for all?

FIRST OF ALL DO NO HARM.

This is a quote from the Hippocratic Oath which you have abandoned. Medicine today has a willingness to do harm, it would seem.

"SAFE" ABORTION.

Legalized abortion is a predictor of increased maternal death. Countries that prevent it show the lowest levels of maternal death. Communist China, no friend of pro-life, reports massive increase in breast cancer in post abortive women. India conducted similar studies with similar results. Medical societies have decided to reject the findings even if unable to refute the evidence. So women keep dying. Abortion is a predictor of significant increase in mental disorders, suicide, infertility, breast cancer and other harms.

Let us face the obvious here. Abortion is for the most part ELECTIVE and no amount of denial can change that. This raises the questions, why are we forced to pay for it and why do you wish to force doctors to refer or alternately perform it? I do not mean the word in its customary vulgar sense, but to allow medical involvement in elective abortion and further mandate that professionals suppress their conscience to refer or perform it, is to bastardize - (to make degenerate, to debase, per Oxford Standard College Dictionary) the medical profession and bring it into disrepute.

I said I would confine my comments to abortion even though I oppose medical involvement in sex reassignment and assisted suicide which can only further degrade and pervert the field of medicine. But the abortion matter is adequate to address the concerns I have raised here. As I have attempted to show here, if the medical profession is willing to approve killing the innocent and falsifying documents for political or financial reasons, why should we trust them further? Anyone who would deny someone else the right to conscience, clearly has little conscience of their own.

On the financial side, as you know, civil law proceeds on the balance of probabilities. You should be aware that proceeding with questionable patient-requested procedures not verifiably clinically and medically required or proven to have medical benefit, and which could be abuse of therapy, could place you on the wrong side of the law.
Should a post abortive woman contract breast cancer, she may be in a position to sue for a significant amount. Remember too, that once she gets a lawyer who can prove that the evidence of serious abortion-related health risks was available and published, it can be argued that the medical community had a duty to be aware of this and provide appropriate disclosure, in the absence of which there could be an arguable case to assert denial of fully informed consent.

That is why prescriptions provide pages of warnings about potential risks not just absolutely definite side effects. And ignorance is no excuse. The tobacco interests got away with it for a time, but eventually the truth came out. The same could prove true of abortion-related health risks. Today she may hail you as her hero. But down the road you could face her in court. And courts will demand what information was publicly available and when you were aware of it. Remember, a good lawyer would remind you that your duty was to act in her best health interests regardless of her wishes or lack of information on the risks. If big tobacco can be brought to account, so can big abortion. Think about it.