

2017.04 Protection from Coercion of Conscience for Healthcare Professionals

Whereas, under the *Criminal Code* of Canada, healthcare professionals do not have protection from being coerced into referring for, or performing procedures that are in opposition to their charter rights of freedom of conscience and religion; and

Whereas, the *Canadian Charter of Rights and Freedoms* recognizes and upholds the right of conscience, religion, thought and belief of all citizens, including healthcare professionals; therefore, be it

Resolved, that national council of The Catholic Women’s League of Canada in 97th annual national convention assembled urge the federal government to amend the *Criminal Code* of Canada to be consistent with the *Canadian Charter of Rights and Freedoms* by making it an offence to coerce healthcare professionals into referring for, or performing procedures that are in opposition to their charter rights of freedom of conscience and religion.

18 **BRIEF: Protection from Coercion of Conscience for Healthcare Professionals**

19 Healthcare professionals need protection under the *Criminal Code* of Canada from being coerced
20 into performing or referring patients for procedures that are in opposition to their conscience.
21 This need was created as a result of the 2015 Supreme Court of Canada ruling legalizing
22 physician assisted suicide. The court stated that regulations and legislation created from their
23 ruling were "...in the hands of the physicians' colleges, Parliament and provincial legislatures"
24 (Supreme Court 2015). The ruling stipulated that any legislation or regulations adopted must
25 reconcile with the *Canadian Charter of Rights and Freedoms* for both patients and physicians.
26 That "...a physician's decision to participate in assisted dying is a matter of conscience and, in
27 some cases, of religious belief..." (ibid). However, the court ruling did not address physician
28 referrals. Referrals are the moral equivalent of personally assisting a patient to commit suicide.

29 The Ontario College of Physicians and Surgeons (CPSO) have enacted discriminatory policies
30 regarding healthcare professionals' conscience rights. The Ontario *Professional Obligations and*
31 *Human Rights* policy states in part, "Where physicians are unwilling to provide certain elements
32 of care for reasons of conscience or religion, an effective referral to another health-care provider
33 must be provided to the patient. An effective referral means a referral made in good faith, to a
34 non-objection, available, and accessible physician, other healthcare professional, or
35 agency...Physicians must provide care in an emergency, where it is necessary to prevent
36 imminent harm, even where that care conflicts with their conscience or religious beliefs" (CPSO
37 2015). The Ontario *Medical Assistance in Dying* policy also imposes all the above conditions on
38 physicians and healthcare providers, (CPSO 2016) removing the rights as protected in section 2
39 of the *Canadian Charter of Rights and Freedoms* (Canadian Charter of Rights and Freedoms).

40 The above policies offend the rights of conscience of health care professionals who oppose life
41 taking procedures. Many physicians and healthcare workers are opposed to the procedure of
42 abortion, viewing it as the killing of an unborn child, and are unwilling to perform the procedure
43 as a matter of conscience (Christian Medical and Dental Society).

44 The Coalition for Healthcare and Conscience states, "Forcing healthcare providers to violate
45 their conscience rights directly impedes our constitutional right to freedom of conscience and
46 religion guaranteed under the Charter... Requiring healthcare workers to participate in assisted
47 death as a condition of employment is a form of discrimination... If these policies enacted at the
48 provincial level remain in place, many healthcare providers...will be unable to continue to serve
49 their patients" (The Coalition for Healthcare and Conscience). The Coalition continues that
50 healthcare professionals must be protected "against being forced to perform or refer for these
51 procedures or being discriminated against because of their conscientious objection," and that
52 they not "be coerced to provide these services..." (The Coalition for Healthcare and
53 Conscience).

54 The *Canadian Charter of Rights and Freedoms* states, "Everyone has the following fundamental
55 freedoms: (a) freedom of conscience and religion; (b) freedom of thought, belief, opinion and
56 expression..." (Government of Canada, *Canadian Charter of Rights and Freedoms*). Our laws
57 through the *Criminal Code* must protect these fundamental rights for our healthcare
58 professionals.

59 **Works Cited**

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61 http://www.cmdscanada.org/my_folders/Position?Papers/Abortion1.pdf
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- 63 2. College of Physicians and Surgeons of Ontario, *Professional Obligations and Human*
64 *Rights*, March 2016, [http://www.cpso.on.ca/policies-publications/policy/professional-](http://www.cpso.on.ca/policies-publications/policy/professional-obligations-and-human-rights)
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- 67 3. College of Physicians and Surgeons of Ontario, *Medical Assistance in Dying*, June 2016,
68 <http://www.cpso.on.ca/Policies-Publications/Policy/Medical-Assistance-in-Dying>
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- 70 4. Government of Canada, *Canadian Charter of Rights and Freedoms, Constitution Act,*
71 *1982* <http://laws-lois.justice.gc.ca/eng/const/page-15.html>
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- 73 5. Supreme Court of Canada, Judgements of the Supreme Court of Canada, *Carter v*
74 *Canada*, Sec. 132. 2015-02-06 <https://scc-csc.lexum.com/scc-csc/en/item/14637/index.do>
75
- 76 6. The Coalition for Healthcare and Conscience, *The federal government passed Bill C-14*
77 *on June 17, 2016*, http://www.candiansforconscience.ca/the_issues

78 **Action Plan**

- 79 1. Write to the Prime Minister and Attorney General with copies to your local member of
80 parliament urging them to make it an offence under the Criminal Code of Canada for
81 healthcare professionals to be coerced into performing or referring patients for
82 procedures that are in opposition to their conscience.
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- 84 2. Educate members and the community on the importance of healthcare professionals’
85 right of conscience.
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- 87 3. Find ways to support healthcare workers who will not perform procedures that are in
88 opposition to their conscience.