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An attack on the conscience rights of physicians

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Ontario's College of Physicians and Surgeons is determined to force every family doctor to participate in abortion and euthanasia, either by providing these services, or by referring patients to other doctors who will.

The College dismisses Charter-protected conscience rights as "personal values and beliefs" that are not nearly as important as "clinical" beliefs. This distinction is wholly artificial, as shown by the very existence of modern medical ethics. There is nothing clinical or scientific about the moral prescriptions in the Hippocratic Oath: To "take care that patients suffer no hurt or damage" and to "use knowledge in a godly manner." This "sacred oath" cuts across religious, philosophical, and political boundaries, and has been the bedrock of the physician's pledge to his patients and society for over two millennia.

Medical ethics, both ancient and modern, are based entirely on religious and moral beliefs. A doctor guided by science to the exclusion of morality is inherently untrustworthy. A good doctor acts on both moral and scientific beliefs.

The college's draft policy on doctors' professional obligations assumes that patients have a "right" to receive whatever medical services they may desire from any doctor. The college provides no basis for this assumption, because, in fact, patients do not enjoy a legal right to obtain whatever medical services or treatments they want.

The college's justification for coercing pro-life doctors into referring patients for abortion or euthanasia services relies

heavily on Ontario's Human Rights Code. But the Code says nothing about which medical procedures should be available to patients, or whether all doctors must be willing to provide them. The Code merely requires doctors to serve all patients equally, regardless of the patient's age, race, gender, religion, etc. The Code would, for example, prohibit a pro-choice doctor from providing abortions only to patients of some ethnic groups, but not others.

The college then jumps to the argument that a doctor's Charter-protected freedom of conscience and religion needs to be "balanced" against a patient's "right" to receive desired services from every doctor. But there is no need to balance a Charter right against another right that doesn't exist.

The college claims that refusing to participate in abortion and euthanasia amounts to "impeding" access. This argument is quite a stretch. If a doctor refuses to prescribe an abortion-inducing drug to a patient, that doctor is certainly causing the patient inconvenience. But in no way is that doctor "impeding" the patient from obtaining the drug from other doctors, the vast majority of whom routinely prescribe such drugs.

While claiming to be concerned about patients' access to health care, the college ignores the Supreme Court's ruling in *Chaoulli v. Quebec*, which declared that "access to a waiting list is not access to health care." The court in *Chaoulli* was unanimous in holding that a government monopoly over health care,

when it condemns patients to suffer and die on waiting lists, violates the constitutional rights of Canadians.

When it comes to essential health services like cancer diagnosis, cancer treatment and orthopaedic surgery, politicians in Ontario and other provinces have passed laws that make it effectively illegal for patients to use their own after-tax dollars to buy private medical services and private health insurance. The college is not troubled by the fact that patients are entirely at the mercy of the bureaucrats and politicians who run the Ontario government's health-care monopoly, and who alone decide what medical services patients will and will not have access to.

In short, the college's attack on physicians' conscience rights has nothing to do with patients' access to health care. In light of the willingness of most doctors to provide or refer for abortion and euthanasia, the minority of pro-life doctors are making a statement, not impeding access. But rather than advocate for expanded access to all kinds of health care for all patients, the college acts ideologically to remove all visible opposition to its own popularly accepted moral beliefs. This ideological attack strikes at the root of Canada's free society, which should welcome the full participation of all persons, even those with unpopular convictions.

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