



Protection of Conscience Project

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Results of the first consultation on Physicians and the Human Rights Code

Sean Murphy, Administrator
Protection of Conscience Project

In February, 2008, the Ontario Human Rights Commission responded to a draft policy of the College of Physicians and Surgeons of Ontario with a submission recommending that physicians "must essentially 'check their personal views at the door' in providing medical care."¹

The College, in response, released a draft policy, Physicians and the Ontario Human Rights Code, stating, "there will be times when it may be necessary for physicians to set aside their personal beliefs in order to ensure that patients or potential patients are provided with the medical treatment and services they require."²

As a result of the subsequent controversy and public pressure the demand that physicians abandon their moral or religious beliefs was dropped before Physicians and the Ontario Human Rights Code was adopted. The policy was slated for review by September, 2013, but a public announcement of the review was not made until June, 2014. The first stage of a public consultation about the policy closed on 5 August, 2014.

In December, 2014, a working group at the College released a new policy draft called Professional Obligations and Human Rights (POHR) for a second stage of consultation ending on 20 February, 2015. The most contentious element in POHR is a requirement that physicians who object to a procedure for reasons of conscience must help the patient find a colleague who will provide it.³

According to the College, POHR takes into account feedback received during the first consultation. When the new draft policy was released in December, Dr. Marc Gabel, then President of the College, stated that "public polling" by the College had demonstrated that "the vast majority of Ontarians believe that [objecting physicians] should be required to identify another physician who will provide the treatment, and make and/or coordinate a referral."⁴

The "public polling" to which Dr. Gabel referred appears to be an on-line random survey of 800 Ontario residents conducted by the College in May, 2014. The participants were randomly selected "using a Voice Response system," and College Council was told that the results can be generalized to the online population of the province (80% of adults), with an accuracy of +3.5% and a 95% level of confidence.⁵ Beyond that, the College has not disclosed details of the poll that would permit an independent assessment of its validity. Particularly on such an important question, this seems inconsistent with its commitment to greater transparency.⁶

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An analysis of consultation feedback posted on the College website produces quite a different result.

College Council was told that the consultation produced 6,710 responses⁷ - an “unprecedented volume.”⁸ However, an unknown number of respondents contributed both to the On-line Survey and Discussion Forum, so the number of unduplicated consultation responses actually available for analysis may have been far less than 6,700. Less than half that number responded to a question about the extremely contentious issue of mandatory referral, and only 50% of that group supported it.⁹

In any case, an overwhelming majority of responses in a Discussion Forum supported freedom of conscience for physicians, but only about 2% advocated a policy of mandatory referral. Nor were On-line Survey responses supportive of a policy of mandatory referral, suggesting, instead, that such a policy is controversial.

A detailed analysis of the results of the consultation is available.¹⁰

Notes

1. *Submission of the Ontario Human Rights Commission to the College of Physicians and Surgeons of Ontario regarding the draft policies relating to establishing and ending physician-patient relationships*. 14 February, 2008.
(<http://www.ohrc.on.ca/en/submission-ontario-human-rights-commission-college-physicians-and-surgeons-ontario-regarding-draft>) Accessed 2018-02-03.
2. College of Physicians and Surgeons of Ontario, *Physicians and the Ontario Human Rights Code*, (Draft) p. 4
(<http://consciencelaws.org/archive/documents/cpso/2008-cpso-ohrc-app-a-consultation%20draft.pdf>)
3. College of Physicians and Surgeons of Ontario, *Professional Obligations and Human Rights* (Draft, December, 2014)
(<http://consciencelaws.org/archive/documents/cpso/2014-12-cpso-draft.pdf>)
4. Gabel, M. “Dear Colleagues.” College of Physicians and Surgeons of Ontario, *Dialogue*, Vol. 10, Issue 4, 2014, p. 6.
(<https://view.joomag.com/dialogue-volume-10-issue-4-2014/0267666001419268812?short>)
Accessed 2018-03-07.
5. College of Physicians and Surgeons of Ontario, Annual Meeting of Council, December 4-5, 2014, p. 330
(http://www.cpso.on.ca/CPSO/media/documents/Council/Council-Materials_Dec2014.pdf)
Accessed 2018-03-07.
6. College of Physicians and Surgeons of Ontario, Appendix 2, *Transparency Principles* (2013-09) (<http://policyconsult.cpso.on.ca/wp-content/uploads/2013/09/Transparency-Principles.pdf>)
Accessed 2018-03-07.

7. College of Physicians and Surgeons of Ontario, Annual Meeting of Council, December 4-5, 2014, p. 328
(http://www.cpso.on.ca/CPSO/media/documents/Council/Council-Materials_Dec2014.pdf)
Accessed 2018-02-07.
8. "Balancing MD and patient rights: Human rights draft policy open for consultation."
Dialogue, Vol. 10, Issue 4, 2014, p. 49.
(<https://view.joomag.com/dialogue-volume-10-issue-4-2014/0267666001419268812?short>)
Accessed 2018-03-07.
9. 3,104 responses. College of Physicians and Surgeons of Ontario, *Physicians and the Ontario Human Rights Code Consultation: Online Survey Report and Analysis*, Figure 4
(<http://policyconsult.cpso.on.ca/wp-content/uploads/2014/08/Survey-Report-Human-Rights-FINAL.pdf>) Accessed 2018-03-07.
10. Murphy S. "College of Physicians and Surgeons of Ontario, Consultation on Physicians and the Human Rights Code (Ending 5 August, 2014)." Protection of Conscience Project,
(<http://consciencelaws.org/background/society/society017.aspx>)