



Protection of Conscience Project

www.consciencelaws.org

ADVISORY BOARD

Dr. Shahid Athar, MD
*Clinical Associate Professor
of Medicine & Endocrinology,
Indiana School of Medicine,
Indianapolis, Indiana, USA*

J. Budziszewski, PhD
*Professor, Departments of
Government & Philosophy,
University of Texas,
(Austin) USA*

Abdulaziz Sachedina, PhD
*Dept. of Religious Studies,
University of Virginia,
Charlottesville, Virginia, USA*

Roger Trigg, MA, DPhil
*Academic Director,
Centre for the Study
of Religion in Public Life,
Kellogg College,
University of Oxford,
United Kingdom*

Lynn D. Wardle, JD
*Professor of Law,
J. Reuben Clark Law School,
Brigham Young University,
Salt Lake City, Utah, USA*

PROJECT TEAM

Human Rights Specialist
Rocco Mimmo, LLB, LLM
*Ambrose Centre for Religious
Liberty, Sydney, Australia*

Administrator
Sean Murphy

Impartiality, complicity and perversity

Sean Murphy, Administrator
Protection of Conscience Project

Benjamin Veness weighs in on behalf of the Australian Medical Students' Association (AMSA) to demand that physicians who believe abortion is wrong should be forced to direct patients to a colleague willing to provide it.¹ He and medical students who share his views believe that Victoria's abortion law is the model that ought to apply throughout Australia. It follows from this that they believe that any Australian physician who refuses to help a patient find someone willing to do a sex selective abortion should be struck from the medical register or otherwise disciplined.

Mr. Veness correctly believes that this would be consistent with Victoria's abortion law, and he is hardly alone in believing that physicians who refuse to facilitate abortion for reasons of conscience should be disciplined or expelled from the profession.

However, he and the students whom he represents are mistaken in their assumption that a physician who is morally opposed to abortion - whether in principle, or because he has more limited moral objections to practices like sex selective abortion - is not capable of providing information about the procedure and legal options available to a patient. In fact, many physicians opposed to abortion are quite willing to do so for the very reasons given by Mr. Veness: that the patient may ultimately decide not to go ahead with it.

More remarkable is the fact that the outlook of Mr. Veness and the Australian Medical Students' Association suggests that only people willing to do what they believe to be gravely wrong ought to become physicians. Whether or not this is a condition for membership in the AMSA Mr. Veness does not say, but it is not a policy conducive to the ethical practice of medicine.

What is most striking is Mr. Veness' belief that only physicians willing to facilitate or provide abortions are "impartial," as if the judgement that an abortion ought to be provided does not involve a moral judgement. A conviction that abortion is (or can be) a good thing is just as "partial" as the opposite conviction of an objecting physician. Mr. Veness' mistaken notion of what it means to be "impartial" is evidence that he and the AMSA are anything but.

For some physicians, referral is an acceptable strategy for avoiding complicity in what they hold to be wrong or at least morally questionable. Others find it unacceptable because they believe that referral and other forms of facilitation actively enable wrongdoing and make them parties to it. Mr. Veness and the AMSA may dispute this, but it is hardly a novel idea. It is reflected, for example, in Section 45 of the Australian Capital Territory's *Criminal Code* (Complicity and common purpose).²

Revision Date: 2014-11-05

More relevant, perhaps, is the broad definition of "participation" developed by the American Medical Association in its prohibition of physician participation in capital punishment. This includes "an action which would assist, supervise, or contribute to the ability of another individual to directly cause the death of the condemned," and even giving advice.³

Lest the connection with capital punishment be thought out of place here, Australian medical students and physicians should take note that the arguments used to compel objecting physicians to provide or facilitate abortion are the same ones used by euthanasia advocates who would force physicians to lethally inject their patients, or help them find someone who will. That has been obvious in Belgium from the beginning,⁴ and it has been equally evident in Canada,⁵ most recently in Quebec.⁶

What is gradually becoming clear is that policies and laws devised to ensure the "accessibility" of abortion by suppressing freedom of conscience among health care workers lead ultimately to a perverse conclusion: that one can be forced to do what one believes to be gravely wrong, even if that means killing someone else, or finding someone who is willing to do the killing. That conclusion is profoundly inconsistent with principles that ought to inform the laws and policies of a liberal democracy.

Notes

1. Veness B. "Abortion need not be doctor's dilemma too." *Sydney Morning Herald*, 16 November, 2013.
(<https://www.smh.com.au/opinion/abortion-need-not-be-doctors-dilemma-too-20131115-2xm6s.html>) Accessed 2018-03-08.
2. Australian Capital Territory, *Criminal Code* 2002.
(<http://www.legislation.act.gov.au/a/2002-51/current/pdf/2002-51.pdf>) Accessed 2018-03-08.
3. American Medical Association, *Code of Medical Ethic*, 9.7.3 Capital Punishment (Modified 2017)
(<https://policysearch.ama-assn.org/policyfinder/detail/Capital%20Punishment%20?uri=%2FAMADoc%2FEthics.xml-E-9.7.3.xml>) Accessed 2018-03-08.
4. Murphy, S. "Belgium: Mandatory referral for euthanasia." *Protection of Conscience Project* (<http://consciencelaws.org/background/procedures/assist008-001.aspx>)
5. A panel of the Royal Society of Canada recommended legalization of assisted suicide/euthanasia. The panel stated that, since physicians who are unwilling to provide what it delicately termed "certain reproductive health services" are obliged to refer patients to others who will (a contested assertion), physicians who refuse to provide (legal) euthanasia or assisted suicide for patients "are duty-bound to refer them in a timely fashion to a health care professional who will." Schuklenk U, van Delden J.J.M, Downie J, McLean S, Upshur R, Weinstock D. *Report of the Royal Society of Canada Expert Panel, End of Life Decision Making*. November, 2011, p. 61-62
(https://rsc-src.ca/sites/default/files/pdf/RSCEndofLifeReport2011_EN_Formatted_FINAL.pdf)

Accessed 2018-0311.

6. Hearings were held recently by a committee of the Quebec National Assembly concerning a bill to legalize euthanasia by physicians. State regulators of the professions of medicine, nursing and pharmacy all stated that their codes of ethics (developed as a result of controversies about abortion and birth control) require objecting professionals to refer or find colleagues willing to provide the service(s) to which they object. It is clear that they mean to apply the same rule to euthanasia, although it is equally clear that this causes some of them some discomfort. See, for example, the statement of Charles Bernard on behalf of the College of Physicians of Quebec at Quebec National Assembly, *Consultations & hearings on Quebec Bill 52: College of Physicians of Quebec*. Tuesday 17 September 2013 - Vol. 43 no. 34, T#154 (<http://consciencelaws.org/background/procedures/assist009-001.aspx#154>)