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Dr. Preston Zuliani,
Chair, Executive Committee,
College of Physicians and Surgeons of Ontario,
80 College Street,
Toronto, Ontario, M5G 2E2

Dear Dr Zuliani,

I am writing to offer some observations on the draft of the policy *Physicians and the Ontario Human Rights Code* that is being prepared by the College of Physicians and Surgeons of Ontario, especially with reference to sections that may be used to limit the freedom of conscience and the religious freedom of those engaged in the healing professions.

I recognize that the College is to some degree simply alerting physicians to the fact that if they refuse to perform some action that is requested, it may be alleged that they “may be acting contrary to the Code, even if the refusal is based on the physician’s moral or religious belief.”

A reading of the Ontario Human Rights Commission's commentary on the College's draft policy increases my concern that in our province physicians may have good reason to expect to face efforts to force them to act against their consciences.

Profound moral and religious convictions motivate and guide individual physicians, as well as nurses, pharmacists, and others. When I refer to physicians I also have in mind the others who use their skills and knowledge in the work of healing. In our province, and around the world, individuals and health care institutions motivated and guided by moral and religious convictions serve the sick and the suffering, and do so with respect and compassion. The benefits to society have been, and are, immense. For those who so generously devote their lives to the noble vocation of healing, ethical and religious convictions are not something optional or disconnected from the good they do.

In all clinical encounters, the physician-patient relationship inevitably takes on a moral character in which the overall good of patients is sought and harm to patients is avoided. It is to be hoped that through dialogue the physician and the patient can reach a common understanding and judgment concerning what is good or harmful. Where

such an understanding is not possible, however, both physicians and patients must be free to remain true to their own convictions if medical decision making is to retain its inherently moral character.

In the section that refers to moral and religious beliefs, the draft policy states: "Personal beliefs and values and cultural and religious practices are central to the lives of physicians and their patients." This is confusing, and links the profound issue of "personal beliefs and values", which are central to a person's moral actions, with the quite different issue of "cultural and religious practices."

The draft policy continues: "However, as a physician's responsibility is to place the needs of the patient first, 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 that they require. Physicians should be aware that decisions to restrict medical services offered, to accept individuals as patients, or to end physician-patient relationships that are based on moral or religious belief may contravene the Code, and/or constitute professional misconduct."

What precisely does that mean? If a physician cannot in conscience perform or facilitate an action that is requested, will that physician face the threat of being sanctioned for violating a patient's human rights and for professional misconduct? Is that the cost of being true to one's conscience?

When the policy states that "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 that they require," a further question that always needs to be considered is whether the action requested is truly required.

Under the section on professional misconduct on page 6, in the first point the draft policy notes the importance of communicating clearly and promptly. The third point, concerning treating patients with respect, is certainly admirable. The second and fourth points, however, may be interpreted to mean that if a physician cannot do something for reasons of conscience, he or she is expected nonetheless to facilitate that very same action. Those points are problematic, and could be an indirect way of violating the conscience of the physician, and the physician's right to freedom of religion.

It is certainly true that every person must be treated with reverence and respect. All humans have a right to that, and this has been recognized throughout history by religious and secular codes of behaviour. A physician who, in conscience, for moral or religious reasons, is not able to perform some requested action should respond respectfully and courteously: "I am not able to do what you request."

The key point is that it is not (as in cases of unjust discrimination) some characteristic of the person who is making the request that causes the response, for the response would be same regardless of who the patient is; it is the nature of the action that is requested that leads the physician to decline to perform it. To force a physician to facilitate or perform an action that goes against his or her conscience or religious beliefs is unjust to the physician, and likely contrary to law.

It may well be that physicians have good reason to fear that they will be brought before Human Rights Tribunals in our province for following their consciences. If so, the issues will be addressed at that time, case by case, and in any later appeals. I urge the College of Physicians and Surgeons to support a physician who seeks to follow his or her conscience, and to take this opportunity of the preparation of a policy, to provide helpful and practical guidance to physicians on how to deal with the sometimes difficult situations they face, in a way that will allow them to maintain their moral integrity.

Sincerely yours,

+ Thomas Collins

Thomas Collins
Archbishop of Toronto