



**Position Paper #95 – Appendix**

## Canadian Policies and Laws on “Conscientious Objection” in Health Care

Please see Position Paper #95: [The Refusal to Provide Health Care in Canada](#)<sup>1</sup> for an overall discussion, including why so-called “conscientious objection” in health care is unethical and unworkable.

This Appendix describes and critiques the policies of the Canadian Medical Association (CMA) and each College of Physicians and Surgeons across Canada as they relate to the refusal to treat and obligation to refer<sup>2</sup> for reasons due to personal or religious beliefs, in particular for abortion care, but also medical assistance in dying (MAiD).

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<sup>1</sup> <https://www.arcc-cdac.ca/wp-content/uploads/2020/06/95-refusal-to-provide-healthcare.pdf>

<sup>2</sup> For further information, also see the 2013 paper by Shaw and Downie: *Welcome to the Wild Wild North: Conscientious Objection Policies Governing Canada's Medical, Nursing, Pharmacy, and Dental Professions*: <http://onlinelibrary.wiley.com/doi/10.1111/bioe.12057/abstract>

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## CMA Policy on Induced Abortion

The CMA policy on *Induced Abortion*<sup>6</sup> exempts doctors from providing abortions and from referring patients at all:

There should be no delay in the provision of abortion services.

A physician should not be compelled to participate in the termination of a pregnancy.

A physician whose moral or religious beliefs prevent him or her from recommending or performing an abortion should inform the patient of this so that she may consult another physician.

## CMA Code of Ethics and Professionalism

The CMA *Code of Ethics and Professionalism*<sup>3</sup> does not require doctors to either provide or refer for a service they object to based on personal beliefs. It only states:

Section C, Professional Responsibilities:

3. Act according to your conscience and respect differences of conscience among your colleagues; however, meet your duty of non-abandonment to the patient by always

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<sup>3</sup> <https://policybase.cma.ca/documents/policypdf/PD19-03.pdf>

acknowledging and responding to the patient’s medical concerns and requests whatever your moral commitments may be.

4. Inform the patient when your moral commitments may influence your recommendation concerning provision of, or practice of any medical procedure or intervention as it pertains to the patient’s needs or requests.

In 2007, law professors Sanda Rodgers and Jocelyn Downie published a commentary in the *CMAJ*<sup>4</sup> stating that doctors who refuse to do abortions have a duty to refer patients appropriately to someone who can provide the service. This stirred up an anti-choice hornet’s nest, resulting in the CMA’s ethics director publishing a “clarification”<sup>5</sup> of the CMA position, stating that doctors should indicate to patients that “because of your moral beliefs, you will not initiate a referral to another physician who is willing to provide this service (unless there is an emergency).”

This clarification violates the clause in the CMA’s policy on *Induced Abortion*<sup>6</sup> requiring no delay in the provision of abortion services. The ethics director actually reminds doctors of that clause and says they “should not interfere in any way with this patient’s right to obtain the abortion.” But a belief-based treatment refusal and referring to someone who cannot provide the service are both interferences.

All provincial Colleges of Physicians and Surgeons refer to or adapt the CMA *Code of Ethics and Professionalism*. Some also have their own separate code with something related to the refusal to treat, and all now have a separate MAiD standard or policy, including the CMA itself.

## CMA Medical Assistance in Dying Policy

The CMA’s *Medical Assistance in Dying* policy<sup>7</sup> supports “conscientious objection” to MAiD and does not require an effective referral. It states:

Physicians who choose not to provide or otherwise participate in assistance in dying are:

- i. not required to provide it, or to otherwise participate in it, or to refer the patient to a physician or a medical administrator who will provide assistance in dying to the patient; but
- ii. are still required to fulfill their duty of non-abandonment by responding to a patient’s request for assistance in dying.

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<sup>4</sup> <http://www.cmaj.ca/content/175/1/9.full>

<sup>5</sup> <http://www.cmaj.ca/content/176/9/1310.1.full>

<sup>6</sup> <https://web.archive.org/web/20171013143441/http://policybase.cma.ca/dbtw-wpd/PolicyPDF/PD88-06.pdf>

(no longer on CMA website)

<sup>7</sup> <https://policybase.cma.ca/en/viewer?file=%2fdocuments%2fPolicyPDF%2fPD17-03.pdf#search=medical%20assistance%20in%20dying&phrase=false>

## Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying

The Supreme Court of Canada struck down the country’s criminal law against physician-assisted dying in Feb 2015 – *Carter v Canada (Attorney General)*.<sup>8</sup>

In November 2015, the Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying submitted its final report<sup>9</sup> containing key recommendations from eleven participating provinces and territories. Pages 43-45 of the report discuss the “Role of Conscientiously Objecting Health Care Provider.” To summarize, the following recommendations are given:

**RECOMMENDATION 31:** Conscientiously objecting health care providers should be required to inform patients of all end-of-life options, including physician-assisted dying, regardless of their personal beliefs.

**RECOMMENDATION 32:** Conscientiously objecting health care providers should be required to appropriately inform their patients of the fact and implications of their conscientious objection to physician-assisted dying. Any ongoing treatment of the patient must be provided in a nondiscriminatory manner.

**RECOMMENDATION 33:** Conscientiously objecting health care providers should be required to either provide a referral or a direct transfer of care to another health care provider or to contact a third party and transfer the patient’s records through the system described in Recommendation 4.

## Territories

### ***Nunavut***

Nunavut’s physicians adopt the CMA *Code of Ethics and Professionalism*, meaning refusing physicians are not required to provide a referral. The Department of Health has no other publicly available policies or standards of care.

### ***Northwest Territories***

The Northwest Territories Health and Social Services Authority oversees physicians in the territory and there is no physician’s college in the territory. The Authority adopts the CMA *Code of Ethics and Professionalism*, meaning refusing physicians are not required to provide a referral. The Authority has no other publicly available policies or standards of care.

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<sup>8</sup> <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>

<sup>9</sup> <https://novascotia.ca/dhw/publications/Provincial-Territorial-Expert-Advisory-Group-on-Physician-Assisted-Dying.pdf>

### **Yukon**

The Yukon Medical Council adopts the CMA *Code of Ethics and Professionalism*, but also has two additional relevant standards of practice: the *Moral or Religious Beliefs Affecting Medical Care* standard as well as a standard of practice for *Medical Assistance in Dying (MAID)*.

The *Moral or Religious Beliefs Affecting Medical Care* standard<sup>10</sup> requires refusing physicians to ensure that patients are offered timely access to another physician or resources that will provide accurate information about all available medical options:

1. A physician must communicate clearly and promptly about any treatments or procedures the physician chooses not to provide because of his or her moral or religious beliefs.
2. A physician must not withhold information about the existence of a procedure or treatment because providing that procedure or giving advice about it conflicts with their moral or religious beliefs.
3. A physician must not promote their own moral or religious beliefs when interacting with patients.
4. When moral or religious beliefs prevent a physician from providing or offering access to information about a legally available medical or surgical treatment or service, that physician must ensure that the patient who seeks such advice or medical care is offered timely access to another physician or resource that will provide accurate information about all available medical options.

This policy is written in such a way that it does not necessarily require a referral to a physician who will provide MAiD, but rather just “accurate information,” which can imply something quite different for a doctor who is ideologically opposed to MAiD.

The Medical Assistance in Dying (MAID) standard<sup>11</sup> is similar:

There is nothing in the Criminal Code that compels a physician to prescribe or administer MAID. Physicians who have a conscientious objection to medical assistance in dying are not obligated to proceed further through the process map and evaluate a patient’s inquiry for medical assistance in dying. Objecting physicians must provide the patient with timely access to another non-objecting physician or resource with accurate information about all available medical options.

Again, the policy requires the referral to be to a “physician or resource with accurate information about all available medical options.” This is not a requirement for effective referral.

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<sup>10</sup> [Yukon Medical Council, “Moral or Religious Beliefs Affecting Medical Care.”](#)

<sup>11</sup> [Yukon Medical Council, “Standard of Practice: Medical Assistance in Dying \(MAID\).”](#)

## Newfoundland/Labrador College

The College adopts the CMA *Code of Ethics and Professionalism*. Refusers are not required to provide a referral.

The *Standard of Practice for Medical Assistance in Dying*<sup>12</sup> only “recommends” that refusers refer the patient to a physician who can provide MAiD:

### Section 6.3:

The College recommends that a physician who declines to participate in medical assistance in dying offer the patient timely access to another medical professional (or appropriate information resource, clinic or facility, care provider, health authority, or organization) who is:

- (a) available to assist the patient;
- (b) accessible to the patient; and
- (c) willing to provide medical assistance in dying to a patient who meets the eligibility criteria.

## Nova Scotia College

The College created a policy in May 2022 called *Obligations for Services for Patients*,<sup>13</sup> which begins by saying:

Physicians have the right to limit the health services they provide for legitimate reasons of conscience, religion, or scope of practice. When exercising this right, physicians must not discriminate against patients. The rights of patients are paramount, and their interests must prevail.

The College is making unsubstantiated judgments by claiming that physicians have the “right” to limit services for “legitimate” reasons of conscience. There is no such established right, and it is neither possible nor appropriate to determine whether someone’s personal beliefs are “legitimate.” Belief-based care denial is also discriminatory because it mostly affects treatments that only women, gender minorities, and the terminally ill need. If the rights of patients are “paramount” and “must prevail,” allowing physicians to prioritize their own personal conscience or religious interests is a glaring contradiction to this ethic.

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<sup>12</sup> <https://www.cpsnl.ca/web/files/2017-Mar-11%20-%20MAID.pdf>

<sup>13</sup> <https://cpsns.ns.ca/resource/obligations-for-services-for-patients/>

The College does require an “effective referral” similar to Ontario’s requirement:

### **Conscience or Religious Beliefs**

The College recognizes that physicians have the right to limit the health services they provide for legitimate reasons of conscience or religion.

Physicians must:

- a. when choosing to limit the health services they provide for reasons of conscience or religion, do so in a manner that respects patient dignity, ensures access to care, and protects patient safety;
- b. communicate their objection directly and with sensitivity to existing patients, or those seeking to become patients, and inform them that the objection is due to personal and not clinical reasons;
- c. in communicating their objections, not express personal moral judgments about the beliefs, lifestyle, identity, or characteristics of existing patients, or those seeking to become patients. This includes not refusing or delaying treatment because the physician believes the patient’s own actions have contributed to their condition;
- d. not promote their own religious beliefs when interacting with patients, or those seeking to become patients, nor attempt to convert them;
- e. provide information about all clinical options that may be available or appropriate to meet patients’ clinical needs or concerns;
- f. not withhold information about the existence of any procedure or treatment because it conflicts with their conscience or religious beliefs;
- g. provide the patient with an **effective referral**;
- h. not impede access to care for existing patients, or those seeking to become patients;
- i. proactively maintain an **effective referral plan** for the frequently requested services they are unwilling to provide; and
- j. provide care in an emergency, where it is necessary to prevent imminent harm, even where that care conflicts with their conscience or religious beliefs.

The *Medical Assistance in Dying*<sup>14</sup> standard requires an “effective transfer of care”:

- 4.1 No physician can be compelled to prescribe or administer medication for the purpose of medical assistance in dying.
- 4.2 Physicians may be unable to participate in medical assistance in dying for various practical reasons such as lack of availability or lack of expertise. Some physicians may be unwilling to participate for reasons of conscience or religion.
- 4.3 The physician unable or unwilling to participate or to continue to participate in medical assistance in dying must complete an **effective transfer of care** for any patient requesting or eligible to receive medical assistance in dying.

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<sup>14</sup> <https://cpsns.ns.ca/resource/medical-assistance-in-dying/>

- 4.4 In addition to completing an effective transfer of care, a physician unable or unwilling to assess for or provide medical assistance in dying to a patient must, at the earliest opportunity:
  - 4.4.1 advise the patient that he or she is not able or willing to provide medical assistance in dying;
  - 4.4.2 provide the patient with a copy of this Standard;
  - 4.4.3 provide all relevant patient medical records to the physician or nurse practitioner providing services related to medical assistance in dying; and
  - 4.4.4 continue to provide medical services unrelated to medical assistance in dying unless the patient requests otherwise or until alternative care is in place.

## New Brunswick College

Referral is required but not to a doctor who can provide the service, and only if denial or delay of treatment might “cause harm”. But the denial or delay of treatment due to a doctor’s personal values always has the potential to negatively impact the patient’s emotional well-being, as well as risk the patient’s physical health.

The College’s *Code of Ethics*<sup>15</sup> adapts CMA’s *Code of Ethics and Professionalism* with some differences:

12. Inform your patient when your personal values would influence the recommendation or practice of any medical procedure that the patient needs or wants.

If the denial or delay of treatment has the potential to cause harm, the physician is obligated to expedite access to another physician if possible. In any case, the physician cannot obstruct such access.

The *Moral Factors and Medical Care* policy<sup>16</sup> states:

(1) A physician must communicate clearly and promptly about any treatments or procedures the physician chooses not to provide because of his or her moral or religious beliefs.

(2) A physician must not withhold information about the existence of a procedure or treatment because providing that procedure or giving advice about it conflicts with their moral or religious beliefs.

(3) A physician must not promote their own moral or religious beliefs when interacting with patients.

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<sup>15</sup> <http://cpsnb.org/en/medical-act-regulations-and-guidelines/code-of-ethics>

<sup>16</sup> <https://cpsnb.org/en/medical-act-regulations-and-guidelines/guidelines/445-moral-factors-and-medical-care>



(4) When moral or religious beliefs prevent a physician from providing or offering access to information about a legally available medical or surgical treatment or service, that physician must ensure that the patient who seeks such advice or medical care is offered **timely access to another physician or resource** that will provide accurate information about all available medical options. *[emphasis in original]*

The NB College said in 2015 that it has a preliminary MAiD guideline<sup>17</sup> but nothing could be found on the website. A CBC news story dated Dec 15, 2015<sup>18</sup> refers to the guidelines and cites one of them as: “A physician can decline to assist a patient in dying if the physician has a moral objection, but the doctor is required to refer the patient to another doctor.” It’s not clear if this doctor must be a MAiD physician.

An undated summary on the College’s website states:<sup>19</sup>

“The Government of New Brunswick respects the rights of health care providers to decline to participate in medical assistance in dying for moral or religious reasons.”

## Prince Edward Island College

The College’s *Policy on Conscientious Objection to Provision of Service*<sup>20</sup> adopts and quotes the CMA *Code of Ethics and Professionalism*, but also states that a referral is required to someone who can provide “accurate information”. This is not an effective referral and can be used as an escape clause by refusers. Information is not care, and the definition of “accurate information” can mean different things to different physicians, especially for those who believe abortion is morally wrong and never acceptable. For example, there is nothing to stop a doctor from telling a patient that abortion causes breast cancer (it does not) or referring patients to an anti-abortion agency.

### Moral or Religious Beliefs Affecting Medical Care

1. A physician must communicate clearly and promptly about any treatments or procedures the physician chooses not to provide because of his or her moral or religious beliefs.
2. A physician must not withhold information about the existence of a procedure or treatment because providing that procedure or giving advice about it conflicts with their moral or religious beliefs.

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<sup>17</sup> <http://cpsnb.org/en/bulletins/317-bulletin-december-2015?highlight=WyJhc3Npc3RhbmNlIiwZHIpbmciXQ==>

<sup>18</sup> <http://www.cbc.ca/news/canada/new-brunswick/assisted-dying-physician-new-brunswick-guidelines-1.3365447>

<sup>19</sup>

<https://www2.gnb.ca/content/gnb/en/departments/health/patientinformation/content/MedicalAssistanceInDying.html>

<sup>20</sup> <https://cpspei.ca/wp-content/uploads/2019/12/Conscientious-Objection-to-Provision-of-Service-Nov-2019.pdf>

3. A physician must not promote their own moral or religious beliefs when interacting with patients.
4. When moral or religious beliefs prevent a physician from providing or offering access to information about a legally available medical or surgical treatment or service, that physician should ensure that the patient who seeks such advice or medical care is offered timely access to another physician or resource that will provide accurate information about all available medical options.

While physicians may make a personal choice not to provide a treatment or procedure based on their values and beliefs, the College expects them to provide patients with enough information and assistance to allow them to make informed choices for themselves. This includes advising patients that other physicians may be available to see them, or suggesting that the patient visit an alternate health-care provider. Where needed, physicians must offer assistance and must not abandon the patient.

According to the PE College’s 2014 *Regulations*, failing to provide a patient with health care due to personal beliefs is not considered professional misconduct – only failing to tell them about your failure is! (XI, 1c, pg 11<sup>21</sup>):

[Professional misconduct includes:] Failing to advise a patient that the medical practitioner’s moral or religious convictions prevent the provision of medical treatment that may be appropriate for the patient and to advise the patient of the consequences of not receiving such a treatment;

The College’s *Policy on Medical Assistance in Dying*<sup>22</sup> states that physicians can follow their conscience when deciding whether or not to provide medical assistance in dying. Refusing doctors need only inform their patients such as by posting a notice in their office. If they do get a request, however, they must make arrangements – which can be quite at arms-length – to enable access to another physician, nurse practitioner, or service. This is not an effective referral to a MAiD physician.

## Quebec – Collège des médecins du Québec

The College has no explicit requirement for a physician to make a direct referral to someone who can provide the service, although it is implied in its *Code of Ethics of Physicians*. Unfortunately, the ambiguity may cause refusers to interpret the Code as not requiring an effective referral:<sup>23</sup>

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<sup>21</sup> <http://cpspei.ca/wp-content/uploads/2015/08/REGULATIONS-FOR-PEI-Approved-Changes-as-of-May-12014.pdf>

<sup>22</sup> <https://cpspei.ca/wp-content/uploads/2019/11/Medical-Assistance-in-Dying-Policy-Nov-2019.pdf>

<sup>23</sup> <https://legisquebec.gouv.qc.ca/fr/ShowDoc/cr/M-9,%20r.%2017%20/>

24. The physician should inform the patient of personal beliefs that may prevent the physician from recommending or providing professional services that may be appropriate, and advise the patient of the possible consequences of not receiving such professional services. The physician must then offer to assist the patient in finding another physician. (O.C. 1213-2002, s. 24.)

Quebec’s *Code of Ethics of Physicians* appears to be a piece of legislation, unlike in all other provinces, yet it provides for no enforcement other than patient complaints.

The College’s *Medical Aid in Dying*<sup>24</sup> is not available publicly, but Quebec has codified MAiD in law. Under the *Act Respecting End-of-Life Care*,<sup>25</sup> refusers must provide “continuity of care” (Section 50), and also must notify the executive director or delegated person of the institution of each refusal (Section 31), to enable the authority to find a non-objecting physician.<sup>26</sup> In other words, the Quebec MAiD legislation allows a delay in treatment via referral to an administrative third party, instead of requiring physicians to make an effective referral to a physician or agency who can provide the service.

## Ontario College

The College’s Policy 2-15, *Professional Obligations and Human Rights*,<sup>27</sup> requires physicians to provide an “effective referral” to a doctor or agency who can provide the service:

### *ii. Ensuring Access to Care*

Physicians must provide information about all clinical options that may be available or appropriate to meet patients’ clinical needs or concerns. Physicians must not withhold information about the existence of any procedure or treatment because it conflicts with their conscience or religious beliefs.

Where physicians are unwilling to provide certain elements of care for reasons of conscience or religion, an effective referral to another health-care provider must be provided to the patient. An effective referral means a referral made in good faith, to a non-objecting, available, and accessible physician, other health-care professional, or agency. The referral must be made in a timely manner to allow patients to access care. Patients must not be exposed to adverse clinical outcomes due to a delayed referral. Physicians must not impede access to care for existing patients, or those seeking to become patients.

The College expects physicians to proactively maintain an effective referral plan for the frequently requested services they are unwilling to provide.

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<sup>24</sup> <http://www.cmq.org/publications-pdf/p-1-2017-11-20-en-aide-medicale-a-mourir-2017.pdf?t=1528999421734>

<sup>25</sup> <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/S-32.0001>

<sup>26</sup> <http://www.cmq.org/nouvelle/fr/objection-de-conscience.aspx>

<sup>27</sup> <https://www.cpsso.on.ca/Physicians/Policies-Guidance/Policies/Professional-Obligations-and-Human-Rights>

The *Medical Assistance in Dying*<sup>28</sup> policy also requires an “effective referral”, and Ontario has set up a MAiD Care Coordination Service.<sup>29</sup>

12. Consistent with the expectations set out in the College’s Professional Obligations and Human Rights policy, physicians who decline to provide MAiD due to a conscientious objection:

- a. must do so in a manner that respects patient dignity and must not impede access to MAiD.
- b. must communicate their objection to the patient directly and with sensitivity, informing the patient that the objection is due to personal and not clinical reasons.
- c. must not express personal moral judgments about the beliefs, lifestyle, identity or characteristics of the patient.
- d. must provide the patient with information about all options for care that may be available or appropriate to meet their clinical needs, concerns, and/or wishes and must not withhold information about the existence of any procedure or treatment because it conflicts with their conscience or religious beliefs.
- e. must not abandon the patient and must provide the patient with an effective referral. Physicians must make the effective referral in a timely manner and must not expose patients to adverse clinical outcomes due to a delay in making the effective referral.

## Manitoba College

Manitoba adopts the CMA’s *Code of Ethics and Professionalism* in its entirety<sup>30</sup>. This means that refusers are not required to provide a referral.

The College’s *Schedule M – Medical Assistance In Dying (MAiD)*<sup>31</sup> states that refusers can even refuse to make a referral or provide information:

Requirements, Sections B and C:

On the grounds of a conscience-based objection, a physician who receives a request about MAiD may refuse to:

- a. provide it; or
- b. personally offer specific information about it; or
- c. refer the patient to another physician who will provide it.

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<sup>28</sup> <https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Medical-Assistance-in-Dying>

<sup>29</sup> <http://health.gov.on.ca/en/pro/programs/maid/>

<sup>30</sup> <https://cpsm.mb.ca/laws-and-policies/code-of-ethics>

<sup>31</sup>

<https://cpsm.mb.ca/assets/Standards%20of%20Practice/Standards%20of%20Practice%20of%20Medicine.pdf#page=97>

A physician who refuses to refer a patient to another physician or to personally offer specific information about MAiD on the grounds of a conscience-based objection must:

- a. clearly and promptly inform the patient that the physician chooses not to provide MAiD on the grounds of a conscience-based objection; and
- b. provide the patient with timely access to a resource that will provide accurate information about MAiD;

This draconian policy is the result of a troubling law passed unanimously by the Manitoba legislature in 2017, *The Medical Assistance in Dying (Protection for Health Professionals and Others) Act*, Bill 34.<sup>32</sup> Under this law, not only can a medical practitioner or nurse practitioner refuse to provide MAiD, or “aid” in the provision of that treatment, regulatory bodies (including the Manitoba College) are prohibited from making any regulation, by-law, rule, or standard that requires a member of the regulated profession to provide or aid in the provision of MAiD.

Further, the law requires regulatory bodies to dismiss any patient complaint against a member if they denied MAiD for reasons of “conscience”. Therefore, this law completely abandons patients and their families, giving them no rights and no recourse if they suffer harm as a result of being denied MAiD or having their request delayed.

## Saskatchewan College

According to the College’s *Conscientious Objection* policy,<sup>33</sup> objecting physicians must “make an arrangement” for the patient to receive information or care from another physician who can provide the information or care. This is not an effective referral. Further, the requirement to give “full and balanced health information” may not stop refusers from giving inaccurate or incomplete information that they *personally believe* to be “full and balanced”.

*Conscientious Objection* policy (amended January 2020):<sup>33</sup>

### 5.2 Providing information to patients

Physicians must provide their patients with full and balanced health information required to make legally valid, informed choices about medical treatment (e.g., diagnosis, prognosis, and clinically appropriate treatment options, including the option of no treatment or treatment other than that recommended by the physician), even if the provision of such information conflicts with the physician’s deeply held and considered moral or religious beliefs.

The obligation to inform patients may be met by arranging for the patient to obtain the full and balanced health information required to make a legally valid, informed choice

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<sup>32</sup> <https://web2.gov.mb.ca/bills/41-2/pdf/b034.pdf>

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[https://www.cps.sk.ca/imis/CPSS/Legislation\\_ByLaws\\_Policies\\_and\\_Guidelines/Legislation\\_Content/Policies\\_and\\_Guidelines\\_Content/Conscientious\\_Objection.aspx](https://www.cps.sk.ca/imis/CPSS/Legislation_ByLaws_Policies_and_Guidelines/Legislation_Content/Policies_and_Guidelines_Content/Conscientious_Objection.aspx)

about medical treatment from another source, provided that arrangement is made in a timely fashion and the patient is able to obtain the information without undue delay. That obligation will generally be met by arranging for the patient to meet and discuss the choices of medical treatment with another physician or health care provider who is available and accessible and who can meet these requirements. ...

### 5.3 Providing or arranging access to health services

Physicians can decline to provide legally permissible and publicly-funded health services if providing those services violates their freedom of conscience. However, in such situations, they must:

- a. make an arrangement for the patient to obtain the full and balanced health information required to make a legally valid, informed choice about medical treatment as outlined in paragraph 5.2; and,
- b. make an arrangement that will allow the patient to obtain access to the health service if the patient chooses.

The *Conscientious Objection* policy appears to take precedence over the College’s *Guideline: Unplanned Pregnancy*, even though the latter makes a stronger statement requiring the physician to tell the patient where they can access abortion services or to make the necessary referral:<sup>34</sup>

Any physician who is unable to be involved in the further care and management of any patient when termination of the pregnancy might be contemplated should inform the patient and follow the requirements of the College's policy on Conscientious Objection.

In accepting responsibility for medically evaluating and counseling a patient in circumstances in which termination of the pregnancy might be contemplated, the responsible physician:

- 5) Will fully apprise the patient of the options she may pursue and provide her with accurate information relating to community agencies and services that may be of assistance to her in pursuing each option.
  - c) With reference to the option of termination of the pregnancy, the physician should apprise the patient of the availability of abortion services in the province, or elsewhere, in accordance with any current law or regulation governing such services, and should ensure that the patient has the information needed to access such services or make the necessary referral.

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[https://cps.sk.ca/imis/CPSS/Legislation\\_ByLaws\\_Policies\\_and\\_Guidelines/Legislation\\_Content/Policies\\_and\\_Guidelines\\_Content/Unplanned\\_Pregnancy.aspx](https://cps.sk.ca/imis/CPSS/Legislation_ByLaws_Policies_and_Guidelines/Legislation_Content/Policies_and_Guidelines_Content/Unplanned_Pregnancy.aspx)

The patient should be provided the information regarding the nature of termination options, to the best of the physician’s ability.

The Saskatchewan College’s *Medical Assistance in Dying* policy<sup>35</sup> states that “physicians can follow their conscience when deciding whether or not to provide medical assistance in dying” and must arrange “timely access to another physician or resources” or offer the patient “information and advice about all the medical options available.” This is not an effective referral directly to a MAiD physician.

## Alberta College

The College adopts the CMA *Code of Ethics and Professionalism*, but also has a Conscientious Objection policy that requires objectors to refer patients to someone who can provide the service, OR to a resource that will provide accurate information on options. This means that no effective referral is required.

*CPSA Code of Ethics and Professionalism*:<sup>36</sup>

A regulated member must comply with the CMA Code of Ethics & Professionalism adopted by the College in accordance with section 133 of the *Health Professions Act* and the College bylaws.

*Conscientious Objection* (June 2016):<sup>37</sup>

1. A regulated member must communicate promptly and respectfully about any treatments or procedures the regulated member declines to provide based on his/her Charter freedom of conscience and religion.
2. A regulated member must not withhold information about the existence of a procedure or treatment because providing that procedure or giving advice about it conflicts with his/her Charter freedom of conscience and religion.
3. A regulated member must not promote his/her own moral or religious beliefs when interacting with patients.
4. When Charter freedom of conscience and religion prevent a regulated member from providing or offering access to information about a legally available medical or surgical treatment or service, the regulated member must ensure that the patient who seeks such advice or medical care is offered timely access to:

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<sup>35</sup> <http://www.cps.sk.ca/iMIS/Documents/Legislation/Policies/POLICY%20-%20Medical%20Assistance%20in%20Dying.pdf>

<sup>36</sup> <http://www.cpsa.ca/standardspractice/code-of-ethics/>

<sup>37</sup> <http://www.cpsa.ca/standardspractice/conscientious-objection/>

- a) a regulated member who is willing to provide the medical treatment, service or information; or
- b) a resource that will provide accurate information about all available medical options.

The second option to refer to a “resource” that can provide “accurate information” can be used as an escape clause by refusers. Information is not care, and the definition of “accurate information” can mean something different to an anti-choice physician who is convinced that abortion harms women.

The Alberta College’s *Medical Assistance in Dying*<sup>38</sup> Standard of Practice states that refusers “**must** ensure that reasonable access to the Alberta Health Services medical assistance in dying care coordination service is provided to the patient without delay.” This is basically an effective referral, although to a MAiD coordination agency<sup>39</sup> rather than a MAiD physician.

## British Columbia College

The College’s Practice Standard, *Access to Medical Care*,<sup>40</sup> states that provision of information or assistance by objecting physicians is only “expected” not required. Two sentences later, it states that “where needed”, physicians “must offer assistance” and not abandon the patient. This is highly ambiguous. Certainly, no referral is required to someone who can provide the objected-to service. Physicians are free to refer to anyone (or not), including inappropriate parties.

### Conscientious Objection to Providing Care

Physicians are not obliged to provide treatments or procedures to patients which are medically unnecessary or deemed inappropriate based on scientific evidence and their own clinical expertise.

While physicians may make a personal choice not to provide a treatment or procedure based on their values and beliefs, the College expects them to provide patients with enough information and assistance to allow them to make informed choices for themselves. This includes advising patients that other physicians may be available to see them, or suggesting that the patient visit an alternate health-care provider. Where needed, physicians must offer assistance and must not abandon the patient.

Physicians in these situations should not discuss in detail their personal beliefs if not directly relevant and should not pressure patients to disclose or justify their own beliefs.

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<sup>38</sup> <http://www.cpsa.ca/standardspractice/medical-assistance-dying/>

<sup>39</sup> <https://www.albertahealthservices.ca/assets/info/hp/maid/if-hp-maid-coordination-service.pdf>

<sup>40</sup> <https://www.cpsbc.ca/files/pdf/PSG-Access-to-Medical-Care.pdf>



In all cases, physicians must practice within the confines of the legal system, and provide compassionate, non-judgmental care according to the CMA Code of Ethics.

The *Medical Assistance in Dying*<sup>41</sup> Practice Standard has similar problematic language, but it does state that objectors are required to provide an “effective transfer of care” by:

“...advising patients that other physicians may be available to see them, suggesting the patient visit an alternate physician or service.... Where needed, physicians must offer assistance to the patient and must not abandon the patient. While a physician is not required to make a formal referral on behalf of the patient, they do have a duty of care that must be continuous and non-discriminatory.”

## College of Family Physicians of Canada

No statements could be found on the College’s website regarding referrals when a physician refuses to provide a treatment, although the College delves into ethical and conscience issues in its *Guide for Reflection on Ethical Issues Concerning Assisted Suicide and Voluntary Euthanasia*.<sup>42</sup>

The College’s *Ethics in Family Medicine: Faculty Handbook*<sup>43</sup> has an interesting section on page 129:

In 2008, the Ontario Medical Association successfully lobbied the College of Physicians and Surgeons of Ontario to abandon its draft policy, in which physicians who prioritized their personal religious views over the wishes of their patients would be charged with professional misconduct.

Even if provincial medical regulatory bodies choose to exclude such practices from their definitions of unprofessional conduct, physicians who prioritize issues of personal conscience might nonetheless face charges filed through provincial Human Rights Commissions.

Charges of professional misconduct would actually be an appropriate punishment for refusal to treat, since it should be seen as a violation of medical ethics and the professional duty to care for patients and is inherently harmful to patients. However, given the long-standing acceptance of “conscientious objection” in health care and the strength of the social conservative lobby, an incremental approach starting with less severe measures may be more feasible, such as

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<sup>41</sup> <https://www.cpsbc.ca/files/pdf/PSG-Medical-Assistance-in-Dying.pdf>

<sup>42</sup> [http://www.cfpc.ca/uploadedFiles/Health\\_Policy/PDFs/Guidefor%20Euthanasia\\_EN\\_Final.pdf](http://www.cfpc.ca/uploadedFiles/Health_Policy/PDFs/Guidefor%20Euthanasia_EN_Final.pdf)

<sup>43</sup>

[http://www.cfpc.ca/uploadedFiles/Resources/Resource\\_Items/Health\\_Professionals/Faculty%20Handbook\\_Edited\\_FINAL\\_05Nov12.pdf](http://www.cfpc.ca/uploadedFiles/Resources/Resource_Items/Health_Professionals/Faculty%20Handbook_Edited_FINAL_05Nov12.pdf)

financial penalties or regulations allowing health facilities to give preferential treatment to non-objectors.

It is not an answer to say that objectors could still face charges through provincial Human Rights Commissions, as that would require a very courageous and resourceful patient to pursue a formal complaint, make public statements, testify, etc.

## **Royal College of Physicians and Surgeons of Canada**

No statements could be found on the College’s website regarding referrals when a physician objects to a treatment, except for MAiD.

The training document *Conscientious Objection to Medical Assistance in Dying (MAiD)*<sup>44</sup> contains exercises and discusses ethical and legal considerations around the refusal to assist with MAiD, including referrals. Near the end it states:

[Besides Quebec] “There are currently no other provincial or territorial MAiD legislation in Canada. Provincial medical regulatory Colleges outline provinces-specific guidelines for managing conscientious objections to MAiD (See Environment scan chart). To date, many of the guidelines require that physicians who object to assisting patients to die to provide patients with sufficient information and resources to enable informed choice and provide care options. More widely debated, however, is whether objecting physicians have an obligation to provide an effective referral or transfer of care to a willing provider. To address concerns about the availability of MAiD information and services, some provinces have set up referral of transfers of care hotlines and centralized bodies to provide MAiD information to patients.

“Some provinces and territories have also allowed faith-based healthcare institutions to refuse to provide MAiD on the basis of ‘institutional conscience’.”

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<sup>44</sup> <http://www.royalcollege.ca/rcsite/bioethics/cases/section-5/conscientious-objection-medical-assistance-e>

## **Links to Medical Authorities and Colleges**

### **Provincial and Territorial Medical Regulatory Authorities**

[Federation of Medical Regulatory Authorities of Canada](#)

[College of Physicians and Surgeons of Alberta](#)

[College of Physicians and Surgeons of British Columbia](#)

[College of Physicians and Surgeons of Manitoba](#)

[College of Physicians and Surgeons of New Brunswick](#)

[College of Physicians and Surgeons of Newfoundland](#)

[College of Physicians and Surgeons of Nova Scotia](#)

[College of Physicians and Surgeons of Ontario](#)

[College of Physicians and Surgeons of Prince Edward Island](#)

[Collège des Médecins du Québec](#)

[College of Physicians and Surgeons of Saskatchewan](#)

[Northwest Territories - Health and Social Services](#)

[Nunavut – Department of Health](#)

[Yukon Medical Council](#)

### **National Certification**

[College of Family Physicians of Canada](#)

[Medical Council of Canada](#)

[Royal College of Physicians and Surgeons of Canada](#)

### **Government of Canada**

Health Canada ([English](#))

Santé Canada ([français](#))

Public Health Agency of Canada ([English](#))

Agence de la santé publique du Canada ([français](#))