

Assisted death referral may violate doctors' rights: lawyer

BARBARA SILVERSTEIN

SPECIAL TO THE CJN

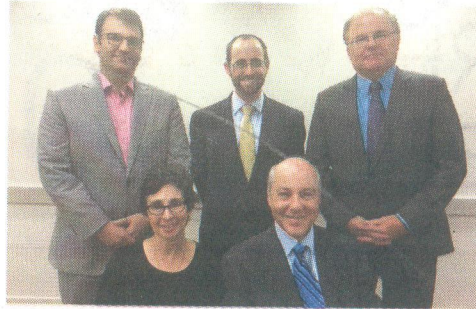
The College of Physicians and Surgeons of Ontario's (CPSO) demand that all physicians, regardless of their religious and moral convictions, make referrals for physician-assisted death (PAD) may violate doctors' religious rights under the Charter of Rights and Freedoms, says lawyer Charles Wagner.

Wagner was one of five people who addressed the issue of mandatory physician referral in Ontario, called "effective referral," at a medical town hall held at Shaarei Shomayim Synagogue on Sept. 20.

The other speakers were Dr. Janice Halpern, a psychiatrist and University of Toronto professor; Rabbi Chaim Strauchler, Shaarei Shomayim's spiritual leader; Noah Shack, director of policy at the Centre for Israel and Jewish affairs (CIJA); and Larry Worthen, executive director of the Christian Medical and Dental Society and one of the leaders of the Coalition for HealthCARE and Conscience.

While there were only about a dozen people in attendance, Halpern noted that a meeting on PAD earlier this year drew about 300 people.

She said that since the June passage of a



Front, Dr. Janice Halpern and Charles Wagner, and back, from left, Noah Shack, Rabbi Chaim Strauchler and Larry Worthen

BARBARA SILVERSTEIN PHOTO

new federal law legalizing PAD, the CPSO has required all physicians to make referrals for PAD, even if doing so conflicts with a doctor's religious or moral beliefs. "Our college is putting physicians in an untenable situation."

She noted that of all the jurisdictions in the world that have legalized PAD, Ontario and Quebec are the only places that force physicians to make PAD referrals. Patients elsewhere can self-refer.

The obligation to make an "effective referral" in a "timely manner" applies to all Ontario physicians, Halpern said, because the college does not consider referral to be

a form of medical assistance.

But there's a double standard regarding the interpretation of assistance: regarding female genital mutilation, the CPSO interprets "effective referral" as assistance, which is prohibited, she said.

But unlike the Ontario college, the Canadian Medical Association (CMA), a voluntary advocacy association for doctors, does not force physicians to provide any PAD assistance, including referrals.

Halpern also noted that the CMA and federal government can't intervene in this area, because health care is a provincial matter.

Wagner said the new federal PAD law itself doesn't compel physicians to provide assistance or make a referral.

Forcing physicians to participate in PAD at the referral level can be viewed as coercion if such action is contrary to their religious or moral beliefs, he said.

"Physicians of faith have rights and patients have a right to PAD. The Charter must reconcile patients' and physicians' rights."

Rabbi Strauchler said assisting someone in taking a life is prohibited by Jewish law and is equivalent to murder according to Halachah.

However, he said doctors who might be disciplined by their medical colleges if

they refuse to provide an effective referral need not give up their profession "if a gun is pointed to your head."

"It's not an ideal situation, when we are forced against our will. Jews have lived in many situations that are not ideal."

Worthen, executive director of the Christian Medical and Dental Society, which represents 110 health-care facilities and more than 5,000 physicians across Canada, said his group objects to the referral of patients to a third party for PAD. His coalition is also advocating for patients to have direct access to such a service.

He said that the attorney general of Ontario recently intervened in a legal case and sided with the CPSO.

"The eight other provinces offer a couple of approaches to protect conscience. The government [of Ontario] must demonstrate that there is a justification for encroaching on civil liberties."

Representing CIJA, Shack said there are competing views within the Jewish community on how PAD should be handled. "CIJA has championed alternative models to effective referral that would balance the rights of physicians and patients without degrading patient care or access to what is now a lawful medical procedure." ■