

Statement



HALCO
HIV & AIDS Legal Clinic Ontario



CANADIAN PROFESSIONAL ASSOCIATION
FOR **TRANSGENDER HEALTH**
ASSOCIATION PROFESSIONNELLE CANADIENNE
POUR **LA SANTÉ TRANSGENRE**

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HIV AND HUMAN RIGHTS ORGANIZATIONS APPLAUD COURT RULING ON DOCTORS CLAIMING RIGHT TO DISCRIMINATE BASED ON RELIGIOUS BELIEFS

TORONTO, January 31, 2018 — The Canadian HIV/AIDS Legal Network, the HIV & AIDS Legal Clinic Ontario (HALCO) and the Canadian Professional Association for Transgender Health (CPATH), welcome today’s decision by Ontario’s Superior Court of Justice (Divisional Court) regarding whether doctors can put their personal religious beliefs ahead of patients’ rights to health care.

The Court rejected the argument by a number of physicians that the *Canadian Charter of Rights and Freedoms* gives them a legal right to refuse to provide their patients with meaningful access to lawful, clinically appropriate and often medically necessary health services—simply on the basis that providing such health services did not align with their personal religious beliefs. The Court also confirmed that all Ontarians have a right to equitable access to medical services available through Ontario’s health care system.

Specifically, the doctors who brought this case challenged the minimal professional requirement that, in circumstances where they object personally to providing a certain procedure or prescribing certain medicines, they must provide an “effective referral” to another practitioner who is willing to provide the service.

As we argued before the court, it is unreasonable for physicians to claim a right to put their own religious beliefs ahead of providing non-discriminatory and dignified access to health care for their many patients.

We were compelled to intervene in this case because legalizing such discrimination would have set an incredibly dangerous legal precedent with widespread, life-changing and damaging implications for people living in Ontario and the rest of Canada. Women, LGBTQI people, people living with HIV, and people living with disabilities, for example, would be most immediately and seriously affected if physicians are given the legal “right” to refuse care—and even to refuse to refer a patient for care by another physician—because of their personal, religious views. This is the antithesis of respect for patient autonomy and dignity, values that must be central in our law and in the practice of medicine.

The doctors who brought this case challenged two policies of the College of Physicians and Surgeons of Ontario which provide guidance to Ontario physicians on standards for the delivery of health services. One policy addresses the specific issue of medically-assisted dying; the other is the College’s general policy on physicians’ professional obligations and human rights.

Today's ruling is a modest victory for justice and for human rights. The College, the provincial government and patients' rights organizations need to ensure that all physicians respect these policies, and that patient autonomy and dignity are protected.

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For more information:

Janet Butler
Director of Communications and Advocacy
Canadian HIV/AIDS Legal Network
+1 416 595-1666 ext. 227
jbutler@aidslaw.ca