

The “Hijacking” of Moral Conscience from Pharmacy Practice: A Canadian Perspective

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Canadian pharmacy has shifted from a products-focused, pharmacist-focused profession toward one that is primarily patient-centered and outcomes-focused.¹ Thus, pharmacists today play an expanded role in direct patient care, leading to a closer bond between pharmacist and patient, but also to an increased probability of ethical or moral conflict, and to the need of ensuring that the rights of everyone involved in such conflicts are properly addressed. Concurrently, changes in pharmacy codes of ethics and policy statements have led to the prioritizing of patient autonomy at the expense of a conscience- and virtues-driven professionalism of some practitioners that would encompass freedom

of ethical and moral belief and expression. In the words of one member of the British Columbia College of Pharmacists Ethics Advisory Committee, “the old code of ethics had more to do with how pharmacists should treat themselves than how they should treat their patients,” a so-called “paternalistic approach” that has now “yielded to the modern era of patient autonomy.”²

This axiomatic statement begs the following questions: Do some pharmacists have to “give up” who they are and what they believe to serve the public? Is there any room for ethical diversity?³ If, as stated in the official bulletin of the British Columbia College of Pharmacists,⁴ “the ethics of the individual pharmacist cannot take precedence over the ethics of the profession as a whole,” upon whose principles

The new vision for Canadian pharmacy practice, as outlined in the Blueprint for Pharmacy, drives for a more patient-centered and outcomes-focused approach to patient care than ever before. As of 2007 and 2009, pharmacists in Alberta and British Columbia, respectively, have the ability to adapt and renew existing prescriptions without prior approval from the physician. This necessarily puts a greater emphasis on the practice of pharmaceutical care, entailing the formation of a closer professional, more personalized bonding between pharmacist and patient. No one, however, seems to be paying much attention to the greater moral and ethical responsibility of pharmacists as they take on expanded roles. Not only are the greater expectations not coupled with greater respect for the pharmacist’s freedom of conscience, but provincial jurisdictions across the country vary in degrees of tolerance toward pharmacists whose views differ from those held by the licensing authorities.

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should the ethics of the profession as a whole be based, and is not collective responsibility a false utopia? Finally, do pharmacy college/board codes reflect the fact that pharmacists are free, responsible moral agents, or have they been “hijacked” by the ideology of choice and convenience under the guise of patient autonomy, thus limiting the richness that ethical diversity and dialogue bring to pharmacy practice?

The Trumping of Conscience by Patient Autonomy

Both international and national human rights treaties have consistently upheld the rights to freedom of conscience of all peoples; however, the recent upsurge of ambiguously worded pharmacy codes of ethics mandating continuity of care against one’s conscience can lead us to

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believe that these basic rights can be trumped by appeals to patient self-determination. These codes do not take into account the fact that freedom of conscience is not whimsical license. Rather, it is a right that is innate because it carries a corresponding duty: no one can take responsibility for the actions of another. A pharmacist is ethically and professionally responsible for ensuring that a prescription drug is appropriate and the dosage is correct. Filling or transferring a prescription knowing that these conditions are not met may not make the pharmacist liable if the physician is consulted, but it does not take away individual moral responsibility. The fact that a prescription can be legal but not ethical should not come as a surprise, as legality does not always make something right. Thus, a pharmacist may be held liable for refusing to fill a legal prescription he/she deems unethical. A pharmacist would certainly be held both legally and ethically accountable for giving a patient a poisonous substance, even if the patient begged for it. While continuity of care and respect for patient autonomy are important, it is not true that they can always be respected. Think of the drug addict who presents a legal prescription for yet another narcotic to be filled far too early. Are pharmacists obliged to mindlessly fill all legally prescribed products? Should they be forced to provide drugs for nontherapeutic purposes, such as execution by injection or euthanasia? If a patient insists on taking an overdose or a contraindicated medication, is a pharmacist obliged to comply by dispensing that medication?

Code of Ethics or “Yoke” of Ethics?

Moral conscience urges a person to do good and avoid evil. Conscience allows the person to evaluate the morality of his actions. The separation of moral conscience from professional conscience invariably leads to many inconsistencies. In fact, codes of ethics that undermine moral conscience are fraught with these. While most highlight the importance of professional integrity, they make practicing it rather difficult. For example, the Code of Ethics of the International Pharmaceutical Federation recommends that “pharmacists ensure the continuity of provision of pharmaceutical services in the event of conflict with personal moral beliefs....”⁵ In contrast, the American Pharmacists Association⁶ supports the idea of pharmacists being allowed to step away from participating in an activity to which they have moral objections.⁷ This came about as a result of Oregon’s law regarding physician-assisted suicide.

In Canada, the National Association of Pharmacy Regulatory Authorities developed the Model Statement Regarding Pharmacists’ Refusal to Provide Products or Services for Moral or Religious Reasons.⁸ Its goal was to “strike a balance between the individual rights of pharmacists and professional responsibilities to their patients,” citing as its instigation the “arising issue” of the “use of prescribed

drugs for emergency contraception and [although not yet legal in Canada] euthanasia.” The policy, however, shows little respect for the pharmacist’s professional sense and freedoms of conscience and expression, be they religiously informed or not. It mandates that objections be conveyed to the pharmacy manager, not to the patient, and that referrals be made while “minimizing inconvenience or suffering to the patient or patient’s agent.” The same policy does not appear to apply to the provision of non-contentious products or services. For example, not all pharmacies carry all types of home healthcare products or herbal remedies that a patient may want or require, and neither is a pharmacist obliged to make these available.

A deeper look at Canadian pharmacy reveals a disturbing trend. In British Columbia the College of Pharmacists recognizes the effort of the pharmacist to establish trust and respect with the patient as an indicator of good practice. This trust is established not only by means of competence in the science of therapeutics but also by the “covenantal” relationship that is established between pharmacist and patient over the years. And yet, in cases of conflict with anything that could be considered one’s “personal” moral or ethical beliefs, the British Columbia College of Pharmacists’ code of ethics Value VIII⁹ obligates pharmacists to refer patients to another pharmacist, and then to dispense the medication if no one else is available to do so. Not taken into account is the reality that there are many reasons why a pharmacist would not dispense a legally valid prescription; for example, if the prescription is an overdose, if the patient is allergic to that drug, or other contraindications. In addition, policy number 35¹⁰ requires that the pharmacist not communicate the reasons for his objections to either the patient or physician. While the intent is to minimize confrontation, this cannot be done by “muzzling” pharmacists, preventing them from explaining as they see fit the reasons for their actions or omissions.

Saskatchewan’s College of Pharmacists¹¹ goes so far as to warn against “preaching,” stating that it would be “improper and unethical conduct if the pharmacist used the opportunity to promote his/her moral or religious convictions, or engage in any actions, which demean the patient” and that “objecting pharmacists cannot abandon their ethical duty of care to the patient, and respect of the patient’s right of autonomy to make informed decisions to receive pharmacy products and services based on objective and accurate information.” While the above statements appear to hold some truth, they wrongly assume that the sharing of information or views that differ from those of the College is inaccurate and demeaning. Surely, it is not the sharing of convictions, but the imposition thereof, that is most demeaning.

Additionally, 4 licensing authorities (Saskatchewan,¹¹ New Brunswick,¹² Newfoundland,^{13,14} Prince Edward Is-

land¹⁵) state that, when the product is provided by an alternative means, “suffering or inconvenience to the patient must be minimized.” While no pharmacist intends to make anyone suffer, the democratically protected right to freedom of conscience and religion cannot be usurped by an inconvenience or the emotional trauma of the receiving party. Should the case be that of a patient requesting euthanasia drugs, many valid arguments can be made against alleviating suffering by helping the patient end his life.¹⁶ It is also true that patients are inconvenienced every day in many ways, not always due to moral conflict, but simply because not all products or services are always readily available. Yet when it comes to moral conflict, the difference is that while the professional is being asked to offer material assistance in an action he thinks is morally prohibited, thus making him feel he is doing something wrong and harming his own conscience, the receiving party is not suffering the same guilt pangs.

To date, only 4 (Saskatchewan,¹¹ Alberta,¹⁷ Manitoba,¹⁸ Nova Scotia¹⁹) of 9 Canadian Anglophone provinces do not enforce mandatory dispensing or referral that goes contrary to the pharmacist’s moral conscience.

Whose Public/Professional Morality?

Popular today is the notion that public ethics should remain “neutral,” while private ethics (which is equated to personal morality) should have no social relevance.^{20,21} Also popular is the notion that there is an imposition of values when a minority of healthcare professionals refuse to provide services that are perceived as rights by some (ie, right to die, right to have a child, right to not have a child). Although healthcare professionals who object to providing such services are not stopping colleagues from providing the wanted services, as a general measure against fear of hindered access, codes of ethics are set up so that each medical professional must now give up being a single moral entity, but live via a personal private conscience at home and via a public, “neutral,” “guidelines-driven,” pragmatic conscience at work—a difficult feat indeed!

Furthermore, claims to moral neutrality by the state/professional associations are an obvious sham. Experience shows that preconceived ideas and ideologies do have an impact on law and policy makers. A blatant illustration is that of Illinois governor Rod Blagojevich, who, following his own ideology and in violation of state laws, issued a 2005 executive order forcing all retail pharmacies “without delay” to provide levonorgestrel emergency contraception.^{22,23} While the ruling resulted in immediate access for a comparatively small number of women, it also resulted in court battles and in dozens of pharmacists being fired or suspended for refusing on ethical or religious grounds to dispense the drugs.

In 2006, the governor of Washington adamantly opposed any kind of legal protection for the rights of conscience of pharmacists and threatened to replace members of the Pharmacy Board who supported a conscience clause.²⁴ The Freedom of Choice Act, reintroduced in April 2007, has only served to fuel fears of medical professionals who do not wish to be forced to provide services that go against their deeply held belief that all human life is inviolable. On December 18, 2008, the Department of Health and Human Services responded to these fears by issuing a regulation that would afford some protection of rights of conscience for healthcare professionals working in federally funded institutions. In January of 2009, the US government was sued by 7 states claiming that the federal rule would trump state laws protecting women’s access to birth control, reproductive health services, and emergency contraception.²⁵ Finally, on March 10, 2009, under a new Administration, the Department of Health and Human Services proposed a rescission of the above regulation pending reevaluation of its necessity.²⁶ Concerned pharmacists and other healthcare professionals can submit their comments by April 9, 2009.

The Canadian Pharmacy Association presented a Government Brief to the Senate Committee studying euthanasia and assisted suicide, which stated, “From an ethical perspective, should euthanasia be legalized, the pharmacists we consulted feel that the right to choose must be safeguarded at all levels of the decision making process and that the right to choose must be respected. The physician, the pharmacist, and the nurse should have the right to take part or not take part in assisting a person once he or she has reached a decision to put an end to his or her life. Should they elect not to participate, their duty to their patient requires that they refer them to health professionals who will assist them.”²⁷

Although the brief states that the Canadian Pharmacists Association has not taken a position on this issue, the fact is that it has taken a very clear position on the duty to refer. I would also argue that not taking a position is already taking a position, as lack of firm opposition to euthanasia leads to its support by default, a clear indication that a “neutral” position is not possible. In this case, the Association is clearly upholding one side of a debate that is understood to have 2 valid sides—unless, that is, the ideology of choice at all costs has somehow trumped the conscience of some practitioners and beliefs that our own Constitution safeguards as a “fundamental right and freedom.”

Most recently, Ontario’s Human Rights Commission instigated a strong debate about removal of physicians’ rights to freedom of conscience and religion.²⁸ The very commissions that are supposed to uphold and protect the basic rights of citizens are instead fostering discrimination.²⁹

Protection of Conscience

Protection of conscience is crucial if we are to foster a society in which individuals are free to dissent from popular opinion or state/board laws should these clash with their moral convictions. This is especially important in modern Western democracies, where the concept of majority rule can lead to the mistaken notion that "might" makes "right"; thus, if professional colleges or boards were genuinely concerned with the protection of conscience of their members, surely they would take on a more active role in providing lists of pharmacies that provide certain types of services and their Web site could provide such information, readily accessible to all. This could help avoid individual referral or dispensing problems that would otherwise violate the conscience of the professional.³⁰

In Canada, various attempts have been made over the years to implement more specific conscience legislation.³¹ However, unlike our neighbors in the US, who have traditionally enjoyed the most well-developed legislations and jurisprudence worldwide on matters of conscientious objection,³² the attempts in Canada have been largely unsuccessful. In the US, it was the Supreme Court's ruling in *Roe v Wade* on a woman's right to privacy that sparked the creation of all sorts of conscience laws. Yet in spite of these laws, some medical professionals across the US have been harassed over the years regarding matters of conscience.

Why Should Pharmacists be Concerned?

While court cases regarding policies on conscience clauses affecting healthcare workers are rife in the US, the policies have yet to be challenged in Canadian courts. In British Columbia, some pharmacists have repeatedly petitioned the College of Pharmacists to make amendments to Value VIII of the code of ethics.³³ This culminated in a presentation to the Ethics Advisory Committee in May 2007.³⁴ After reviewing information from other Canadian jurisdictions and from the US, the Committee found "no compelling reason to adjust the wording of the existing Code of Ethics Value VIII."³⁵ As the code does not reflect Canadian human rights law, its retention shows a lack of deep reflection of the issues at hand and its possible legal consequences for both pharmacists and their employers. In Alberta, it was not until after a pharmacist was suspended from her job for refusing to dispense drugs to which she had a moral objection that the College backtracked and changed its policies, rescinding its mandatory dispensing and referral of morally objectionable products.³⁶ (Pharmacist Maria Bizecki was reinstated in her workplace after legal proceedings, having reached an agreement with her employer and with the Alberta Col-

lege of Pharmacists that allows her to refuse to dispense abortifacient drugs and contraceptives, which would be in violation of her morals.)

In British Columbia, the code of ethics is binding in law.³⁷ Although practice policies such as policy number 35¹⁰ are less binding than regulations or bylaws, they are more than just advisory. And so, presumably, pharmacists can be reprimanded for acting coherently with their conscience, following what they genuinely believe to be for the good of the patient.

Summary

The introduction of discriminatory legislation into North American pharmacy practice that began in the mid-1990s is a sign of the times. I believe it to be a deviation in the moral compass of the pharmacy profession and of the medical professions as a whole, sparked by an ideologically orchestrated effort to medicalize lifestyle choices of a non-lifesaving or non-life-preserving nature. Ensuing policies promote patient choice above all else and take no account of the democratically protected rights of freedom of conscience, religion, and expression of all individuals.

While Canadian pharmacy regulatory boards consider themselves to be world leaders in promoting professionalism and pharmaceutical care in pharmacy practice, most have failed to properly discharge their duty of care to pharmacists who seek to live a holistic private and professional life that is, for them, ethically coherent and unified. By their prescriptive legislation, these boards take no note of Canadian and international human rights laws and impede individual pharmacists as they seek to practice their profession with their personal conscience-informed freedom. As moral agents who practice a medical profession, pharmacists do not seek to thwart access to needed health care, but to discharge their duties with integrity and with a full sense of responsibility. Fundamentally, they want to live coherently as unified persons, not fragmented personalities living via different mores in different settings. Their professional realization, which forms part of a truly happy and peaceful life, and their ability to genuinely care for the welfare of their patients, can be achieved only by living a truly integrated life, wherein they say what they believe, do what they say, and keep their word, all in accord with their individual conscience and with ethical dignity and freedom.

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El "Secuestro" de la Conciencia Moral de la Práctica de Farmacia:
Una Perspectiva Canadiense

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EXTRACTO

La nueva visión para el ejercicio de farmacia en el Canadá, según lo esbozado en el Anteproyecto para Farmacia, lleva, más que nunca antes, a un acercamiento al cuidado del paciente más centrado en el paciente y enfocado en los resultados. Desde el 2007 y el 2009, los farmacéuticos en Alberta y Colombia Británica respectivamente, tienen la capacidad de adaptar y renovar prescripciones existentes sin la aprobación previa del médico. Esto necesariamente pone un énfasis mayor en la práctica de cuidado farmacéutico, conllevando la formación de un vínculo profesional más estrecho y personalizado entre el farmacéutico y el paciente. Nadie, sin embargo, parece estar prestando mucha atención a la mayor responsabilidad moral y ética de los farmacéuticos según estos asumen roles más amplios. No sólo las mayores expectativas no están asociadas con mayor respeto por la libertad de conciencia del farmacéutico, sino que las jurisdicciones provinciales a través del país varían en los grados de tolerancia hacia farmacéuticos cuyas opiniones discrepan de aquellas sostenidas por las autoridades que conceden y regulan la licencia para el ejercicio de la práctica.

Traducido por Brenda R Morand

Détournement de la Conscience de la Pratique de Pharmacie:
Perspective Canadienne

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RÉSUMÉ

La nouvelle vision de la pratique de la pharmacie au Canada, tel que décrite dans la dernière épreuve (Blue Print) de la pharmacie s'oriente vers des soins centrés sur le patient et sur l'atteinte de résultats. Depuis 2007 et 2009, les pharmaciens de l'Alberta et de la Colombie Britannique respectivement ont la capacité d'adapter et de renouveler les prescriptions existantes sans avoir obtenu au préalable l'approbation du médecin. Ceci, nécessairement, met l'emphase sur la pratique des soins pharmaceutiques et oblige le développement de relations professionnelles étroites et plus personnalisées avec le patient. Par contre, personne ne semble porter attention à la plus grande responsabilité morale et éthique que ces plus grands rôles lui procurent. Non seulement les attentes des pharmaciens ne sont pas couplées à un plus grand respect de la liberté de conscience mais également les juridictions provinciales varient énormément à travers le pays dans leur degré de tolérance envers les pharmaciens dont la vision diffère de celle des autorités.

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