



Voting ourselves rights: a critique of the Canadian Medical Association Charter for Physicians

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On Sept. 8, 1998, ignoring warnings from within and without that adopting a statement of professional rights would be seen as self-serving, the General Council of the CMA approved the final draft of a “Charter for Physicians.”¹ Complementing the responsibilities for physicians laid out in the CMA’s Code of Ethics,² the Charter sets out a series of rights (“needs” in the parlance of the document) that physicians require in order to “provide the best health care possible.”¹ Not surprisingly, the document was greeted with skepticism by many who questioned the wisdom of a powerful professional group voting itself rights and who perceived the Charter as a threat to the dignity, values and integrity of the profession.³

In the current political and economic climate, it is understandable that physicians would demand a statement of rights. Efforts by governments to reform health care systems and curtail public spending are having a dramatic impact on the resources available for patient care and have placed limits on physician practice and earnings. Simultaneously, patients are becoming educated consumers of health care and have high expectations of choice and outcome. As a result of these competing demands, demoralization has become widespread within the profession. The remarks by Dr. Dan MacCarthy cited in the *Globe and Mail* capture the mood of many physicians: “This document was created to enshrine ... rights and to share with the public, our patients, what circumstances are necessary to practise our profession. ... People are afraid to stand up for our rights. Our rights are essential.”³

Although many physicians may believe that a statement of physician rights is needed, in our view the Charter suffers from both substantive and procedural failings. To begin with, the stated purpose of the document is inconsistent with its content; this brings into question the true purpose of the Charter. According to the preamble, the document “expresses what Canadian physicians need” to provide their patients with “the best health care possible,” yet a number of the articles appear to be in conflict with this goal. Consider the following examples.

“In order to achieve the best patient–physician relationship, Canadian physicians need ... to be able to refuse to accept a patient, or to discontinue a professional relationship, except in emergency situations and consistent with the provisions of the CMA’s Code of Ethics” (article 6).

This is classic doublespeak. For physicians to establish, develop and maintain “the best patient–physician relationship,” which the Charter defines as a relationship “based on trust, honesty, confidentiality and mutual respect,” they must be free to turn away or abandon patients. By analogy, freedom to divorce is what allows couples to achieve the best marital relationship.

The Charter also demands for physicians “reasonable remuneration for the full spectrum of professional services, including administration, teaching, research and committee work” (article 16) and “reasonable consideration and compensation when facilities and programs are discontinued, reduced or transferred” (article 17). One expects such claims from unions, whose job it is to look after the financial (and other) interests of their members. Some might argue that since the CMA is in effect a professional union, it should not be criticized for promoting the interests of its members in this way. Perhaps, but then it is disingenuous of the CMA to frame the Charter as an initiative that is about providing patients with the best health care possible.

The Charter also states that “[i]n order to preserve and promote a quality health care system” physicians need “to be free to associate for collective bargaining, and to be formally represented in negotiations on issues of health system reform, service delivery, payment, funding, and terms and conditions of work” (article 28). The assertion that physicians should be actively involved in the health reform process is not in dispute. One would hope, however, for physician involvement that is not so obviously self-serving.

These articles, taken with others concerning the right to access health care training and delivery systems and the right to procedural fairness in any disciplinary process, suggest that the Charter is really about entrenching rights and power for physicians.

Some physicians may be untroubled by this, arguing that the Charter has a dual purpose: to ensure high-quality medical care for patients, *and* to protect the status, authority and rights of physicians in our society. This latter surreptitious objective is morally problematic. In the common understanding of rights within a community, rights are invoked either as a statement of that to which all members of a community are entitled (e.g., a right to vote) or as special entitlements required as a matter of social justice for members of oppressed groups (e.g., affirmative action strategies). A



statement of rights by a powerful and privileged group such as physicians is at face value suspect. Furthermore, it is worth emphasizing that the Charter makes moral claims on patients, hospitals and governments, none of whom were involved in the process of writing or approving the document. Without the integral involvement of those upon whom physicians would place the burden of such claims, the Charter has no moral force in a free society.

The problems that physicians face in day-to-day practice warrant a response from the profession. We have argued, however, that the Charter is morally indefensible. In the alternative, how ought physicians individually and as a profession respond? Answers to this question will depend, of course, on who is asked. In our opinion, a 3-fold strategy is required: an endorsement of modern health care as a team endeavour, a rejection of efforts to further commodify medicine and a renewed commitment to medical practice as altruistic service to the community.

The lesson of the Charter for Physicians is a plain but bitter pill to swallow. It is folly for doctors to *demand* respect and special status; these things must be earned.

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Dr. Weijer's research is supported by a Scholar Award and Operating Grant from the Medical Research Council of Canada, as well as by a Clinical Scholar Award from Dalhousie University.

Competing interests: None declared.

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