



Leak of abortion information creates turmoil at Foothills

Richard Cairney

The Calgary Regional Health Authority (CRHA) has won a court judgement preserving the private, confidential nature of documents concerning genetic terminations of pregnancy that were leaked to *Alberta Report* by one or more angry pro-life nurses. The self-described right-wing, Christian-based magazine lambasted Calgary's Foothills General Hospital and some of its doctors in a series of articles published in April and May.

Now, having obtained a legal decision barring the use of private information contained in those documents but with the information already in the hands of the magazine, the health authority finds itself before the court of public opinion and facing a public-relations nightmare. It is now working to calm staff and patients, provide improved security for confidential information and to convince the public that proper patient care, and not mad science, is being practised within the region.

The controversy erupted after one or more members of the nursing staff at Foothills leaked confidential documents to the magazine. The resulting articles were filled with loaded language — “genetic terminations unquestionably constitute murder” and “the abortionist might well be guilty of culpable homicide” are 2 examples. The documents, and interviews with the anonymous staff members, detailed concerns over genetic terminations. In its May 3 edition, the magazine published a cover story alleging that some newborns were wrestled from the womb alive and then callously left to die without care; the articles further suggested, citing the leaked documents, that the genetic terminations are conducted in the hospital's maternity ward and that nursing staff are given no choice but to participate in the procedures, regardless of their religious or moral beliefs.

The article compared the “genetic terminations” with the eugenics movement of the 1930s, and included a legal opinion from an Edmonton lawyer who suggested that failure to provide care for a fetus that emerged live during such a procedure constituted murder.

Fallout from the articles was enormous. The ensuing public outcry sparked an investigation by the Calgary Police Department's Family, Youth and Violent Crime Section to determine whether abortions for genetic reasons involve criminal activity. In late July, police announced they had found no evidence of criminal wrongdoing. One officer told the *National Post* that “we are investigating faceless allegations from people who won't back up their claims

with facts.” In the meantime, the health authority invited the College of Physicians and Surgeons of Alberta to review genetic-termination procedures in Edmonton and Calgary, and pro-life groups expressed outrage that they were being performed. Meanwhile, doctors, nurses and patients whose names appeared in the leaked documents worried about confidentiality issues and wondered about their own personal safety following publication of the article.

Roman Cooney, chief public affairs officer at the CRHA, says the safety of personnel may indeed be at risk because the names of medical staff listed in the documents have, in turn, been sent by the magazine to pro-life groups. “We have learned . . . that the documents had been sent to 96 organizations and individuals,” says Cooney. “We are very concerned.”

Given *Alberta Report's* right-wing editorial slant, which it freely admits to, and the fact that Pro-Life Alberta president Joanne Hatton, one of the sources quoted in the May 3 cover story, is the wife of *Alberta Report* editor-publisher Link Byfield, the possibility of leaks to the antiabortion community are being taken seriously by the hospital's staff.

Staff now in danger?

“We've heard them [*Alberta Report*] allege that we are committing murder,” says Dr. John Jarrell, the authority's chief medical officer. “The rhetoric has been pretty severe.”

And given that 3 Canadian doctors who perform abortions have been shot by snipers since 1994, medical staff at the Foothills are horrified that names of hospital staff have been leaked. “They're furious,” says Jarrell. “We have arranged for special liability insurance for the physicians involved.”

Genetic terminations are carried out, he said, when tests show an infant will be born with genetic conditions “not compatible [with] life.” These include renal agenesis, thanatophoric dysplasia and anencephaly.

Patients who undergo the procedures are equally upset about the leak. Jarrell says angry patients began calling the authority's freedom-of-information and privacy officer as soon as the news was published.

The potential audience for the information is considerable. *Alberta Report* has a paid subscription list of approximately 66 000 people, mostly in Alberta and British Columbia, but it reaches subscribers across Canada. Audited



circulation figures indicate that it has a readership of almost 400 000 people a week.

In the courts, the health authority argued that use of information contained in the leaked documents could only be used to intimidate, embarrass or compromise patients and staff, and that a public debate on the issue could still be conducted without information contained in the documents. The authority won an injunction preventing the magazine from using some information in the leaked documents after the Alberta Court of Queen's Bench ruled that the leak represented a "flagrant breach" of the Hospitals Act.

The court sternly reminded the magazine that the issue at hand is whether patients' and doctors' rights to privacy outweigh the public's right to know what goes on in a hospital. It ruled that the answer favours privacy for patients and their doctors.

However, the issue was still viewed by some as a matter of free speech and freedom of the press. "The media have tried to make it a media issue and we have all along said it is a privacy issue," said Cooney.

But how can the authority stop anyone else who's unhappy with a colleague from simply leaking documents to reporters? As with any organization that deals with sensitive information, said Cooney, it's tough to strike a balance. "We want to be careful to not be seen as distrustful of the vast majority of people who work for the CRHA. It should be evident that patient records are confidential. We

feel if someone wants to raise an issue [he or she] can and should raise the issue, but without releasing confidential patient records."

The authority has some ideas about the identity of the person who leaked the documents, but Cooney wouldn't say what disciplinary action, if any, may be taken. At present the authority has more pressing issues to deal with, like finding a way to force *Alberta Report* to return the leaked documents and any copies that have been made. The authority is considering going to trial on the matter,

even though the damage has already been done. "They are in possession of that information and it is incumbent on us to protect it," says Cooney.

Meanwhile, Jarrell is doing a slow burn over the tension staff and patients have been living under. "The whole story speaks to more than abortion. [The issue] is that if staff are un-

happy with policy and start faxing material out to various commentary magazines, it is putting people at risk.

"And [providing abortions] is truly one of the few remaining areas [of medicine] where, I think, some fairly substantial courage is [required] for people to provide this type of care. It is important that [this courage] gets acknowledged, that people are willing to look after individuals who are in very upsetting circumstances. They are to be commended."

Richard Cairney is an Alberta journalist.

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