

ing from a further week of increased physical activity. Perhaps we should be careful about how well we treat long-standing arthritis in those who long to be more active again.

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Access to abortion

The guest editorial in the July 4, 2006, issue¹ contains 2 factual errors.

First, Sandra Rodgers and Jocelyn Downie have misrepresented the 1988 Supreme Court decision in *R. v. Morgentaler* by stating that as a result of this decision "a woman's right to continue or terminate a pregnancy is protected by the Canadian Charter of Rights and Freedoms." In fact, although the Court identified section 25 of the Criminal Code as objectionable because of its procedural requirements, it also stated that the primary objective of this section, the protection of the fetus, "does relate to concerns that are pressing and substantial in a free and democratic society and which, pursuant to s.1 of the Charter, justify reasonable limits to be put on a woman's right."²

Second, the authors have misrepresented the CMA Code of Ethics by linking the failure to provide referrals for abortion with the prohibition of "discrimination on the basis of sex, marital status and medical condition." The relevant section of the Code only states the following: "Inform your patient when your personal values would influence the recommendation or practice of any medical procedure that the patient needs or wants."³

These factual errors could seriously mislead *CMAJ* readers.

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Sandra Rodgers and Jocelyn Downie¹ imply that there is a constitutional right to abortion. The Supreme Court of Canada, in the 1988 *Morgentaler* decision, did rule that the Criminal Code provision violated women's rights; however, all of the judges agreed that Parliament has a legitimate interest in protecting the unborn fetus. In 1990, Parliament considered a bill that would have restricted abortion, particularly in the latter stages of pregnancy. Given that abortion and its regulation and restriction continue to be hotly debated in Canada, it is not simply "like any other medical procedure."

It is also inaccurate to portray a physician who exercises a right of conscientious objection to participating in abortion as violating CMA policy. The 1988 CMA Policy on Induced Abortion² specifically allows for such a right of conscientious objection.

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If Sandra Rodgers and Jocelyn Downie¹ hold that the Supreme Court decision² establishes a positive legal right for women to have abortions, we believe that they have exaggerated the decision. But is that what they really said? The title of the editorial and its opening paragraph speak to questions of access, and we believe that the Supreme Court did speak to this matter in 1988. The existing abortion law was struck down be-

cause therapeutic abortion committees of the day were unpredictable and often unavailable. The whole structure had begun to unravel by 1988, and it's no surprise that it could not withstand a Charter challenge.

But if Rodgers and Downie are truly exercised about women's access to good medical attention around issues of "reproductive health," we think that their net should be thrown wider. Is it only access to abortion referrals and abortion services that is wanting in Canada? How difficult is it for women to see a family physician, an obstetrician or a public health nurse for good contraceptive advice or for pre- and post-natal teaching and assessment? It troubles our conscience that our system of universal health care has isolated wait times for cataract surgery and hip replacement and plans strong guarantees that Canadians won't have to wait for these procedures, but has said nothing about access to the less exotic care that is needed by women as they make decisions about whether to have a baby.

The differences about the ethics of abortion are deep, and these differences should not be minimized. That there are health professionals who may feel bullied into compliance is disturbing. We ourselves hold conservative views, and we may never see eye-to-eye with Rodgers and Downie on the ethics of abortion. But surely we can all agree that the number of unwanted pregnancies in Canada is not a matter to celebrate. Better assured access to preconception, prenatal, obstetric, and maternal and newborn health care is something we all could make a matter of professional conscience.

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