

PREAMBLE:

The present letter was written in response to Dr. Robert's editorial, which appeared in *Le Collège* (November 2015), concerning the objection of conscience of physicians under the *Loi concernant les soins de fin de vie* ["Law Respecting End-of-life Care"], which came into force on December 10, 2015.

Debated in the Quebec Superior Court following an injunction sought by a coalition of physicians, the decision rendered was based on the doctrine of federal preponderance over provincial law, preventing the articles concerning physician-assisted dying from taking effect as planned due to their incompatibility with the *Criminal Code*.

The present letter was written in light of the conclusions of the ruling given by the Quebec Superior Court on December 2, 2015, and is supported by 84 co-signed physicians.

The English version, released on January 20, 2016, is supported by a total of 344 physicians.

Scientific Objection to Dr. Yves Robert's Editorial

["Referring the patient's request to a health care professional who would follow through with it would then seem the ultimate compromise, respecting patient's and physician's rights."]¹ Dr. Yves Robert, *Le Collège*, November 10, 2015

Dr Robert,

The above statement that you made as Secretary of the Collège des médecins du Québec is absolutely false.

First, let's recall this excerpt, from of the Superior Court ruling (par. 97): "The lawyer of the Attorney General of Canada also expressed her concern about article 31 of an Act respecting end-of-life care, obliging physicians who do not want to grant a request for physician-assisted dying, to participate, despite their objection, in the process of finding a willing physician. She sees in this fact itself an indication that even a physician, conscientious objector, would inevitably become involved in a process leading to the commission of a criminal act under the current state of the law".

This summarizes without ambiguity the thoughts of the Attorney General of Canada and the Quebec Superior Court concerning your "ultimate compromise" on the subject of conscientious objection, also shared by the Collège des médecins du Québec.

This form of collaboration in killing a patient, with all due respect, is not the ultimate compromise. It is an obligation to collaborate — which can be experienced by a physician as complicity in an act he considers to be harmful to his patient, irrelevant whether the act is criminal or not (the crime evoked

¹ « La transmission de la demande d'un patient à une autorité du réseau de la santé qui pourra y donner suite apparaît donc comme l'ultime compromis pour respecter les droits du patient et ceux du médecin » Dr Yves Robert, LE COLLÈGE, 10 novembre 2015

here only compounds the insult of the obligation).

As for me, I want to continue to offer care to my patient; not sever the relationship. I simply refuse to cause his death. What will you do against my medical judgment?

If you suspend me, you are the one severing the care relationship by depriving a patient of his physician, whereas I am willing to continue caring for him. I do not consider sending my patient to be killed as providing care because... to be killed is not a treatment, neither for me, nor for the overwhelming majority of physicians and medical associations all over the world. This then is a question of medical obligation, because I apply the international norm, while the Collège has decided unilaterally to disagree.

The issue here is much more a question of scientific objection than an objection of conscience because the purpose is to apply the international norms and standards the Collège decided to disagree with.

Given that most physicians will never agree to stop preventing suicide among their patients, we cannot compel them to stop this prevention because their medical judgement and expertise—that they have applied for years—tells them not to do it. Simply put, preventing suicide remains good medicine.

Likewise, a hospital director cannot force me to perform surgery on my patient if my medical opinion tells me the surgery would be harmful. It does not mean that I sever the professional relationship with my patient, only that I exercise my profession with my judgement and my competence, which means to say that I am not a simple technician who will only serve to be “someone else’s hands.”

In the same way, no patient can force me to perform surgery that I consider bad or harmful, and it is understood that the minimum degree of professional consistency would prevent me from referring him to someone who would perform it in my place. I would simply tell him that it is not recommended, and he would be free to go elsewhere. If however, I were to transfer him to a colleague or health care professional knowing that the procedure I consider harmful will be conducted, it would be as though I performed it through the hands of another.

The Collège needs to recognize this logical response from physicians (palliative and other) who do not want to collaborate in paving the way toward the medically assisted death of their patients. These physicians, who are neither fanatical nor arrogant, see this intention of the state (and of the Collège) to impose on them a forced collaboration like an abuse of authority. The use of the term “ultimate compromise,” in this context, sounds a lot like “this is my final offer.” That, would sooner be called an ultimatum—and the Attorney General of Canada did well to note the real intention behind the words.

In conclusion, if the Collège hopes to avoid unjust and unnecessary confrontation with qualified and attentive physicians of integrity, it should find a way not to compel them to assist in the death of their patients against their medical judgement and their professional conscience.

Even if the new exception measures (not to read “rule”) that will soon be established in the Canadian *Criminal Code* allows for euthanasia or assisted suicide under certain conditions, you must remember that forcing physicians to refer—moreover to threaten them—is a sure-fire way to

cause unnecessary and damaging battles for all, to cause division and spoil the collegial environment in our hospitals.

If, one day, euthanasia or assisted suicide are decriminalized, a true compromise—one that would respect everyone's autonomy—would be something like this: let patients carry out their own wishes by putting a voluntary system in place, forcing no participants to act against their will—neither their doctors nor anyone else involved.

Marc Beauchamp, MD, FRCSC, orthopedic surgeon, Montreal

With the support of the 344 undersigned:

1. Renata Sava, MD, médecin de famille, Montréal
2. Louis Morissette, MD, FRCPC., surspécialiste en psychiatrie légale, Montréal
3. Yousri Hanna, MD, chef de l'Unité des Soins Palliatifs de Santa Cabrini, Montréal
4. Yvan Roy, MD, médecin de famille, L'Assomption
5. Bernard H. Doray, MD, pédiatre, Montréal
6. Antonio Tongué, MD, radiologiste, Gatineau
7. Stephen Martin, MD, médecin de famille, Montréal
8. François Belzile, M.D, FRCPC, radiologiste, Sherbrooke
9. Roy Éappen, MD, endocrinologue, Montréal
10. Annik Dupras, MD, FRCPC, interniste-gériatre, Terrebonne
11. René Pouliot, MD, néphrologue, Québec
12. Francine Gaba, MD, gériatre, Montréal
13. Jacques R. Rouleau, MD, CSPQ, FRCPC, FACC (Institut universitaire de cardiologie et de pneumologie de Québec, Professeur titulaire de médecine, Université Laval)
14. Roger Roberge, MD, gériatre, Montréal
15. Elisabeth Fuvet-Girodias, MD, Kirkland
16. Louis Béland, MD, chirurgien, Québec
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50. Hong Phuc Tran-Le, MD, FCMF, médecin de famille, Val d'Or
51. Laurence Normand-Rivest, MD, médecin de famille, Châteauguay
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53. Anne-Louise Boucher, MD, responsable médical GMF du Carmel, Trois-Rivières
54. Mathieu Brouillet, MD, médecin de famille, Rimouski
55. David Bacon, MD, CM, CCFP-EM, médecin de famille, Pointe-Claire
56. Marcel D'Amours, MD, anesthésiologiste, Québec
57. Anne Marie Uhler, MD, médecin de famille, Sainte-Croix
58. Mélanie Laberge, MD, omnipraticienne, Québec
59. Heather Coombs, MD, urgentologue, Montréal
60. Svetlana Ninkovic, MD, pédiatre, neurologue, Greenfield Park
61. Roland Leclerc, MD, pédiatre, Québec
62. Jean-Pierre Beauchef, MD, endocrinologue, Greenfield Park
63. Serge Daneault, MD, soins palliatifs, Montréal
64. Patricia Marchand, MD, médecin de famille, Trois-Rivières
65. Louis Martel, MD, médecin de famille, Trois-Rivières
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70. Marie-France Raynault, MD, santé publique, Montréal
71. Julie Gauthier, MD, médecin de famille, Montréal
72. Olivier Yaccarini, MD, médecin de famille, Québec
73. Caroline Girouard, MD, oncologue médicale, Hôpital Sacré-Cœur, Montréal
74. Pierre Duclos, MD, endocrinologue, Québec
75. Normand Lussier, MD, médecin de famille, Montréal
76. Paola Diadori, MD, neurologue, Montréal
77. Bruno Gagnon MD, MSc, Soins Palliatifs, Université Laval, Québec
78. Judith Trudeau, MD, rhumatologue, Hôtel-Dieu de Lévis
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80. Tommy Aumond-Beaupré, MD, médecin de famille, Montréal
81. Joseph Ayoub, MD, oncologie et soins palliatifs, Montréal
82. Xavier Coll, MD, cardiologue, Lachenaie
83. Léonard Langlois, MD, pédiatre, Sherbrooke
84. Anne Larkin, MD, généraliste depuis plus de 36 ans, Waterloo
85. David D'Souza, MD, CCFP, Global Health Fellow, University of Calgary

86. Robert Banner, MD, CCFP, FCFP, FRCP, IFMCP, Dip AAPM, Dip CAPM, ABIHM, COT, CPT, Diploma in Clinical Homeopathy, London, Ontario
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120. Julia Bright, MD, Chilliwack BC
121. Peter Daley, MD, MSc FRCPC DTM+H, Assistant Professor, Disciplines of Medicine and Laboratory Medicine, Memorial University, Division Chief, Microbiology, Health Sciences Center, St. John's, Newfoundland
122. John W McCormick MD, Toronto
123. Peter L Munk MDCM, FRCPC, FSIR, Editor in Chief, Canadian Association of Radiologists Journal, Professor of Radiology, University of British Columbia, Skeletal Imaging Section Head, Vancouver General Hospital
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130. Frank Duerksen, M.D FRCSC, Winnipeg, MB

131. Catherine McCallum, MD, College registration #s BC- 02197, Ontario -29139
132. Rebecca Bobby, MD, emergency physician, St. John's
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148. Timothy J. Kelton BSc MD CCFP(E.M.) FCFP, Assistant Professor, Department of Family and Community Medicine, University of Toronto
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184. Nancy Craig MD CM CCFP Edmonton, Alberta
185. Bao Dang, MD, FRCPC Internal Medicine & Respiriology
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187. Nicole Allard, MD, omnipraticienne Amos
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217. Chantal Barry, MD Family Medicine Calgary AB
218. Natalia Pastuszewska, MD, internist Brantford Ont
219. Elizabeth Tham, MD, CCFP, FCFP, Lecturer, Department of Family and Community Medicine, University of Toronto
220. Ralph Scandiffio, MD, CCFP (Retired)
221. Sherry Chan, MD, CCFP, GP Oncologist and Family Physician, Vancouver

222. Andrew S. Johnson MD, FRCPC, Adult Infectious Diseases, Program Director, Adult Infectious Disease Residency Training Program, Clinical Assistant Professor, University of Calgary, Department of Medicine, Division of Infectious Diseases, Foothills Medical Centre
223. William L. Orovan, MD, MBA, FRCSC, FACS, Associate Dean, Clinical Services, Faculty of Health Sciences, McMaster University
224. Andrea Loewen, MD, FRCPC, Diplomate ABIM Respiratory and Sleep Medicine, University of Calgary
225. Jacqueline Chow, MD, Family medicine, Toronto
226. Margaret Cottle, MD, CCFP (CAC-palliative care); Palliative Care, Vancouver, BC
227. Linda Baker M.D., Family Physician(retired), Rosthern, SK
228. M. Pavlovsky, MD, Regina, SK
229. Peter J. Block, MD, FRCSC
230. Daniel Cekan, MD, CCFP, ABFM
231. Jeffrey Betcher MD FRCPC MA (Bioethics), Anesthesiology and Critical Care
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233. G. V. Walker, MD, Saskatoon (palliative care)
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235. Jonathan S. Ponesse MD FRCPC, Developmental Pediatric Neurologist, Division of Developmental Pediatrics, Ottawa Children's Treatment Centre, Children's Hospital of Eastern Ontario, University of Ottawa
236. Douglas Maynes MD FRCPC, Psychiatrist Halifax NS
237. Ray Deobald MD FRCSC, Surgical Oncology, Assistant Clinical Professor, Department of Surgery, College of Medicine, University of Saskatchewan
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Executive Director — Save the Mothers, Associate Professor —McMaster University (Ob/Gyn)
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252. Wayne Weston MD, CCFP, FCFP, Emeritus Professor of Family Medicine, Schulich School of Medicine and Dentistry, Western University
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337. Dauna Cutforth, MD
338. Peter Hong, MD
339. Marie Dale, MD
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341. Maria MacDonald, MD, FRCPC, Neurologist in Oncology, London, Ontario
342. AJ Donauer, MD, candidate, class of 2018
343. Caleb De Putter, MD, candidate, May 2016
344. Naomi Kasteel, third year medical student, UBC