



CANADIAN NURSES ASSOCIATION
ASSOCIATION DES INFIRMIÈRES ET INFIRMIERS DU CANADA

**Brief to the
House of Commons
Standing Committee on Health**

by

**The Canadian Nurses Association
on behalf of
the Nurses of Canada**

23 October 2001

The Canadian Nurses Association is the national voice of Canada's nurses. We represent 110,000 registered nurses through 11 provincial and territorial associations and 27 associate and affiliate nursing groups.

We are pleased to respond to the draft of the *Proposals for Legislation Governing Assisted Human Reproduction* and to appear before you as part of a coalition of health providers.

This is not the first time we have appeared before this Committee to discuss Assisted Human Reproduction. Our views have not changed since we told this Committee almost five years ago, with regard to Bill C-47, that “while we are pleased that this government has moved forward in setting a legislative and regulatory framework for reproductive technologies, we are concerned that the curative approach overrides preventive health strategies.”

Nurses working in research and patient-care related to human reproduction face ethical issues on a daily basis. Our approach to these issues is framed by a code of ethics emphasizing:

- Maximizing well-being whether in situations of normal health, illness, injury or in the process of dying;
- Respect for the autonomy of clients;
- The dignity and self respect of all human beings;
- Respect for privacy;
- Principles of equity and fairness;
- Accountability for professional behaviour; and
- Practice environments encouraging safe, competent ethical care.

I have attached the full text of the code of ethics that guides our work, and urge you to use it to frame your deliberations.

The draft legislation before you causes us concerns, in particular concerns about the transparency of regulation-making and the blending of clinical practice and research. Each deserves focused attention. Research ethics review is a complex and critical process. There are guidelines for all research involving human participants that require consistent ethical practices regarding consents, balancing of risks and benefits, etc.

Recommendation:

- CNA recommends that the AHR framework recognize the distinctiveness of research and clinical practice.
- CNA recommends further that AHR research guidelines and practices be dealt with through the existing Canadian research ethics guidelines and processes.

A number of other concerns have been well-addressed by our coalition colleagues. I will focus on five concerns where a balance must be struck.

- Promoting wellness and curing illness
- Psychological impacts of assisted human reproduction
- Providing sufficient information about risks and benefits for truly informed choice
- Protecting confidentiality
- Balancing the application of new laws and regulations with the use of professional ethical standards already in place

Wellness and Illness

The curative model underlying the provision of healthcare in Canada is simple: millions of Canadians become predictably and preventably ill, and we spend billions and billions of dollars to cure their diseases.

Dealing with medical problems resulting from lifestyle and other decisions through a curative approach is very expensive. *Does any member of this Committee disagree?* Governments have been paying lip service to a wellness approach for a long time.

Advances in technology and science have made assisted human reproduction possible. But we think it is even more important to consider the factors that make it *necessary*. This legislation addresses the application of technology to reproductive ill-health. We should also be talking about reproductive wellness.

We recognize the complexity of implementing a wellness approach under the heading of criminal law, the constitutional basis of this legislation. It is important enough, however, that you should find a way. Ten years ago we recommended to the Royal Commission on New Reproductive Technologies that “health promotion and prevention programs to address known causes of infertility be a national priority.” Today we will repeat the thrust of that recommendation to this Committee:

Recommendation:

- CNA recommends that the Standing Committee on Health review the evidence and seek ways to maximize prevention strategies related to sexual and reproductive health.

Psychological Impacts

Knowledge exists about the psychological aspects of infertility, the psychological effects of assisted human reproduction and parenting following successful AHR. These effects include increased post partum depression, marital stress and overprotection of children. Many of these effects can be prevented, if known.

Recommendation:

- CNA recommends that the Standing Committee on Health review the strategies related to informing and supporting those at risk of psychological effects from assisted reproduction.

Informed Choice

Informed choice about reproductive health, or any other matter, requires a clear understanding of the risks and benefits associated with the various options available. We are, therefore, concerned that the draft legislation before you contains no definition for the term “consent” with respect to the use of human reproductive materials and few safeguards to ensure choice is informed.

We believe choice is fundamental and consent must be obtained only after a balanced presentation of risks and benefits has been preceded by a period of time to consider the options.

Recommendation:

- CNA recommends the Act include a definition of “consent” that embodies the concept of informed choice.

Confidentiality

We support children having access to information about health status of donors and their families. CNA supports a legislative framework that reflects the need for accessible health information.

Structures and Processes

All health care services, including assisted human reproduction, are provided under a regime that balances legislation, regulation, professional codes of practice and programs. The possibility of a greater reliance on legislation changes that balance. This concerns us, and it should concern you.

The legislation proposes that enforcement officers inspect clinical facilities. What will they find? How will they recognize good from bad? Is this the appropriate role for inspectors? We think not. We are concerned that the legislative proposal ignores the existence of health care facility accreditation processes and processes in place for ethical review of research. Rather than having Health Canada inspectors checking petri dishes, a facility accreditation process would draw upon the expertise of an existing arm’s length agency such as the *Canadian Council on Health Services Accreditation* for clinical services and, for research ethics, the *National Council on Ethics in Human Research*.

We are also concerned that the legislative proposal ignores the existence of professional practice standards and codes of ethics. It's far less costly to rely on accountability to the codes of practice and the ethical standards of professional organizations like ours than it is to develop and enforce laws and regulations that, once in place, take years to amend. Our codes of ethics are refreshed with a frequency legislators can only dream about.

Canadians will benefit most from safe and early access to advances in treatment if access to those treatments is governed by a regime incorporating the flexibility that professional codes can offer, something laws and regulations cannot.

Recommendation:

- CNA recommends that the Committee carefully balance the creation of legal and regulatory regimes with the existing professional codes of practice and accreditation standards in a way that takes advantage of the flexibility of the latter.

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We believe using laws and regulations to manage the delivery of assisted human reproduction services can be compared to a curative approach: it is useful as a last resort.

The best way to assure a reproductively healthy population is through prevention. Through the promotion of simple, inexpensive, healthy practices on the part of all Canadians.

The best, most flexible way to ensure people receive safe, effective treatment to assist in human reproduction is through the ethical standards that govern the work of all health professionals.

From where you sit, laws and regulations – and that is what you have before you– may look like the logical approach.

But it won't do the job.

Thank you for your time.