

Freedom of Choice
Liberté de choix

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A Special Report to Celebrate the 15th Anniversary of the Decriminalization of Abortion

FREEDOM OF CHOICE

Protecting Abortion Rights in Canada

LIBERTÉ DE CHOIX

LEGAL SAFE ACCESSIBLE

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Mission

Mission Statement of CARAL

We are Canada's pro-choice, volunteer organization working exclusively to ensure that all women have total reproductive freedom to exercise the right to safe, accessible abortion.

What

What CARAL Does

CARAL provides critical information for any woman in Canada wishing to access abortion services. We also provide education to media, governments and the public. Our volunteer members work continuously to safeguard reproductive choice in Canada. In addition, CARAL remains steadfast in its support of abortion providers who offer this medically necessary service.



PROTECTING ABORTION RIGHTS IN CANADA

For the past fifteen years, since the Supreme Court struck down Canada’s abortion law in 1988, CARAL has been aware of an increasing number of barriers being placed in the way of women seeking an abortion. Barriers which restrict access to abortion services are denying women their basic human right to a safe, legal medical procedure.

In 1998, on the tenth anniversary of the decriminalization of abortion, CARAL published a report entitled “**Access Granted: Too Often Denied**” which painted a picture of decreased access to abortion services across Canada. Today in its current report, “**Protecting Abortion Rights in Canada,**” we are able to identify many reasons for this lack of access, including increased violence by the anti-choice movement, a scarcity of abortion providers, lack of training in medical schools, and hospital mergers. This current study on access to abortion in Canada provides empirical evidence of the specific effect these factors have had on hospital-based abortion services.

In 1998, two-thirds of all abortions conducted in Canada (110,223) were performed in hospitals. Women in Canada have traditionally relied on hospitals, rather than private clinics, to provide abortions. In part, this is because women are more comfortable with the “official” standing of hospitals. In part, this is because hospital abortions are covered under Medicare, while private clinics often require cash payments; and finally, private clinics are not easily accessible to women living in rural areas and smaller communities.

CARAL has recently completed a study of hospital services which has found that, in communities across Canada, it is becoming increasingly difficult for women to gain access to a hospital abortion.

This **Hospital Access Project** was designed to:

- provide a comprehensive account of the number of general hospitals in each province and territory that provide abortion services to women;
- record the number and types of difficulties women face in obtaining information on abortion services and/or access to an abortion provider; and
- describe a woman’s experience in calling her local hospital for information.

The study found that:

- only 17.8% of all general hospitals in Canada perform abortions, with some provinces offering no hospital abortion services at all;
- even hospitals providing abortions place obstacles in the way of women trying to obtain one;
- in many cases, hospital employees are not able to provide women with information about alternative resources; and
- physicians and hospital employees deny women access by refusing information and referrals, or by referring women to anti-choice agencies.

Methodology

Data was collected using a threefold approach consisting of written questionnaires to hospital administrators and Planned Parenthood affiliates, and direct phone calls to hospitals by the CARAL researcher.

1. Questionnaires were sent to 692 general hospitals of which 295 (43%) responded. Long-term care facilities and military hospitals were excluded. Each hospital was asked:
 - if it provided elective abortions;
 - if it had a written policy on abortion;
 - up to how many weeks gestation the procedure could be performed;
 - if the woman needed a referral or could make her own appointment;
 - waiting time for the procedure;
 - if the hospital provided counselling;
 - if women from outside the province would be covered under Medicare; and
 - if the hospital provided translation services.
2. A written survey was sent to the 24 Planned Parenthood affiliates across Canada; 16, or two-thirds, responded providing anecdotal details of what women encounter when they try to obtain an abortion in or near their community.
3. A researcher called the 612 general non-Catholic run hospitals across Canada. She represented herself as a 20 year old woman, 10 weeks pregnant, new to the area, without a family doctor, and considering terminating the pregnancy. In each case, the researcher asked if the hospital provided abortions and what procedures she would have to follow. If abortion services were not provided, the caller waited for, and then sought, a referral. She also recorded the treatment she received by hospital staff.

Major Findings:

The full report containing detailed information on the state of abortion services in hospitals in each province and territory can be found at www.caral.ca .

Fewer than one in five hospitals provide abortion services

Nationally, only 17.8% of hospitals (123) provide abortion services. The extreme cases are in Prince Edward Island and Nunavut where there are no hospitals providing abortions. Quebec had the highest number of facilities with 34.8% or 112 of its hospitals providing the service, while 44 of 188 hospitals in Ontario, or 23.4%, provide them. Most other provinces have two or three hospitals that provide abortion services. Nationally, of the 295 responses to the hospital questionnaires, only 25 hospitals, or 8.5% indicated they have policies regarding the provision of abortion.

Hospitals which provide abortions can still obstruct access

Barriers to abortion services can often be found in hospital policies on gestational limits. For instance, the survey of hospitals found a range of gestational limits from 10 to 23 weeks for when an abortion could be performed, and even within a hospital, inconsistencies were noted with the stated range.

Referral procedures vary from hospital to hospital. According to the hospitals which responded to this question in the survey, physician referrals were required by 28 hospitals, compared to 32 that allowed women to make their own appointments. In New Brunswick, the approval of two physicians is required before an abortion is permitted. In phone calls to hospitals nationwide, 17% told the caller to contact her family physician or a walk-in clinic. This message was given by 95% of hospitals called in British Columbia.

Waiting time can be another obstacle to receiving an early abortion. Of the 59 respondents to the question of waiting time, only 19 could perform an abortion within 24 hours of intake. Among the remaining 40, two could perform an abortion within 48 hours, 22 in one to two weeks, and eight required a two-week wait. Six hospitals had a three-week wait, and two made women wait four weeks for an abortion. Recent data provided to CARAL, has indicated that in certain instances, the waiting period can be as long as six weeks.

Distance required to travel to a provider was a significant barrier for many women, given the few hospitals that actually provide abortion services. Travel is time-consuming, expensive, and can conflict with work and require special child-care arrangements. As well, when women have to go outside their community for services, it makes any necessary follow-up difficult.

Lack of information

There was no consistency regarding the usefulness of the information given to women seeking an abortion. Most staff at hospitals, when asked directly about their abortion services, were vague, or refused to answer. Many did not know whether or not their hospital provided such services. In addition, less than one quarter (23.7%) of hospitals could provide the name and phone number of an abortion provider in town or nearby.

In many cases, the phone survey found that what the caller was told about abortion services did not coincide with what was available according to the responses on the hospital questionnaires. In six cases, the caller was told that the hospital did provide abortions which completely contradicted the written response by the hospital. In addition, 44 switchboard operators were uninformed and unwilling to find out any information, while slightly more, a total of 53, did look up or asked others for information. In 8% of cases (56), hospital contacts either could not or would not provide referrals, or alternatively, offered the name of a provider but with no further information on how to obtain a referral.

Outright denial of access

Personal beliefs of hospital staff and physicians can result in denial of access to abortion services. Fifteen of the hospitals contacted referred the caller to an anti-choice agency and 16 hung up without offering a referral. In one case, in an Ontario hospital which did provide abortions, the switchboard operator would not disclose this information and referred the caller to Birthright, an anti-choice organization.

Slightly over half of Planned Parenthood affiliates completing the written questionnaire noted that anti-choice physicians were a serious barrier to access. In fact, they were the second most common barrier after travel, and far outstripped other barriers such as lack of information, hospital gestational limits, and waiting periods.

Planned Parenthoods also cited evidence of anti-choice physicians lying to women about abortion services, claiming there was not enough time to perform the procedure, or that an eight-week limit might apply. Anti-choice physicians were also reported to have refused referrals to an abortion provider, and sometimes delayed appointments until the pregnancy was too far advanced. In one extreme example, in a province where a family physician is hard to come by, a woman was told by her doctor that if she pursued an abortion elsewhere, he would refuse to treat her or her family in the future.

Analysis:

There is no question that women in Canada assume that they can obtain an abortion on demand and see it as one of several fertility options open to them. This is confirmed by the survey of Planned Parenthood affiliates which indicated that, in some urban areas, 90% of the calls they receive are abortion-related.

However, this study has shown that everyday Canadian women are being placed at risk when they try to gain access to abortion in a timely and cooperative fashion. They are at risk of being refused medical care and of being given false or misleading information about the procedure or where to obtain services. Most distressing of all, women are routinely subjected to judgmental and demeaning treatment by those who would deny them their right to exercise personal reproductive choice.

This research describes a myriad of obstacles women face in trying to obtain an abortion in communities across Canada. The following are but some of the contributing factors.

Violation of the Charter of Rights and Freedoms:

In January 1988, the Supreme Court of Canada ruled that the existing abortion law was unconstitutional under the Charter of Rights and Freedoms. This decision known as “The Morgentaler Decision” meant that henceforth the women of Canada were granted the right to choose abortion as a means of ending an unintended pregnancy.

However, since the decriminalization of abortion 15 years ago, abortion providers and the women they serve have become demonized by the anti-choice movement and abortion has remained politicized and marginalized within our health care system. As this report demonstrates, nowhere is this more evident than when a woman tries to obtain an abortion from a hospital in or near her community.

Political and state interference

In Canada today, governments lack the political will to make abortion accessible to women. This is manifested in provincial government policies such as in New Brunswick which still requires the consent of two physicians; a requirement which was part of the old abortion law and struck down by the Supreme Court in 1988. Access is further restricted in four provinces which refuse to provide provincial health plan coverage for abortions performed in private clinics. Other examples of state interference are in provinces which place caps on the number of clinic abortions allowed under medicare or restrictions on the number of abortions performed in hospitals.

As a result of these restrictions, there is no other medical procedure in Canada today that remains open to such state interference and has to be negotiated by women in need of medical treatment. Given the personal nature of abortion, it is not surprising that most women, when faced with the decision to terminate a pregnancy, simply do not have the strength to challenge these injustices.

Non-compliance with the Canada Health Act (CHA) (1984)

Based on the fact that abortion is a procedure which must be performed by a medical doctor, abortion has been declared a ‘medically necessary’ procedure by all provincial/territorial Colleges of Physicians and Surgeons. As such, under the Canada Health Act (CHA), abortion is to be covered by Medicare in compliance with the five principles of the Act.

Provinces routinely violate one or more of the five principles of the Canada Health Act (public administration, comprehensiveness, portability, universality, and accessibility) when it comes to providing abortion services. For example:

- *Portability* is violated when provinces place abortion, along with cosmetic surgery, on the excluded list for reciprocal billing with other provinces.
- *Accessibility* is breached when provinces such as Prince Edward Island, refuse to provide any abortion services, forcing women to travel to the mainland to receive care.
- *Comprehensiveness* is dishonored by the four provinces of Nova Scotia, New Brunswick, Quebec, and Manitoba when they refuse to pay for a prescribed medically necessary procedure performed in a free standing clinic rather than a hospital.
- *Public Administration* is disregarded when as a result of hospital mergers between Catholic and secular hospitals, the publically funded Catholic-run institutions eliminate all reproductive health care services for women, including contraception and abortion.
- Finally, the principle of *universality* is clearly meaningless when it comes to abortion because the availability of hospital services can vary from 0% to 35% depending on where a woman lives.

Disowning of abortion by the medical profession

Hospital abortions are an essential part of good reproductive health care for women. To receive proper and timely care, women require physicians who are trained in this procedure. They also require counselling and support throughout the process.

The 1998 CARAL study of abortion access documented the problem concerning the lack of abortion providers. Older doctors are retiring and medical schools across Canada no longer teach their students how to perform abortions, making it an elective course at the residency level of training. Hospitals which lose abortion providers have difficulty replacing them as doctors have become increasingly fearful of harassment and violence by anti-choice fanatics.

Many hospitals are succumbing to the pressure of the anti-choice lobby by adopting policies to eliminate or restrict abortion services. In addition, where services are available, the hospitals are reluctant to make this information available to the public. Many hospitals surveyed in the current study stated that they did not want to provide information about their abortion policy because of concerns over “security”.

As this study has shown, anti-choice physicians are taking it upon themselves to not only deny women their services, but also deny them access to pro-choice physicians. The behavior of anti-choice doctors is of particular concern because of the reliance on family physicians to refer women for a hospital abortion. This study also revealed that hospital staff who do not approve of abortion are actively withholding information about where to obtain an abortion, and are known to have referred women to anti-choice pregnancy “counselling” centres. Finally, hospitals are reducing and eliminating surgery time for abortions, effectively doing away with access for hundreds of women a year, such as in the recent case of the Moncton hospital in New Brunswick.

Recommendations

The following recommendations are directed at those sectors of society which CARAL maintains have the moral and legal responsibility to take corrective action to improve access to abortion services for women.

Increase the number and quality of hospital services. All publicly funded hospitals equipped with the required surgical facilities should be obliged to provide abortion services and to improve their level of overall abortion care. Specifically CARAL recommends that:

- 1. By the end of 2005, the percentage of hospitals providing abortions increase from the present 17.8% to 33% through the implementation of a provincial regulation that requires publicly funded hospitals with surgical facilities to provide abortion services.*
- 2. In conjunction with provincial Ministries of Health, hospitals develop and expand on service models that provide abortions as an integral part of the delivery of comprehensive reproductive health care.*
- 3. General hospitals with surgical facilities be required to have a qualified abortion provider on staff with abortion being treated on an equal basis with other scheduled surgical procedures.*
- 4. Teaching hospitals be required to provide training in the abortion procedure to interns and residents.*
- 5. The **exclusive** right of family doctors to do abortion referrals be eliminated and a system of self-referrals to hospital services be established in order to facilitate access to an abortion provider.*
- 6. Hospitals eliminate policies banning abortion and enact a policy of zero tolerance of staff who either directly or indirectly obstruct a woman’s access to abortion services.*
- 7. All hospital personnel involved in any communication with the public be fully informed regarding the institution’s abortion services and referral procedures.*

Government Action: *By acting on its legal responsibility to enforce compliance with the principles of public administration, comprehensiveness, portability, universality and accessibility, the federal government has the power to end the discriminatory practices resulting from violations of the Canada Health Act.*

CARAL recommends that the federal government:

- 8. Immediately withhold transfer payments from Manitoba, Quebec, Nova Scotia, and New Brunswick for their refusal to cover clinic abortions under Medicare.*
- 9. Use the powers invested in the federal Advisory Committee on Health Services to bring about consensus by the provinces and territories to remove abortion from their “excluded lists” for reciprocal billing under Medicare.*
- 10. Bring pressure on the government of PEI to provide abortion services to the women of that province, so that they do not have to travel to the mainland.*
- 11. Cease funding to anti-choice pregnancy counselling centres that give out false and misleading medical information, harass women and obstruct their access to abortion services.*
- 12. Remove abortion from issues relating to mental health, violence and rape under*

Increased Information and Reporting: *Incomplete reporting on abortion is a barrier to understanding the reality of service provision to women in Canada. Statistics Canada and Canadian Institute for Health Information need the authority to collect comprehensive information from the provinces and territories on the incidence of abortion and the availability of services throughout their jurisdictions. CARAL recommends that:*

- 13. All provinces and territories be obliged to provide abortion statistics on an annual basis to Statistics Canada.*
- 14. Hospitals remove restrictions on abortion information under the Privacy of Information Act.*

Further Research: *Studies are needed to determine how restricting ready access to care affects women's health. CARAL recommends further research into:*

15. *The impact on service delivery of restrictive government legislation and policies at both the provincial and federal level, including funding, reciprocal billing, quotas, etc.*
16. *Delays caused by anti-abortion bias on the part of medical and para-medical professionals and hospital staff.*
17. *Standards for hospital abortion services, including procedures used and counselling services provided.*
18. *The practices of anti-choice pregnancy counselling centres.*
19. *Training needs of medical students and health care professionals in abortion procedures.*
20. *The availability of reproductive health services, including abortion, in Catholic-run, publicly funded hospitals.*
21. *Current community reproductive health care practices and possibilities for improvement in referrals for abortions.*

Increased Public Awareness and Education: *Women are placed at risk by the lack of information on abortion services and by the anti-abortion information propagated by the anti-choice movement through schools and the media. CARAL recommends that:*

22. *Health Canada adopt a framework on sexual & reproductive health that includes abortion as a safe, legal medical procedure, available to women on demand.*
23. *Health Canada establish a consortium or task force on the integration of abortion as a medical procedure into the health delivery system in accordance with the five principles of the Canada Health Act.*
24. *As part of a public information campaign on the legality of abortions and options for fertility control, a national Help Line be established to provide women with up-to-date information on contraception and abortion services throughout Canada.*
25. *Universities introduce courses in Civil Liberties and Public Policy curricula*

Greater Accountability by the Medical Profession: *The self-regulatory practices within the medical profession are failing to protect women from being denied medical treatment, thereby placing women's health at risk. CARAL recommends that:*

26. *The Canadian Medical Association (CMA), the Society of Obstetricians & Gynaecologists of Canada (SOGC), and provincial/territorial Colleges of Physicians and Surgeons regulate their members with respect to the biased treatment by anti-choice physicians of women requesting medical care related to abortion.*
27. *Medical professional groups enforce a policy requiring doctors who oppose abortion to refer their patients elsewhere for treatment in a timely fashion.*

Conclusion:

Legalizing and providing safe abortions were the first steps in acknowledging this medical procedure as a legitimate and unconditional part of reproductive health services for women. As this report has shown, restricting and denying access to abortion is placing women's health at risk because without access to services, the legal right to a safe abortion is meaningless. As a defender of abortion rights in Canada, CARAL will continue to work with governments, medical professionals and allied voluntary organizations on a fifteen point action plan, designed to systematically remove current barriers to abortion services and improve access to quality hospital care in all provinces and territories.

CARAL 15 POINT ACTION PLAN

1. Bring about compliance with the Canada Health Act to ensure Medicare funded hospital and clinic abortion services exist in ALL provinces and territories;
2. Increase the proportion of hospitals providing abortions from the current 17% to 33% by 2005;
3. Pressure Health Canada to remove current obstacles to the approval of the abortion pill (RU-486);
4. Force provincial governments to remove abortion from their “excluded lists” for reciprocal billing under Medicare;
5. Establish a national Helpline of information for women seeking access to an abortion provider and, document women’s experience as they confront barriers to abortion care;
6. Develop and expand on models of best practice for hospital abortion services;
7. Hold hospitals accountable for a policy of zero tolerance of anti- abortion staff who purposely misguide and deceive women seeking an abortion;
8. Expose the actions of phony anti-abortion counselling centres;
9. Call for accountability by the medical profession in dealing with its anti-abortion members;
10. Lobby for legislation that treats acts of harassment and violence against abortion providers as a “hate crime” under the criminal code;
11. Participate in community actions to force publically funded Catholic-run hospitals to provide a range of reproductive health services to women, including abortion;
12. Support Dr. Morgentaler’s court actions in provinces which refuse to cover clinic abortions under Medicare;
13. Continue to support “Medical Students for Choice” an organization working to ensure the availability of trained abortion providers in the future;
14. Inform immigrant women about their reproductive rights;
15. Maintain a Youth Activist Project to work in schools and universities towards the creation of a new generation of pro-choice Canadians.

Percentage of Canadian hospitals providing abortion services, by province and territory.

Pourcentage d'hôpitaux canadiens assurant des services d'avortement selon les provinces et les territoires.

