

**Hamilton-Wentworth Family Action Council Brief Regarding Evidence of Risk Associated with Homosexual Conduct
June 1, 2007**

The current draft of Sexual Orientation Strand is designed to eliminate homophobia, heterosexism and to remove all barriers yet to be identified by the LGBT community. Homophobia is defined in the glossary as, "*the fear and hatred of lesbians and gay men, or any behaviour that falls outside of perceived gender roles.*" A phobia is not just any fear, it is an irrational fear. For example, a child fearing to jump into a firepit is not a phobia, it is a rational fear, a natural safety barrier. Homosexual conduct is high-risk behaviour physically, emotionally and spiritually. This high-risk factor is recognized by the Ontario Court of Appeals, Canadian federal Processing of Semen for Assisted Contraception Regulations, US Food and Drug Administration and Canadian Blood Services as identified in the 3 articles below.

1) Canadian Court OK's Ban on Active Homosexuals from Sperm Donation due to AIDS

Says evidence establishes higher prevalence of HIV and hepatitis among homosexuals By Gudrun Schultz

TORONTO, Ontario, January 29, 2007 (LifeSiteNews.com) - Restricting homosexual men from donating to sperm banks does not violate the Charter of Rights, the Ontario Court of Appeals ruled January 12, in a decision that received no mainstream media coverage at the time.

"The medical evidence in the record establishes that there is a higher prevalence of HIV and hepatitis among men in the MSM [men who have sex with men] category," the three-judge panel stated in the decision, saying the ban on homosexual sperm donation by the federal Processing of Semen for Assisted Contraception Regulations was "rational and health based," CanWest News Service reported. Men who have had sex with another man since 1977 are prohibited from donating semen due to the significant risk increase of sexually transmitted disease among men practicing homosexual sex.

2) FDA Bans Gay Sperm Donors

WASHINGTON, May 6, 2005 (LifeSiteNews.com) – The US Food and Drug Administration has banned sperm donation from sexually active gay donors, citing the HIV prevalence associated with sodomy.

"With an anonymous sperm donor, you can't be too careful," said FDA spokesman Eleanor Nicoll, according to a foxnews.com report. "Our concern is for the health of the recipient, not to let more and more people be sperm donors."

The FDA explained that, even though there may be more sensitive techniques to test for HIV available in the future, even the best of tests will fail to measure the presence of HIV in early stages of the disease. "Accordingly, FDA believes that, based on the current state of testing and current knowledge about disease transmission, it is necessary to screen for risk factors as well as to test for diseases such as HIV."

**3) Excerpt from Canadian Blood Services Website
Why do you not allow gay men the right to donate blood?**

Canadian Blood Services' policy indefinitely defers any man who has sex with another man, even once, since 1977. The policy in question does not apply specifically to gay men. This is one of numerous screening procedures which allow us to identify a variety of behaviours and activities known to increase risk to the safety of the blood supply.

The basic premise for our policy pertaining to men who have had sex with men is that the prevalence and incidence of HIV is much higher in males who have had sex with other males than it is in individuals having exclusively heterosexual sex. Statistics released by the Public Health Agency of Canada in 2005 indicate that men who have sex with men represented 58 per cent of the HIV/AIDS cases in Canada. This number is up from 2002, when they represented 40 per cent; and in 1996, when they represented 30 per cent of new cases of HIV/AIDS in Canada.

While we do test all units of blood and testing is sophisticated, there still exists a brief period after the onset of a viral infection during which early signs of a virus cannot be detected. This period of time is known as the "window period". However, the system is as safe as current testing and technology allows, combined with Canadian Blood Services' stringent screening processes (e.g., donor questionnaire, deferral policies).

According to the definition of homophobia the above noted agencies are homophobic, when in fact their concerns are '*rational and health-based*' and recognizing this '*does not violate the Charter of Rights*'. The Ontario Human Rights Code makes allowance for rational discrimination due to health concerns being '*reasonable and bona fide*'.

Ontario Human Rights Code – Part II – Section 11

(2) The Commission, the Tribunal or a court shall not find that a requirement, qualification or factor is **reasonable and bona fide** in the circumstances unless it is satisfied that the needs of the group of which the person is a member cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and **health and safety requirements**, if any. R.S.O. 1990, c. H.19, s. 11 (2); 1994, c. 27, s. 65 (1); 2002, c. 18, Sched. C, s. 2 (1).

**People must be permitted to hold the position that homosexual conduct is unhealthy and not be labelled as homophobic.
Homosexual/bisexual conduct must not be affirmed by HWDSB either directly or indirectly as a model for children to follow.**