

UBC: new dean, new campuses	141
Refusal to work and SARS	141
Lawsuit over ER death	142
eCMAJ's top 10 — May	142
Pulse: Male–female cancer deaths	142
News @ a glance	143

Montreal GP's private-medicine battle heads to Supreme Court of Canada

A Montreal GP who has lost 2 lower court challenges is taking his fight for the right to provide private medical services to the Supreme Court of Canada.

The case concerns sections of 2 different pieces of Quebec legislation — article 11 in the Hospital Insurance Act and article 15 in the Health Care Act. They not only prevent physicians like Dr. Jacques Chaoulli from providing private services in hospitals, but also stop his patients from purchasing insurance to cover the cost of private medical care. Chaoulli, who trained in France but has practised in Canada since 1986, argues that this violates the Charter of Rights and Freedoms.

Chaoulli, who is funding the case personally and with donations from supporters, says his decision to pursue it despite 2 losses in lower courts has a medical precedent — Dr. Henry Morgentaler's battle to have Canada's abortion law declared unconstitutional. In 1988, the Supreme Court ruled that the law infringed upon women's charter rights.

Chaoulli's battle to practise private medicine started in 1996, when he went on a hunger strike to protest Quebec laws that prevented doctors who worked outside the public system from making emergency house calls. He maintains that if more private care was delivered, queues in the public system would be shorter.

"Physicians are faced with quotas and ceilings on their income as well as limited availability of operating rooms," explains Chaoulli, whose case is expected to be heard next March. "... My victory

American politicians target "partial-birth" abortions

Passage of legislation to ban "partial-birth" abortion procedures has ignited fears that women's access to abortion in the United States is in danger of being rolled back for the first time in 30 years.

The ban, approved by wide margins in the House and Senate, is expected to be signed into law by President George Bush. He says it will "help build a culture of life in America." Bush's predecessor, Bill Clinton, vetoed a similar bill.

The legislation is aimed at some abortion methods used in the second and third trimester. It outlaws "deliberately and intentionally vaginally [delivering] a living fetus ... for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus."

The House bill described partial-birth abortion as a procedure "in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument and sucks the child's brains out before completing delivery of the dead infant."

The legislation worries the American Civil Liberties Union, which says "the term 'partial-birth' abortion does not identify any particular abortion procedure. It is a term invented by antichoice activists."



The abortion issue: a constant in American politics

The American Medical Association, which calls the procedure "intact dilatation and extraction," recommends that it "not be used unless alternative procedures pose materially greater risk to the woman."

Regardless, "the physician must ... retain the discretion to make that judgement ... acting in the best interests of the patient."

The American College of Obstetricians and Gynecologists agrees. "The patient and physician, not legislators, are the appropriate parties to determine the best method of treatment."

There are no legal prohibitions against partial-birth abortions in Canada. — *Milan Korcok, Florida*

in this case [would be] in the interest of all medical doctors in Canada."

Dr. Ed Coffey, a past president of the Quebec Medical Association and an expert witness in the case, thinks the upcoming decision will have "momentous" consequences outside Quebec. "If the case is won by the plaintiffs, it would automatically apply to other provinces that have similar legislation. [If this happens] it will not invalidate the medicare system but will bring to

light that there are alternative methods of insurance and health delivery."

Bruce Johnston, a lawyer for the plaintiffs who is providing his services for free, is confident about the outcome.

"We are not arguing against the merits of the public system," he says. "It's up to the government to regulate how a private system can function alongside a public system. The end result is that there will be more health care available." — *Louise Gagnon, Ottawa*